

**NOTICE OF DECISION      NO. 0098 182/12**

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 31, 2012, respecting a complaint for:

<b>Roll Number</b>	<b>Municipal Address</b>	<b>Legal Description</b>	<b>Assessed Value</b>	<b>Assessment Type</b>	<b>Assessment Notice for:</b>
10043192	6604 50 Street NW	Plan: 0526025 Block: 11 Lot: 2	\$19,941,500	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.*

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cc: 50th Street Equities Inc.

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group v The City of Edmonton, 2012 ECARB 635**

**Assessment Roll Number:** 10043192

**Municipal Address:** 6604 50 Street NW

**Assessment Year:** 2012

**Assessment Type:** Annual New

Between:

**Altus Group**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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

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### **Preliminary Matters**

[1] The parties indicated that portions of the argument and evidence on this file would be carried forward from files 10014321 and 9994009.

[2] When asked by the Presiding Officer, the parties did not object to the composition of the Board. None of the Board members indicated a bias with respect to the file.

### **Background**

[3] The subject property is 424,319 sq ft site, containing two warehouses constructed in 2005. One building is 77,000 sq ft while the second building is 88,000 square feet. Combined, the improvements cover 39% of the subject property and are entirely comprised of main floor area. The subject property is located in the Roper Industrial area of Edmonton.

### **Issues**

[4] The Complainant advised the Board that the following items were at issue:

- 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 \$14,850,000.
- j. Assessments of similar properties indicate a lower equitable value of \$16,500,000.
- 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 \$14,850,000.

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

- a. Is the assessment of the subject property fair and equitable considering the assessed value and assessment classification of similar properties?
- b. Is the subject property assessed in excess of its market value when compared to sales of similar properties?

### **Legislation**

[6] 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**

[7] The Complainant argued that it was entitled to the lower of market value or equity. Based on sales comparables, the subject's value was \$14,850,000, while the equity comparables produce a value of \$16,500,000. Accordingly, the Complainant requested that the subject property's assessment be reduced to \$14,850,000, or \$90.00/ sq ft, based on the sales data.

[8] The Complainant filed this complaint on the basis that the subject property assessment of \$19,941,500 was inequitable and in excess of the market value. In support of this position, the Complainant presented to the Board a 206-page brief (Exhibit C-1).

[9] The Complainant argued that the four sales comparables provided (Exhibit C-1, page 8), should be considered, due to the comparable characteristics shared with the subject such as age, size, location and site coverage. Two of the four sales comparables were located in the northwest quadrant of the City of Edmonton whereas the subject was located in the southeast quadrant. The time adjusted sale price/ sq ft of the leasable building area for these comparables ranged from \$67.66 to \$125.70 as compared to the subject assessment of \$120.86/ sq ft. The Complainant submitted to the Board that a value of \$90.00/ sq ft would be appropriate for the subject based on these sales comparables, the average of which was \$89.65/ sq ft and the median, \$82.62/ sq ft.

[10] The Complainant also provided one multi-building and four single building equity comparables (Exhibit C-1, page 9) and argued that these equity comparables were the most comparable based on their attributes such as age, size, site coverage and location. It was submitted that the indicated value for the subject property should be \$100.00/ sq ft, based on these equity comparables.

[11] The Complainant provided a Multi-Building Analysis in support of its argument that the number of buildings on site should make no difference to the assessment of a property. The Complainant provided scatter charts of the warehouse sales in south and northwest Edmonton (Exhibit C-1, pages 43 to 46) to demonstrate that the multi-building warehouse properties did not command any higher unit value than the single building properties.

[12] The Complainant also provided the Board with numerous single and multi-building warehouses and corresponding sales comparables and argued that this evidence demonstrated that multi-building or single building warehouse properties did not warrant any differential in unit prices for sales or assessment (Exhibit C-1, pages 47-206). In support of this argument, the Complainant provided the Board with 10 comparable charts, comparing various properties in both the northwest and southeast quadrant of the City.

[13] The Complainant also provided the Board with a rebuttal package containing 52 pages (Exhibit C-2). The Complainant argued that when the replacement cost is compared to the market value, the two concepts are entirely different and produce different values. Essentially it does not matter if it costs more to build multiple-buildings on one site if no one is willing to pay more for them.

