

NOTICE OF DECISION NO. 0098 170/12

Altus Group
780-10180 101 ST NW
Edmonton, AB T5J 3S4

The City of Edmonton
Assessment and Taxation Branch
600 Chancery Hall
3 Sir Winston Churchill Square
Edmonton AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on July 30, 2012, respecting a complaint for:

| Roll Number | Municipal Address | Legal Description | Assessed Value | Assessment Type | Assessment Notice for: |
|--------------------|--------------------------|-----------------------------------|-----------------------|------------------------|-------------------------------|
| 10097095 | 5204 - 42 Street NW | Plan: 0727603 Block: 19 Lot: 5 | \$16,388,000 | Annual New | 2012 |

This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, RSA 2000, c M-26.

cc: 2278372 Ontario Inc.

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 623

Assessment Roll Number: 10097095

Municipal Address: 5204 42 Street NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Lynn Patrick, Presiding Officer
Taras Luciw, Board Member
Thomas Eapen, Board Member

Preliminary Matters

[1] When asked by the Presiding Officer, the parties did not object to the composition of the Board. In addition, the Board members indicated no bias in the matter before them.

Background

[2] The subject property is a 173,043 sq ft warehouse situated on a 369,731 sq ft lot located in the Pylypow Industrial subdivision of southeast Edmonton. It was constructed in 2008 and has site coverage of 46%.

Issues

[3] The Complainant's submissions raised the following issues:

- a. The subject property is assessed in contravention of Section 293 of the Municipal Government Act and Alberta Regulation 220/2004.
- b. The use, quality, and physical condition attributed by the municipality to the subject property are incorrect, inequitable and do not satisfy the requirement of Section 289 (2) of the Municipal Government Act.

- c. The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts.
- d. The assessment of the subject property is in excess of its market value for assessment purposes.
- e. The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties.
- f. The classification of the subject premise is neither fair, equitable, nor correct.
- g. The assessment regression model method used is incorrect and does not accurately reflect the market value for assessment purposes of the subject property.
- h. The municipality has inappropriately adjusted the sales used in the multiple regression approach.
- i. Sales of similar properties indicate a lower market value of \$13,843,000.
- j. Assessments of similar properties indicate a lower equitable value of \$13,843,000.
- k. The aggregate assessment per square foot applied is inequitable with the assessments of other similar and competing properties.
- l. The aggregate assessment per square foot applied to the subject property does not reflect market value for assessment purposes; when using the direct sales comparison approach the indicated market value is \$13,843,000.

[4] During the hearing, the Board was presented with evidence and heard argument on the following issues:

- a. Is the subject property assessed in excess of its market value when compared to sales of similar properties?
- b. Has the subject property been equitably assessed when compared to assessments of similar properties?

Legislation

[5] The Municipal Government Act reads:

Municipal Government Act, RSA 2000, c M-26

s 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

s 467(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- a) the valuation and other standards set out in the regulations,
- b) the procedures set out in the regulations, and
- c) the assessments of similar property or businesses in the same municipality.

Position of the Complainant

[6] The Complainant filed this complaint on the basis that the 2012 assessment of the subject property exceeded its market value. The four comparable sales provided were the best comparable properties available for comparison to the subject property (Exhibit C-1, page 8).

[7] The comparable sales were built between 1996 and 2008 with the subject being built in 2008. The sales took place between February 2009 and February 2010 and ranged in size from 118,800 sq ft to 261,535 sq ft. The indicated unit value for the four sales ranged from \$67.66/ sq ft to \$125.70/ sq ft with an average of \$89.65/ sq ft and a median of \$82.62/ sq ft. The subject was assessed at \$94.70/ sq ft.

[8] The Complainant also argued that sales #1 and #4 were the most comparable properties as they required the least adjustment when comparing them with the subject property. They were nearest to the subject in terms of size.

[9] In conclusion to his main argument, the Complainant stated that \$80.00/ sq ft was the most reasonable value. This resulted in a request to reduce the 2012 assessment to \$13,843,000.

