

NOTICE OF DECISION NO. 0098 183/12

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:
10007246	11334 - 189 Street NW	Plan: 0322908 Block: 1 Lot: 6	\$16,452,500	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: 11330-189th Street (ARI) Ltd.

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 688

Assessment Roll Number: 10007246
Municipal Address: 11334 189 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 194,949 square foot warehouse situated on a 453,167 square foot lot, located in the White Industrial subdivision of west Edmonton. The property was constructed in 2007 and has 42% site coverage. A second structure, a 24,000 square foot material shell, is located on the site and is considered a cost building for assessment purposes.

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 \$15,400,500.
- j. Assessments of similar properties indicate a lower equitable value of \$14,816,000.
- 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 \$15,400,500.
- m. The assessor has applied the incorrect site coverage to the subject property.

[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 comparable 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. In particular, the Complainant stated the subject property had been assessed on the direct sales comparison approach and was atypical. 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 2007 with the subject being built in 2007. The sales took place between February 2009 and April 2010 and ranged in size from 163,368 sq ft to 399,761 sq ft. The indicated time adjusted sale unit value for the four sales ranged from \$67.66/ sq ft to \$84.81/ sq ft with an average of \$77.83/ sq ft and a median of \$79.42/ sq ft. The subject is assessed at \$84.39/ sq ft.

[8] The Complainant argued a value of \$10.00/ sq ft should be the value for the 24,000 sq ft canopy area instead of the current assessment value of \$19.20/ sq ft.

[9] In conclusion to his main argument the Complainant stated that \$75.00/ sq ft was the most reasonable value. This resulted in a request to reduce the current assessment to \$14,861,000.

[10] In rebuttal, the Complainant outlined the Respondent's eight sales comparables (Exhibit C-2 page 2). Sale #1 was occupied by Public Works Canada while the Respondent's sale #2 was anchored by the Federal Government under a long term lease, with a higher than market lease rate. The Complainant questioned the validity of these sales.

[11] The Complainant argued that the Respondent's sale #3 was significantly smaller than the subject property. This property had two craneways with 20 ton & 30 ton cranes and a compressor storage room. Therefore this sale should not be considered a comparable property to the subject.

[12] The Respondent's sale # 6 was located on a major roadway and considered superior to the subject.

[13] The Complainant stated that the Respondent's 8th 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 craneways. 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.

Position of the Respondent

[14] The Respondent submitted written evidence containing eight sales comparables of warehouse properties (Exhibit R-1, page 23). Four were located in the same northwest quadrant as the subject, while four were in the southeast. Five of the properties were older, two were the same age as the subject and one was newer. While all of the comparable properties were smaller than the subject, the Respondent argued that with accounting for economies of scale, the comparables supported the assessment.

[15] The year built of the comparables ranged from 1995 to 2008 while the subject was built in 2007. The sales comparables ranged in size from 39,663 sq ft to 399,987 sq ft as compared to the subject property with 194,949 sq ft. The time adjusted sale price for the comparables ranged from \$78.37/ sq ft to \$203.16/ sq ft. The subject property, assessed at \$82.03/ sq ft, and adjusted for the material shell building, was at the low end of the range.

[16] The Respondent also provided seven equity comparables of similar properties, five of which were located in the northwest quadrant while two were in the southeast (Exhibit R-1, page 24). The effective year built ranged from 1998 to 2008 and the lot size ranged from 210,549 sq ft to 424,525 sq ft. The total building size ranged from 101,965 sq ft to 205,810 sq ft and the site coverage ranged from 44% to 50%. Their assessments ranged from \$75.62/ sq ft to \$94.70/ sq ft. The properties compared closely with the subject, which was built in 2007, had a lot size of 453,181 sq ft, a total building size of 194,949 sq ft (net of the cost building) with site coverage of 42% and was assessed at \$82.03/ sq ft.

[17] The Respondent noted that three of the sales comparables (Exhibit R-1, page 23, # 5, 6, & 7) and three of the equity comparables (Exhibit R-1, page 24, # 1, 2, & 5) were also used by the Complainant.

Decision

[18] The Board confirms the assessment.

Reasons for the Decision

[19] The Board considered the evidence provided by both parties in making its decision. While the assessment recognized the canopy was a second building, the Board is not convinced that the subject property is indeed a multiple-building site in the true sense. The canopy is unheated and is constructed to service the only full building on the site.

[20] The Board accepts the Respondent's evidence that the subject property is assessed at \$82.03/ sq ft for the building, and \$19.20/ sq ft for the canopy. The Board rejects the Complainant's argument that the canopy should be assessed at \$10.00/ sq ft, as no evidence was presented to support this assertion.

[21] The Board is not persuaded by the Complainant's direct sales comparables. The average of these comparables is \$77.83/ sq ft, and the median, \$79.42/ sq ft, compared to the \$82.03/ sq ft for the subject property. The Board finds that the Complainant failed to provide sufficient evidence to support the requested \$75.00/ sq ft. While the Complainant's submissions stated that the requested reduction was "due to the attributes of the subject such as age, size, location and site coverage, of the subject property," the Complainant failed to provide the specifics of such an adjustment to the Board. Accordingly, the Board is not persuaded that \$75.00/ sq ft is correct for the subject property.

[22] Further, the Board is not persuaded that the Complainant's sales are comparable. Comparable #1's site area and building are over twice the size of the subject property, resulting in a lower time-adjusted sales price of \$78.41/ sq ft. Comparables #2 and #3 are in a different market area. Comparable #4 is assessed higher than the subject property's assessment and has significantly lower site coverage.

[23] The Board finds the Respondent's sales comparables to be lacking in comparability as well. All of the comparables specific to the Respondent's submissions are significantly smaller than the subject property, and would be expected to draw a much higher per sq ft price than the subject property. Accordingly, the Board is unable to rely upon their time-adjusted sales prices in determining the assessment's correctness.

[24] The Board considered both parties' equity comparables in determining whether the subject's assessment is fair. The Respondent's equity comparables included the Complainant's three comparables, plus four more. The average of these comparables was \$83.29/ sq ft, which supports the assessment of \$82.03/ sq ft assessment. Even when the Respondent's comparable #3, the least comparable due to age, size and site coverage, is removed, the average of the remaining comparables is \$82.39/ sq ft, a mere \$0.36/ sq ft difference from the subject property.

[25] Accordingly, the Board finds that the assessment is fair and equitable.

Dissenting Opinion

[26] There was 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
for the Respondent