[14] The Complainant, in rebuttal, outlined the Respondent's eight sales comparables (Exhibit C-2, page 2). The first sales comparable was occupied by Public Works Canada, while sale

comparable #2 was anchored by the Federal Government under a long term lease, at a higher than market lease rate. The Complainant questioned the validity of these sales.

[15] The Complainant argued that the Respondent's sale #3 was significantly smaller than the subject property. The property had two craneways with 20 ton & 30 ton cranes. This property also had a compressor storage building, and therefore should not be considered as a comparable property.

[16] The Complainant stated that the Respondent's 5<sup>th</sup> sale comparable had nine jib cranes, five - 2 ton cranes, five - 5 ton cranes and 34 hoists. This property also had a 480 V, 1600 amp power supply with a 400 ft craneway. The vendor leased back the property for 20 years with four 5 year renewal options at a fixed rate. The Complainant questioned the validity of the sale as a comparable.

[17] The Complainant challenged sales comparables #6, #7, and #8 on the basis that they were office or mixed use properties.

[18] The Complainant referred to the SAR (Sale to Assessment Ratio) and questioned the validity of the sales as comparables because of the substantial disparity in the ratios. All but one of the ratios were outside the acceptable range for SAR.

[19] The Complainant concluded in summary that a review of the recent market transactions indicated the value of the subject property was \$14,850,000. A review of the assessment of similar properties indicated that an equitable assessment for the subject property was \$16,500,000. The Complainant requested that the assessment be reduced to \$14,850,000, as the property owner should be entitled to the lower of market value or equity.

### **Position of the Respondent**

[20] The Respondent submitted written evidence containing eight sales comparables, all warehouse properties, three of which contained multiple buildings and five of which were single building properties. Two were located in the northwest quadrant and six were in the southeast quadrant, as was the subject (Exhibit R-1, page 10). The effective year built ranged from 1981 to 2008. The lot size ranged from 134,249 sq ft to 862,603 sq ft, while the total building size ranged from 39,663 sq ft to 291,285 sq ft and the site coverage ranged from 14% to 39%. Their time adjusted sales price ranged from \$111.51/ sq ft to \$203.16/ sq ft, which supported the assessment of the subject. The properties compared with the subject, which was built in 2005, had a lot size of 424,319 square feet, a total building size of 165,000 sq ft with site coverage of 39%, and was assessed at \$120.86/ sq ft. The Respondent stated that, despite some similarities, the comparable properties were sufficiently dissimilar to require consideration of equity comparables of more similar properties to support the subject's assessment.

[21] The Respondent's evidence also contained four equity comparables of similar properties, all multi-buildings located in the southeast quadrant of Edmonton (Exhibit R-1, page 20). The effective year built ranged from 1982 to 2008. The lot size ranged from 257,158 sq ft to 725,307 sq ft. The total building size ranged from 102,950 sq ft to 249,600 sq ft and the site coverage ranged from 34% to 39%. Their assessments ranged from \$109.29/ sq ft to \$128.84/ sq ft and supported the assessment of the subject. The properties compared closely with the subject, which was built in 2005, had a lot size of 424,319 sq ft, a total building size of 165,000 sq ft with site coverage of 39%, and was assessed at \$120.86/ sq ft.

[22] The Respondent included the chart of the Complainant's five equity comparables and argued that of the five comparables only one was a multi-building site (2 buildings) located on a major roadway. As well, this comparable's building sizes were 140,000 sq ft and 55,000 sq ft, while the subject was two buildings of fairly equal size, approximately 80,000 sq ft, each.

[23] The Respondent addressed the Complainant's Multi-Building Analysis by explaining that multi-building industrial properties have been valued according to the same mass appraisal model as single building properties. In doing this, each building has been analyzed for its contributory value to the property. A single assessment has been produced that represents the aggregate market value of that particular property. A number of reasons for this approach were detailed, founded in both appraisal theory and market analysis, and include the cost of construction, differences in size and interior finish, decreased investment risks by leasing to multiple tenants. Further, site configuration may be improved, and a potential for subdivision can increase sale and rental options. Finally, analyzing each building allows the Respondent to make precise adjustments when necessary (Exhibit R-1, page 30).

[24] The Respondent summarized its response to the Complainant's Multi-Building Analysis by stating that multiple errors and omissions were detected which, when corrected, failed to support the Complainant's position. For instance, market value for multi-building sales had not been established, as typically only one multi-building sale was provided per comparison chart. Further, the multi-building sales provided by the Respondent indicated a higher value for multi-building properties.

