

NOTICE OF DECISION MGB 0098 189/12
(AMENDMENT)

Amends 0098 73/12

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 June 28, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
4028718	10616 103 Avenue NW	Plan: B2 Block: 6 Lot: 165, 166, etc.	\$9,014,000	Annual New	2012

This amendment corrects the 2012 assessment amount under the decision header from \$8,323,500 to \$8,323,000.

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: 1082476 ALBERTA LTD

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 921

Assessment Roll Number: 4028718

Municipal Address: 10616 103 AVENUE NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

**DECISION (AMENDMENT) OF
Peter Irwin, Presiding Officer
Lillian Lundgren, Board Member
Ron Funnell, Board Member**

Preliminary Matters

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

Background

[2] The subject property is an auto dealership located in downtown Edmonton. The property has a site area of 59,870 square feet (sf) and is situated on a corner lot. The building was constructed circa 1947 and has a gross building area of 25,808 sf. The property is zoned Urban Warehouse (UW).

Issue(s)

[3] What is the correct land value?

Legislation

[4] 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

[5] The Complainant presented a 41 page package of information to the Board (Exhibit C-1). The total assessment of the subject is \$9,014,000, based on the cost approach to value. The only issue in this complaint is that the land is assessed at a value of \$8,354,627 or \$139.55 per sf (\$6,078,862 per acre) which the Complainant submits is excessive.

[6] The Complainant directed the Board's attention to a table of property sales showing eight comparables of other downtown properties (page 8, Ex. C-1), with time-adjusted sale prices (tasp) ranging from \$98.31 to \$176.97 per sf, and a median of \$116.32 per sf. The exhibit included property reports on pages 15 – 30. The Complainant submits that comparable #1, at 10230 – 105 St. is the best comparable and has a tasf of \$103.94 per sf. Of the eight comparables, five are corner lots and three are interior lots. A land assessment of \$105.00 per sf is requested and is lower than the median due to the very large size of the subject. The Complainant requested a land assessment of \$6,286,110, based on \$105.00 per sf, which when combined with the building assessment of \$659,379, would produce a total assessment of \$6,945,000.

Position Of The Respondent

[7] The Respondent presented a 49 page package of information to the Board (Exhibit R-1) and directed the Board's attention to page 28, showing 6 sales comparables. The properties had tasf's ranging from \$88.52 to \$176.95 per sf. The average of the six comparables is \$138.63 per sf; the median is \$137.24 per sf. The Respondent submits that the comparables supported an assessment of \$139.55 per sf and requests the Board to confirm the assessment.

[8] Upon questioning about the fairness of comparing a 0.17 acre parcel (comparable #1 at 10233 - 105 St) to the subject's 1.37 acres, the Respondent stated that the City tried to stay within the same area with its comparables.

[9] Upon questioning, the Respondent was not aware of contamination issues in comparable #5 (10416 102 Ave.).

Complainant's Rebuttal

[10] The Complainant presented the Board with a 31 page rebuttal package (Exhibit C-2). The Complainant submits that the City's final two sales (#5 and #6) should not be used in the analysis for downtown land for the following reasons.

[11] For City comparable #5 (10416 102 Avenue) the Complainant submitted that a huge (50%) vendor take-back mortgage was taken out on the property; that the purchaser defaulted and there was a subsequent Court ordered sale (December 2011) for \$4,630,000 (~\$2M less than original sale price); and that contamination issues led numerous 2011 CARBs to disregard the sale.

[12] For City comparable #6 (10004 104 Avenue) the Complainant submitted that it was not a market transaction; that the purchaser was motivated and acquired the property for new Provincial Museum purposes; that the property wasn't listed on open market and the sale doesn't represent a willing seller; and that vendor was approached by the province and given only two months to close the transaction.

Decision

[13] The assessment is reduced to \$7,665,028 based on \$128 per sf applied to 59,870 per sf. Combined with the building assessment of \$659,379, the revised total assessment is \$8,322,739, rounded to **\$8,323,000.**

Reasons For The Decision

[14] In the direct sales approach used to prepare the assessments for this group of properties, market value is established by reference to similar sales. The Board will focus on the similarity of the sales presented by the Complainant and the Respondent.

[15] With respect to the Complainant's sales comparables, four of the eight sales were also used by the Respondent. The Board notes that all eight of the sales are similar in zoning and the downtown Edmonton location. While the Board notes that there was a wide range in the size of the comparables, which might otherwise reduce the weight placed on the smaller properties, the City's inclusion of the smaller ones in its table gives credibility to their comparability. The Board does, however, find that the interior parcels are not sufficiently similar to the subject's corner location and therefore rejects them.

[16] With respect to the Respondent's comparables, the first one (10233 105 St) is a (small) interior lot and the Board rejects it for its insufficient similarity to the subject's corner location. The Respondent's comparables #2, #3 and #4 were also used by the Complainant and are accepted by the Board as good comparables. The Board does not accept the Respondent's remaining two sales comparables for the following reasons.

[17] With regard to sale #5 (10416 102 Avenue), this property has contamination problems and the Board rejects it as an appropriate comparable.

[18] With regard to sale #6 (10004 104 Avenue), this sale was not listed on the open market and does not meet the definition of a "market sale" as defined in the Act because it was not sold on the open market.

[19] After eliminating the Respondent's comparables #1, #5 and #6, the Respondent's remaining sales comparables support a reduction in the base rate used to calculate the land value of the subject property.

[20] In summary, five of the Complainant's comparables are acceptable to the Board and include three of the Respondent's comparables. The average tarp of the five comparables is

\$128.03 per sf. Based on this market evidence, it is the decision of the Board to reduce the land assessment to \$128 per sf applied to 59,870 sf, for revised land assessment of \$7,663,360.

[21] Summary/ conclusion: Based on the above decision, the Board recalculates the assessment as follows:

Land Assessment: 59,870 sf @ \$128 = \$7,663,360

Improvements: \$ 659,379

Total Assessment: \$8,322,739 (rounded: \$8,323,000)

Heard commencing June 28, 2012.

Dated this 5th day of September, 2012, at the City of Edmonton, Alberta.

Peter Irwin, Presiding Officer

Appearances:

Brett Flesher

Chris Buchanan

for the Complainant

Shelly Milligan

for the Respondent