

NOTICE OF DECISION NO. 0098 185/12

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 1, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9538000	6707 59 Street NW	SE 23-52-24-4	\$30,862,000	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: 50th Street Equities Inc.

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 625

Assessment Roll Number: 9538000

Municipal Address: 6707 59 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] Neither party indicated any objection to the composition of the Board. No Board Member indicated any bias with respect to this matter.

[2] Upon the parties' request, evidence was carried forward from Roll 9994009, 10014321 and 10064565.

Background

[3] The property is a 3 building site, located at 5103 - 68th Avenue, Edmonton. The buildings are 76,800, 105,600 and 67,200 sq ft in size and cover 34% of the 725,307 sq ft lot. Built in 2008, the property is located in the Roper Industrial subdivision, in the southeast quadrant of the City.

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 municipality's method of assessment for the subject property is inappropriate given the characteristics and physical condition of the subject property.
- f. The assessment regression model method used is incorrect and does not accurately reflect the market value for assessment purposes of the subject property.
- g. The municipality has inappropriately adjusted the sales used in the multiple regression approach.
- h. Sales of similar properties indicate a lower market value of \$19,698,000.
- i. The aggregate assessment per sq ft 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 \$19,698,000.

[5] 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 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 provided a 202-page brief to the Board in support of its argument that the assessment should be reduced to \$21,216,000. The Complainant presented evidence in support of the contention that the current market value of the property is \$21,216,000, or \$85.00/ sq ft, based upon recent market transactions.

[8] The four comparable sales provided took place between February 2009 and April 2010, and were built between 1996 and 2007, with the subject being built in 2008. They ranged in size from 304,020 sq ft to 1,017,311 sq ft. The unit value for the four sales ranged from \$67.66/ sq ft to \$84.81/ sq ft with an average of \$77.82/ sq ft and a median of \$79.40/ sq ft. The subject was assessed at \$123.65/ sq ft. The Complainant argued that these four sales (Exhibit C-1, page 8), should be considered comparable to the subject due to the similarities to the subject in size and age. It was concluded that the requested \$85.00/ sq ft was reasonable and supported.

[9] In conclusion to his main argument the Complainant stated that \$85.00/ sq ft was the most reasonable value. This resulted in a request to reduce the assessment to \$21,216,000.

[10] 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 39 to 42). The Complainant stated that the evidence demonstrated that the multi-building warehouse properties did not command any higher unit value than the single building properties.

[11] The Complainant also provided a Multi-Building Analysis and argued that this evidence demonstrated that the multi-building warehouse properties did not achieve higher unit prices for sales or assessment (Exhibit C-1, pages 43 - 202). In support of this argument, the Complainant provided the Board with 2 scatter charts, and 10 comparable charts, comparing various northwest and southeast properties.

[12] The Complainant also provided the Board with a 21-page rebuttal package (Exhibit C-2). The Complainant argued that when replacement cost is compared to 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.

[13] The Complainant refuted the Respondent's five sales comparables (Exhibit C-2 page 2). The first sale comparable was described as being significantly smaller than the subject. The Complainant stated that the Respondent's #2 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. These facts discredited the validity of the sale as a comparable.

[14] The Complainant denied that the Respondent's sale comparables #3 and #4 were comparable. Sale comparable #3 was anchored by the Federal Government under a long term lease, with higher than market lease rates. A sizeable portion of comparable #4 was occupied by Public Works Canada.

[15] The Complainant argued that the Respondent's sale #5 was located on a major roadway and was a mixed use property and was therefore not comparable.

[16] 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 of the ratios were outside the acceptable range for SAR.

[17] The Complainant concluded in summary that a review of the recent market transactions indicates the value of the subject property was \$21,216,000.

Position of the Respondent

[18] The Respondent submitted written evidence containing five sales comparables, two of which were multi-building sites and three of which were single building properties. Three were in the same southeast quadrant as the subject, while two were located in the northwest (Exhibit R-1, page 13). The effective year built ranged from 1995 to 2008. The lot size ranged from 166,228 sq ft to 862,203 sq ft, while the total building size ranged from 74,801 sq ft to 291,285 sq ft and the site coverage ranged from 34% to 39%. Their time adjusted sales prices ranged from \$111.51/ sq ft to \$203.16/ sq ft, which supported the subject's assessment. The properties compared with the subject, which was built in 2008, had a lot size of 725,307 sq ft, a total building size of 249,600 sq ft, and a site coverage of 34%. The subject was assessed at \$123.65/ sq ft.

[19] The Respondent's evidence (Exhibit R-1) also contained four equity comparables of similar properties, all with multiple buildings and all located in the southeast quadrant (Exhibit R-1, page 20). The effective year built ranged from 1998 to 2009. The lot size ranged from 424,158 sq ft to 862,603 sq ft, the total building size ranged from 165,000 sq ft to 291,275 sq ft and the site coverage ranged from 31% to 39%. Their assessments ranged from \$120.86/ sq ft to \$150.17/ sq ft and also supported the assessment of the subject. The properties compared closely with the subject which was built in 2008, had a lot size of 725,307 sq ft, a total building size of 249,600 sq ft with site coverage of 34%.

[20] The Respondent also provided a copy of a Composite Assessment Review Board decision wherein that CARB discounted the Complainant's argument that the Respondent's method of assessing multi-building properties was unfair.

[21] 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).

[22] 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.

[23] The Respondent reviewed the Complainant's south and northwest sales charts (Exhibit C-1, pages 39 - 42) 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.

[24] In reviewing 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.

[25] The Respondent requested that the 2012 assessment in the amount of \$30,862,000 be confirmed.

Decision

[26] The decision of the Board is to confirm the 2012 assessment of \$30,862,000.

Reasons for the Decision

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

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

[29] The Board does not accept the argument that multi-building properties, such as the subject, ought to be assessed on the basis of total sq ft, regardless of the number of improvements. The Board accepts the Respondent's position that each building must be separately assessed and then combined to reach the assessed value.

[30] 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, further reducing any probative value they have in support the proposition that building numbers have no effect upon lease rates.

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

[32] The 10 sales comparable charts are not given much weight as supportive of the Complainant's submission for several reasons. The charts contained no headings thus it was 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.

[33] 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 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 this position of the Respondent as the proper method of multi-building assessment.

[35] The Board reviewed the Complainant's comparable sales, and finds that none of them are of assistance in determining the market value of the subject property. Sale #2 is not comparable as it has an unusually large site coverage (54%) versus the subject property's 34%. 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 \$123.65/ sq ft. Comparable #1 has a substantially larger site area and building making it less comparable. While comparable #3 is older and has higher site coverage, it has a very small main office and larger upper office. 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.

[36] The Respondent's sales comparables are lacking in similarities and the Board also finds them less reliable as comparables.

[37] The Board notes that the Complainant did not provide any equity comparables.

[38] The Board finds the Respondent's equity comparables persuasive as all of the equity comparables were multi-building properties located in the same quadrant of the City as 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 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
for the Respondent