



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 180/10

Altus Group Ltd.
17327 106A Avenue
Edmonton AB T5S 1M7

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 9, 2010 respecting a complaint for:

Roll Number 10087852	Municipal Address 9704-12 Avenue SW	Legal Description Plan: 0722263 Block: 16 Lot: 8
Assessed Value \$36,010,000	Assessment Type Annual - New	Assessment Notice for: 2010

Before:

Ted Sadlowski, Presiding Officer
Mary Sheldon, Board Member
Brian Carbol, Board Member

Board Officer:

Segun Kaffo

Persons Appearing: Complainant

Walid Melhem, Altus Group

Persons Appearing: Respondent

Blaire Rustulka, Assessment and Taxation

PRELIMINARY MATTERS

Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file.

The Complainant raised a preliminary issue alleging that the Respondent was in violation of Section 8 of the *Matters Relating to Assessment Complaints Regulation*, AR 310/2009. According to the allegation the Respondent's summary of the testimonial evidence was not in "sufficient detail to allow the Complainant to respond to or rebut the evidence at the hearing".

The Board did not concur with the allegation and considered that the summary of testimonial evidence provided by the Respondent was sufficient. As a result the preliminary issue was denied.

BACKGROUND

The subject property is a large multi-tenant warehouse located in the Ellerslie Industrial subdivision in the City of Edmonton. The property consists of two buildings constructed in 2007 with a gross building area of 325,699 square feet. The site coverage for the property is 39%. As at December 2009, the smaller of the two buildings was partially leased. The larger building was only partially leased (5%) and was undergoing interior office renovations.

ISSUES

The Complainant attached a schedule to his complaint form listing numerous issues. However, many of those issues were abandoned. The remaining issues to be decided were the following:

1. Is the subject property assessed in contravention of s. 293 of the *Municipal Government Act* and Alberta Regulation 220/2004 and is the assessment of the subject property unfair and inequitable considering the assessed value and assessment classification of comparable properties?
2. Is the use, quality and physical condition attributed by the municipality to the subject property incorrect, inequitable and not in accordance with the requirement of s. 289(2) *Municipal Government Act*?
3. Is the assessment of the subject property in excess of its market value for assessment purposes?

LEGISLATION

The Municipal Government Act, R.S.A. 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.*

s. 289(2) *Each assessment must reflect*

- (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and*
- (b) the valuation and other standards set out in the regulations for that property.*

s. 293(1) *In preparing an assessment, the assessor must, in a fair and equitable manner,*
(a) *apply the valuation and other standards set out in the regulations, and*
(b) *follow the procedures set out in the regulations.*
(2) *If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.*

The Matters Relating to Assessment Complaints Regulation, AR 310/2009;

s.8 (2) *If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:*
(b) *the respondent must, at least 14 days before the hearing date,*
(i) *disclose to the complainant and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing.*

POSITION OF THE COMPLAINANT

1. The Complainant maintains that the assessment of the subject property is too high as it is based on a depreciated replacement cost approach, whereas other warehouses are assessed using a direct sales model. The Complainant questions the logic of assessing this property on a cost approach because it is only partially occupied. This results in a higher assessment than if it were assessed on the direct sales approach (C-1, page 14).
2. The Complainant also submitted to the Board that the value attributed to the land portion of the property was excessive. In support of this submission, the Complainant provided a chart of land sales of comparable properties (C-1, page 17). This chart shows that the average time adjusted price per square foot of these comparables was \$10.21 while the land portion of the subject is assessed at \$13.35 per square foot.
3. As well, the Complainant submitted to the Board equity comparables of similar parcels of land (C-1, page 19). The average assessment per square foot of these equity comparables was \$8.32 while the land value of the subject is assessed at \$13.35 per square foot.
4. The Complainant provided a rent roll of the subject property to the Board which indicated that a portion of the subject property was leased.
5. The Complainant argued that, if the subject property were assessed using the direct sales approach, the correct assessment would be \$26,716,000 (C-1, page 15). If an income approach to value were used, the value for the subject would be \$32,705,000 (C-1, page 12).

POSITION OF THE RESPONDENT

1. The Respondent submitted to the Board that, pursuant to City policy, any property that was not both fully constructed and with the majority of the space leased was assessed using the cost approach. He provided a chart of an equity analysis for properties which the Respondent stated were either not fully completed or the majority occupied or both (R-1, page 18). These properties had been assessed using the cost approach. The

Respondent submitted that building 1 of the subject was 24% vacant and that 95% of building 2 was vacant.

2. With respect to the value attributed to the land portion of the subject, the Respondent provided a replacement cost detail report (R-1, page 13) which showed the value of the land to be \$11,036,753.
3. The Respondent submitted to the Board a chart of equity comparables of vacant land (R-1, page 17). This chart indicated that the average assessment per square foot of these parcels was \$13.32 while the land assessment of the subject was \$13.35.
4. The Respondent disputed the Complainant's sales and equity comparables (C-1, pages 14 and 16) and indicated that these were properties valued on the direct sales approach. He also disputed the sales and equity comparables of land presented by the Complainant (C-1, pages 17 and 19) on the basis that some of these lots were in inferior locations and some were unserviced. The subject was located in a vibrant, developing neighbourhood and was fully serviced.
5. The Respondent submitted to the Board that the 2010 assessment for the subject property at \$36,010,000 was both fair and equitable.

DECISION

The Board concludes that the 2010 assessment for the subject property at \$36,010,000 is fair and equitable and confirms that assessment.

REASONS FOR THE DECISION

1. The Board accepts the submission of the Respondent that all properties in the City of Edmonton which, by the condition date, were not both fully completed and with the majority of the space occupied, were valued using the cost approach. The subject is a large multi-tenant warehouse property consisting of two buildings, one with an area of 110,050 sq. ft and the second with an area of 215,649 sq. ft. (C-1, page 9). This property is not both fully complete and with the majority of the space occupied. The Board recognizes that in some cases this would result in a higher assessment than if the direct sales approach to value were used. However, since all properties in this category are treated in the same way, this approach is fair and equitable. Therefore, the Board concludes that the cost approach to value is the appropriate method of value and rejects the submission of the Complainant that the direct sales approach to value or the income approach is appropriate.
2. The Board recognizes the Complainant's position that if the cost approach to value is found to be the appropriate method, there is still a dispute between the parties as to the correct value to be given to the land of the subject property. In this regard, the Board accepts the Respondent's position that some of the comparables used by the Complainant in his land sales and land equity properties are very different to the subject in terms of location, servicing and access to major roadways, thereby making comparisons problematic.
3. In contrast, the Board is persuaded by the land equity comparisons provided by the Respondent (R-1, page 17). The average assessment per square foot of these comparables is \$13.32 and the assessment per square foot of the subject is \$13.35, thus supporting the assessment.

4. With respect to issue # 1 the Board concludes that the requirements of s. 293 MGA have been met and that the assessment of the subject property is fair and equitable. Since all properties in Edmonton that are not both fully completed and without the majority of the space occupied are valued using the cost approach, it is equitable that the cost approach to value is appropriate in valuing the subject.
5. Similarly with respect to issue # 2, the requirements of s. 289(2) MGA have been met in that the subject has been valued using the correct approach to value given the condition of the property as of the condition date (December 31, 2009).
6. With respect to issue # 3, the Board concludes that the value attributed to the land portion when employing the cost approach is not excessive based on the evidence provided by the Respondent.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 9th day of September, 2010, at the City of Edmonton, in the Province of Alberta.

Presiding Officer

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, R.S.A. 2000, c.M-26.

CC: Municipal Government Board
Gateway Real Estate Equities Inc.