[25] The Respondent reviewed the Complainant's south and northwest sales charts (Exhibit C-1, pages 43 - 46) and found omissions of numerous sales (Exhibit R-1, pages 33 - 35). The Respondent also reviewed each of the Complainant's 10 Direct Sales Analysis Charts and found that numerous sales were not included, non-arms length sales were included, properties were dissimilar and properties that did not sell were included.

[26] In reviewing the 164 pages in Appendix B of the Complainant's submission, the Respondent explained that it was impossible, with any degree of certainty, to determine the purpose of the material or how it proves the assessment of the property is incorrect.

[27] The Respondent requested that the 2012 assessment in the amount of \$19,941,500 be confirmed.

### **Decision**

[28] The Board confirms the assessment.

### **Reasons for the Decision**

[29] The Board considered all the evidence of the parties to reach its decision.

[30] The Complainant questioned the methodology of the assessment of the subject. The position of the Complainant that the assessment of multi-building properties, such as the subject, ought to be done on the basis that all the buildings are treated as one building and assessed as if one building, is not accepted by the Board. The Board accepts the position of the Respondent that each building must be separately assessed and then totaled to reach the assessed value. The Board accepts that the direct sales comparison approach was used in the model, with manual

adjustments when required, which is an acceptable approach in mass appraisal. The approach was audited and approved by the Province, as required by the assessment legislation.

[31] The Board notes that the lease rate comparables are not supported by any documentation and thus are not verified. The charts only contain southeast quadrant properties, which further reduces any probative value the evidence has to support of the proposition that building numbers have no affect on rates.

[32] The 2 scatter charts presented by the Complainant to show that there are no sale price differences between single and multi-building sites is rejected by the Board. The Complainant admitted that the charts did not contain all of the single and multi-building sales that occurred in those quadrants. The Board is of the view that the omission renders the charts potentially misleading and not reliable evidence.

[33] The 10 sales comparable charts are not given much weight as supportive of the Complainant's submissions for several reasons. The charts contained no headings thus it is not possible to determine what to conclude from the information. Additionally, the comparables are of mixed characteristics such as location, age and number of buildings. There is repetition of some of the comparables in different charts without explanation. The potential for selection of the group of single building sales left the question about the unselected sales and what they might disclose. It appears to have been prepared with randomly selected comparables. Furthermore, the Board finds that the numerous errors and omissions in the 10 sales comparable charts put the Complainant's evidence into question.

[34] The position of the Respondent is that because of differences in sizes, age, condition, location, roadway exposure and finish, it is thus appropriate to assess the individual buildings on a multi-building site and then combine the individual assessments to reach the total annual assessment for each subject roll number. The Board accepts the position of the Respondent.

[35] The Board finds that none of the Complainant's comparable sales are of assistance in determining the market value of the subject property. Sale #1 is not comparable as it has an unusually large site coverage (54%) versus the subject property's 39%. Such a high site coverage results in a lower sale price, and explains the \$80.43 time adjusted sales price/ sq ft, compared to the subject property's assessment of \$120.86/ sq ft. The Complainant's comparable #2 is newer than the subject property, and is smaller, both in site area and leasable space. The Complainant's third comparable is much larger than the subject property, which results in a much smaller time adjusted/ sq ft price. Comparable #3 has an 186,091 sq ft larger site area than the subject property, and a 96,535 sq ft larger building.

[36] The Board does not find the Complainant's comparable #4 persuasive in determining the market value of the subject property. Though the comparable is a multi-building site, it has 1 ½ acres of excess land. Further, the sales data indicates that the comparable is leased at a below-market rate. Such low leasing rates results in a depressed purchase price that is not comparable to the subject property.

[37] Although the Respondent's sales comparables lack some similarities, the Board finds them more reliable than the Complainant's comparables which have inferior locations and an outlier aspect.

[38] The Board finds the Respondent's equity comparables persuasive. The Respondent's equity comparables are more similar than the Complainant's. All of the Respondent's equity comparables are multi-building properties located in the southeast, and one has major road exposure, as does the subject.

[39] 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**

[40] There was no dissenting opinion.

Heard commencing July 31, 2012.

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

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Taras Luciw  
For: Lynn Patrick, Presiding Officer

### **Appearances:**

Walid Melhem, Altus Group  
for the Complainant

Joel Schmaus  
for the Respondent