

NOTICE OF DECISION NO. 0098 186/12

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:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
10014321	11404 184 Street NW	Plan: 0325778 Block: 3 Lot: 1	\$31,341,000	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: Westpen Properties Ltd.

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 1297

Assessment Roll Number: 10014321
Municipal Address: 11404 184 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
Thomas Eapen, Board Member
Taras Luciw, Board Member

Preliminary Matters

[1] None of the Board members indicated a bias with respect to the file.

Background

[2] The subject property consists of two warehouses, one with 181,640 sq ft and one with 200,215 sq ft, situated on an 813,874 sq ft lot, located in the White Industrial subdivision of west Edmonton. The first building noted above was constructed in 2004 while the second building was constructed in 2005. The property has 46% site coverage. The site also contains a third structure, an 8,000 sq ft material shelter, which is considered a cost building for assessment purposes and has a minor effect on the overall assessment/ sq ft.

Issues

[3] The Complainant indicated that the following matters 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 \$29,239,000.
- j. Assessments of similar properties indicate a lower equitable value of \$28,264,000.
- k. The aggregate assessment/ sq ft applied is inequitable with the assessments of other similar and competing properties.
- l. The aggregate assessment/ 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 \$29,239,000.

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

- 1. Is the assessment of the subject property fair and equitable considering the assessed value and assessment classification of similar properties?
- 2. Is the subject property assessed in excess of its market value when compared to sales of similar 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 subject property assessment of \$31,341,000 was inequitable and in excess of the market value. In support of this position, the Complainant presented the Board with a 192-page brief (Exhibit C-1). It was concluded that the requested value for the subject property was \$72.50/ sq ft.

[7] The Complainant argued that the three equity comparables provided (Exhibit C-1, page 8), should be considered due to the numerous comparable characteristics shared with the subject such as age, size, location and site coverage. These equity comparables were all located in the same quadrant as the subject which is in the northwest corner of the City of Edmonton. The assessments/ sq ft of leasable building area for these comparables ranged from \$64.95 to \$73.29 as compared to the subject's assessment of \$80.39/ sq ft. The Complainant submitted to the Board that a value of \$72.50/ sq ft would be appropriate for the subject based on these equity comparables.

[8] The Complainant also alleged that since the subject was built as a multi-building warehouse property, the subject was assessed excessively by the Respondent. The Complainant presented a chart of lease rates (Exhibit C-1, pages 12 & 13) which, in his opinion, showed that the number of buildings on site made no difference to the lease rates achieved.

[9] The Complainant provided a Multi-Building Analysis in support of the 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 29 to 32) to demonstrate that the multi-building warehouse properties did not command any higher unit value than the single building properties.

[10] The Complainant also provided the Board with several single and multi-building warehouses and corresponding sales comparables and argued that this evidence demonstrated that the multi-building or single building warehouse properties did not warrant any differential in unit prices for sales or assessment (Exhibit C-1, pages 33-192). 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.

[11] 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. A review of sales indicated no difference in sale prices between properties with one or multiple improvements on site (Exhibit C-2, page 6).

[12] The Complainant concluded that, based on the equity comparables presented (Exhibit C-1, page 8), a value of \$28,264,000 was appropriate for the subject property. The Board was asked to reduce the current assessment accordingly.

Position of the Respondent

[13] The Respondent submitted written evidence (Exhibit R-1) containing three equity comparables of similar properties, all multi-building sites located in the northwest quadrant of Edmonton (Exhibit R-1, page 13). The effective year built ranged from 1985 to 2008 and the lot size ranged from 730,404 sq ft to 1,700,643 sq ft. The total building size ranged from 274,734 sq ft to 704,690 sq ft and the site coverage ranged from 37% to 47%. Their assessments ranged from \$80.42/ sq ft to \$87.50/ sq ft and supported the assessment of the subject. The properties compared closely with the subject, which was built in 2004/5, had a lot size of 813,874 sq ft, a total building size of 389,855 sq ft (net of the 8,000 sq ft cost building) with site coverage of 47% and an assessment of \$80.39/ sq ft.

[14] The Respondent argued that, of the three equity comparables submitted by the Complainant, only one had multiple buildings. While this multi-building comparable was assessed at \$71.83/ sq ft, after adjustments for age, office space and upper floor developed area, it would be in line with the subject in the \$80.00/ sq ft range.

[15] 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 23).

[16] 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.

[17] The Respondent reviewed the Complainant's south and northwest sales charts (Exhibit C-1, pages 29 - 32) and found omissions of numerous sales (Exhibit R-1, pages 26 - 28). 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.

[18] 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 was incorrect.

[19] The Respondent requested that the 2012 assessment in the amount of \$31,341,000 be confirmed.

Decision

[20] The decision of the Board is to confirm the 2012 assessment at \$31,341,000.

Reasons for the Decision

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

[22] 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.

[23] 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.

[24] The Board notes that the lease rate comparables are not supported by any documentation and thus are not verified. The charts contain only southeast quadrant properties, which further reduces any value this evidence may have in supporting the proposition that building numbers have no effect on rates.

[25] The two scatter charts presented by the Complainant as analysis to show that there are no sale price differences between single and multi-building sites is rejected by the Board. At the hearing, the Complainant acknowledged 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 is not reliable evidence.

[26] 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 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. The charts appear to have been prepared with randomly selected comparables.

[27] The Board finds that the numerous errors and omissions in the 10 sales comparable charts put the Complainant's evidence into question.

[28] It was the request of the Complainant to base its complaint on the three equity comparables submitted. Two of the comparables are single-building properties and one of those was on a major road like the subject. The other single-building comparable site is substantially larger than the subject. The only multi-building comparable is older than the subject and is of limited assistance in establishing the market value for the subject.

[29] All three of the Respondent's equity comparables are multi-building properties located in the northwest, two of which have major road exposure as does the subject. The Board finds them persuasive and supportive of the assessment.

[30] 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

[31] There was no dissenting opinion.

Heard commencing July 31, 2012.

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

Lynn Patrick, Presiding Officer

Appearances:

Walid Melhem, Altus Group
for the Complainant

Joel Schmaus
for the Respondent