[10] The Complainant provided the Board with four equity comparables to the subject property (Exhibit C-1, page 9). These properties were built between 2002 and 2007 with the subject being built in 2008. They ranged in size from 178,200 sq ft to 204,000 sq ft. The indicated assessed unit value for the comparables ranged from \$74.83/ sq ft to \$88.40/ sq ft, with an average of \$81.16/ sq ft and a median of \$80.70/ sq ft. The subject was assessed at \$94.70/ sq ft. The Complainant concluded, stating that due to the attributes of the subject such as age, location, and size coverage of the subject property, it was determined that the indicated equitable value for the subject property was \$80.00/ sq ft.

Position of the Respondent

[11] The Respondent submitted written evidence containing five sales comparables of warehouse properties (Exhibit R-1, page 11). Three were located in the same southeast quadrant as the subject property, while two were located in the northwest quadrant. Four of the properties were older and one was the same age as the subject. While all comparable properties were smaller than the subject, the Respondent argued that with accounting for economies of scale for the smaller size, the assessment was supported.

[12] The year built of the comparables ranged from 1995 to 2008 while the subject was built in 2008, the upper end of the range.

[13] The sales comparables ranged in size from 39,663 sq ft to 132,720 sq ft as compared to the subject property with 173,043 sq ft. While the subject was larger and outside the range, it was within sufficient proximity and thus comparable.

[14] The time adjusted sale price for the comparables ranged from \$111.51/ sq ft to \$203.16/ sq ft, all higher than the subject property assessed at \$94.70/ sq ft.

[15] The Respondent also provided four equity comparables of similar properties, all of which are located in the southeast quadrant (Exhibit R-1, page 18). The effective year built ranged from 2001 to 2009. The lot size ranged from 220,667 sq ft to 447,221 sq ft, while the total building size ranged from 105,925 sq ft to 187,135 sq ft and the site coverage ranged from 39% to 48%. The assessments ranged from \$91.09/ sq ft to \$103.59/ sq ft. The properties compared closely with the subject, which was built in 2008, had a lot size of 369,731 sq ft, a total building size of 173,043 sq ft with site coverage of 46% and was assessed at \$94.70/ sq ft.

Decision

[16] The decision of the Board is to confirm the 2012 assessment at \$16,388,000.

Reasons for the Decision

[17] The Board considered all of the evidence presented by the parties.

[18] The Complainant questioned the methodology of the assessment of the subject. The Board accepted that the direct sales comparison approach was used in the model which is an acceptable approach in mass appraisal. The approach was audited and approved by the Province, as required by the assessment legislation.

[19] The Board is not persuaded by the Complainant's sales comparables. Of the four sales comparables presented by the Complainant in support of its request for a reduction from \$94.70/ sq ft to \$80.00/ sq ft, one sale is questionable as it is considerably out of the range of the other three, at \$125.70/ sq ft. The #4 comparable is also questionable because it is a multi-building property with below-market lease rates.

[20] The Respondent's sales comparables are similarly not within a range that establishes them as reliable comparables and thus the Board gives them less weight in supporting the assessment. The average of the range is much higher than the assessment at \$141.52/ sq ft.

[21] As a result, the Board does not give much weight to the sales comparables of both parties. The Board places more weight upon the equity comparables provided.

[22] The equity comparables of the Complainant are less compelling than those of the Respondent. Of the four comparables offered by the Complainant, three are in northwest Edmonton, while only one is in the southeast where the subject is located. All of the Respondent's equity comparables are in the southeast quadrant. The assessments in the northwest essentially recognize a different market when compared to the southeast range of assessments. Thus, the Board gives greater weight to the Respondent's evidence in this regard.

[23] The onus lies with the Complainant to show the assessment is incorrect. It is the Board's decision that there is not sufficient or compelling evidence for the establishment of a conclusion that the assessment is incorrect and the onus has not been met. The assessment is therefore correct, fair and equitable.

Dissenting Opinion

[24] There is no dissenting opinion.

Heard commencing July 30, 2012.

Dated this 30 day of August, 2012, at the City of Edmonton, Alberta.

Taras Luciw
For: Lynn Patrick, Presiding Officer

Appearances:

Walid Melhem, Altus Group
for the Complainant

Joel Schmaus, Assessor
for the Respondent