

NOTICE OF DECISION NO. 0098 177/12

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 August 8, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9947840	4848 92 AVENUE NW	Plan: 7822340 Block: 5 Lot: 8 / Plan: 7822340 Block: 5 Lot: 9 / Plan: 7822340 Block: 5 Lot: 10 / Plan: 7822340 Block: 5 Lot: 7	\$12,768,500	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: IPEX INC

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, ECARB 2012-000648

Assessment Roll Number: 9947840

Municipal Address: 4848 92 AVENUE NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Dean Sanduga, Presiding Officer

Jasbeer Singh, Board Member

Mary Sheldon, Board Member

Preliminary Matters

[1] Upon questioning by the Presiding Officer, the parties indicated they had no objection to the composition of the Board. In addition, the Board members indicated they had no bias on this file.

[2] Evidence, argument and submissions were carried forward to this file from roll number 3941457 where applicable.

Background

[3] The subject property is a large warehouse on a 417,343 square foot (9.6 acres) industrial parcel of land zoned 'IB' with effective zoning of 'IM' in East gate Business Park in north west Edmonton. The warehouse with a main floor area of 128,934 square feet was built in 1998. The site coverage on this parcel of land is 31%. The total 2012 assessment for the land and the improvements is \$12,768,500.

Issue(s)

[4] Is the 2012 assessment for the subject property fair and equitable?

Legislation

[5] The Municipal Government Act reads:

Municipal Government Act, RSA 2000, c M-26

s 1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

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 subject property’s assessment of \$12,768,500 was inequitable and in excess of market value. In support of this position, the Complainant presented a 34-page assessment brief (Exhibit C-1) and a 27-page document rebutting the Respondent’s evidence to the Board (Exhibit C-2).

[7] The Complainant presented a set of three sales comparables with a median time adjusted sale price of \$80.43 per square foot and an average of \$78.45 per square foot. The Complainant argued that the 2012 assessment for the subject should be \$85 per square foot (C-1, page 8).

[8] The Complainant argued that the sales listed in the table (C-1, page 8) compared well with the subject.

- a. The building size of the comparables ranged from 163,368 square feet to 261,535 square feet, whereas the subject’s building size measured 128,934 square feet.
- b. The site area for the comparables ranged from 304,020 square feet to 610,410 square feet and the subject’s land size area was 417,343 square feet.
- c. The site coverage for the comparable properties ranged between 35% and 54% while the subject stood at 31%.
- d. The years of construction for the comparables were noted as 1998, 2001 and 1996 and the subject was constructed in 1998. However, in response to questions from the Respondent, the Complainant acknowledged a need for upward value

adjustment to the tune of \$10 - \$12 per square foot, in respect of comparable #1, on account of comparatively lower site coverage of the subject (C-1, page 8).

[9] In respect of sales comparable #2 (C-1, pages 8 & 20). The Complainant stated that no adjustment was warranted due to 23.15% vacancy at the time of its sale.

[10] In respect of sales comparable #3 (C-1, pages 8 & 23). The Complainant acknowledged only nominal impact on its sale price on account of below market leases

Position of the Respondent

[11] The Respondent presented a 33-page assessment brief (Exhibit R-1) and a 44-page law & legislation brief (Exhibit R-2) to the Board. The assessment brief included three sales comparables and nine equity comparables that support the 2012 assessment of \$12,768,500.

[12] The Respondent stated that all sales comparables were interior lots, as was the subject. While sale comparable #2 was 9 years newer it had a 16% vacancy at the time of sale and was also assessed 27% higher than the subject. This, in the Respondent's view, supported the subject's 2012 assessment at \$98.12 per square foot (R-1, page 12).

[13] The Respondent stated that when the contents of the paragraph 4.6.3 from IAAO's 'Standard on Mass Appraisal of Real Property', quoted by the Complainant, were read in entirety (C-2, page 26), it supported the direct comparison approach as equally valid.

