



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
1 SIR WINSTON CHURCHILL SQUARE
EDMONTON, ALBERTA T5J 2R7
(780) 496-5026 FAX (780) 496-8199

NOTICE OF DECISION NO. 0098 190/10

Altus Group Ltd
17327 - 106A Avenue
Edmonton AB T5S 1M7

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 27, 2010 respecting a complaint for:

Roll Number 10081904	Municipal Address 11189 ELLERSLIE ROAD SW	Legal Description Plan: 0627887 Block: 10 Lot: 94
Assessed Value \$906,500	Assessment Type Annual New	Assessment Notice For: 2010

Before:

Board Officer: Kyle MacLeod

Hatem Naboulsi, Presiding Officer
Tom Eapen, Board Member
John Braim, Board Member

Persons Appearing: Complainant
John Trelford, Director, Altus

Persons Appearing: Respondent
Chris Rumsey, Assessor, City of Edmonton
Tanya Smith, Barrister & Solicitor, City of
Edmonton

PRELIMINARY MATTERS

1. The Complainant objected to the Respondent's evidence package (R1) noting no summary was provided, and was therefore too open-ended to adequately prepare a rebuttal.

The Board reviewed the request regarding s.8(2)(b)(i) of the Matters Relating to Assessment Complaints Regulation (MRAC) and ruled that that Respondent can submit their evidence but neither party can enter any information not provided in the disclosure package. The Complainant may object if the Respondent presents evidence outside of their disclosure. No further objections were raised on this matter.

2. Upon commencement of the hearing the Respondent objected to the admissibility of the Complainant's rebuttal document (C-2), which contained the 2010 assessment of the sales comparables presented by the Respondent, as well as the assessment per square foot and the Assessment to Sales Ratio. The Respondent objected in particular to the submission of the ASR as it had not been an issue on the original complaint form. The Board ruled that the Complainant's rebuttal document was admissible as it was exchanged properly, in a timely fashion, and related to an issue that was stated on the complaint form.

3. The Respondent objected under MRAC s. 9(1) that the Complainant did not identify on the complaint form any 'double taxation' issue and therefore the Board cannot hear arguments from the Complainant regarding that issue.

The Board reviewed the objections raised by the Respondent and found the Complainant's line of reasoning is not barred by legislation. The argument put forward by the Complainant is broadly encompassed within the issue the Complainant did identify on the complaint form (C-1, pg. 3, issue 2). The Board also finds the City of Edmonton's identification of the land on the assessment notice provided by the Complainant (C-1, pg. 6) with respect to the subject property's roll number includes lots 8, 9 and 10. The Board rules the Complainant may continue to present evidence based on the arguments presented in the disclosure package.

BACKGROUND

The subject property comprises a vacant parcel of undeveloped commercial land extending to 44,450 sq. ft. The property is triangular in shape and adjoins a pipeline right of way to the south east. The 2010 assessment for this property is \$906,500 which equates to \$20.39/ sq. ft.

ISSUES

Is the subject property fairly and equitably assessed compared to similar property in the area?

LEGISLATION

Matters Relating to Assessment Complaints Regulation, Alberta Regulation 310/2009

s.8(2)(b) the respondent must, at least 14 days before the hearing date,

- (i) disclose to the complainant and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

s. 9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

The Municipal Government Act, R.S.A. 2000, c. M-26;

s.289 (2) Each assessment must reflect

- (b) the valuation and other standards set out in the regulations for that property.

s.293 (1) In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

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

The Complainant submitted seven time adjusted sales comparables (C-1, pg. 8) dates from May 2007 to October 2008 ranging from \$13.02/ sq. ft. to \$23.04/ sq. ft. with an average of \$18.16/ sq. ft.

The Complainant also submitted twelve equity comparables (C-1, pg. 10) ranging from \$14.00/ sq. ft. to \$21.50/ sq. ft. with an average of \$17.41/ sq. ft.

The Complainant argued that the subject property is landlocked and does not have access to either Ellerslie Road or 111th Street. Furthermore, as it is triangular in shape, the effective usable area is reduced from the actual size of the lot.

The Complainant submitted that based on current legal decisions (*Bramalea*) the subject property is entitled to the lower of the direct sales approach or the assessment equity. Based on the direct sales comparison approach the Complainant is requesting \$726,500 and based on the equity comparison approach the Complainant is requesting \$696,000. Final request is \$696,000.

POSITION OF THE RESPONDENT

The Respondent submitted eight time adjusted sales comparables (R-1, pg. 15) dated from February 2007 to April 2009 ranging from \$21.64/ sq. ft. to \$37.57/ sq. ft. with an average of \$25.56/ sq. ft.

The Respondent also submitted five equity comparables (R-1, pg. 16) ranging from \$18.19/ sq. ft. to \$23.22/ sq. ft. with an average of \$20.75/ sq. ft.

DECISION

The decision of the Board is to reduce the 2010 assessment from \$906,500 to \$809,500.

REASONS FOR THE DECISION

The Board found the Respondent's sale comparables were all in substantially superior locations; some had atypical lot shapes but the shape differences were minor when compared to the subject property. Sales 1-4 were all located with good exposure to Gateway Boulevard. The Board also found the sale property at 10004 Ellerslie Road has good exposure to Gateway Boulevard. In addition, sale 8, located at 11103 Ellerslie Road is a corner lot with excellent exposure to both Ellerslie Road and 111th Street.

The Board was persuaded by the Complainant's sale located at 9504 Ellerslie Road with a time adjusted sale price of \$18.21/ sq. ft. due to its proximity to the subject, as well as its similar size to the subject property.

The Board found the Respondent's sale property at 10004 Ellerslie Road that sold close to the assessment date at \$37.57/ sq. ft. was substantially higher than the rest of the sales comparables provided and was used as an equity comparable by the Respondent at \$22.91/ sq. ft. Additionally this property has excellent exposure to Gateway Blvd which brings into question the validity of the Respondent's comparable sale which contradicts its equity assessment.

Dated this 2nd day of September, 2010, at the City of Edmonton, in the Province of Alberta.

Presiding Officer

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, R.S.A. 2000, c.M-26.

CC: WAM Group GP Inc.
Municipal Government Board