[14] The Respondent quoted from the Appraisal Institute's publication that said, '*... income capitalization can be particularly unreliable in the market for commercial or industrial property where owner-occupants outbid investors.*' (R-1, page 15).

[15] Responding to the Complainant's questions in respect of sales comparables #1 and #3 (R-1, page 12), the Respondent stated that the validation process by the City had not identified any issues with these sales (Discussion and arguments were carried forward from the file pertaining to roll # 3941457).

[16] The Respondent provided a chart of nine equity comparables with 2012 assessments ranging between \$96.13 and \$112.50 per square foot that support the subject's assessment at \$98.12 per square foot. (R-1, page 16).

[17] The Respondent stated that most (8 out of 9) equity comparables were located in the NW industrial quadrant, same as the subject. During cross examination, the Respondent stated that the industrial property values in SE quadrant were higher than in the NW quadrant.

Complainant's rebuttal

[18] The Complainant presented a 27-page rebuttal document (C-2) and argued that the Respondent's sales comparables (R-1, page 12) were flawed, in that;

- a. Comparable #1 (17404 – 111 Avenue NW) was located on a major roadway; was occupied by Public Works Canada; had been purchased by an entity that owned adjoining property and was considerably smaller in building size than the subject (C-2, page 2).

- b. Comparable #3 (5605 – 70 Street) was anchored by the Federal Government under a long term lease. Sixty three percent (63%) of the net leasable space was secured under 10 year leases making the property atypical, and not a good comparable with the subject (C-2, page 2).

[19] The Complainant cited independent third-party reports (C-2, pages 3-22) to highlight the premium lease rates paid on the Federal Government leases that boosted the sale price of the concerned properties. This fact makes such comparables atypical and not representative of the market. The Complainant demonstrated this aspect by showing the SAR (Sales to Assessment Ratios) as high as 189.6% (C-2, page 2).

[20] The Complainant argued that the requested assessment value of \$85 per square foot took into account all factors including site coverage differentials, vacancy and below market leases in respect of the sales comparables and requested that the 2012 assessment be reduced to \$11,061,000. (C-1, page 7).

Decision

[21] The decision of the Board is to confirm the 2012 assessment of \$12,768,500 as fair and equitable.

Reasons for the Decision

[22] The Board noted that the only issue for its consideration and determination was whether the subject's 2012 assessment was equitable or not.

[23] The Board found that the sales comparables presented by both parties did not provide much help in determination of the issue of correctness of the assessment value for the subject property.

- a. The Respondent's sales comparables showed atypical sales valuations (\$139.23 & \$203.16 per square foot), that were shown to be inconsistent with the prevalent market conditions at the time (R-1, page 12 and C-2, pages 2 & 3-22).
- b. The Complainant's sales comparables showed major dissimilarities with the subject in terms of land area, site coverage and the building sizes (C-1, page 8).

[24] The Board considered the Complainant's concerns regarding the Respondent's use of the direct sales comparison approach for its assessment methodology, and found that the Respondent's approach was better suited to the City's industrial warehouse market, where a large proportion of the warehouse properties were owner-occupied and reliable rental rates data was not available.

[25] The Board noted that the Complainant had relied solely on the three sales comparables (C-1, page 8) and had not provided any equity comparables in support of the argument that the subject property had been excessively and inequitably assessed.

[26] The Board was persuaded by the Respondent's set of nine equity comparables (R-1, page 16) that supported the subject's 2012 assessment of \$98.12 per square foot.

[27] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. The Board is satisfied that the Complainant did not provide sufficient and compelling evidence for the Board to form an opinion as to the incorrectness of the assessment. Accordingly, the Board accepts confirms the Respondent's 2012 assessment of the subject at \$12,768,500.

Dissenting Opinion

[28] There was no dissenting opinion.

Heard commencing August 8, 2012.

Dated this 28th day of August, 2012, at the City of Edmonton, Alberta.

Dean Sanduga, Presiding Officer

Appearances:

Walid Melhem
for the Complainant

Will Osborne
for the Respondent