

**NOTICE OF DECISION      NO. 0098 199/12**

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 30, 2012, respecting a complaint for:

<b>Roll Number</b>	<b>Municipal Address</b>	<b>Legal Description</b>	<b>Assessed Value</b>	<b>Assessment Type</b>	<b>Assessment Notice for:</b>
3209608	11403 107 STREET NW	Plan: 4297TR Block: 7 Lot: 273	\$4,046,500	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.*

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cc: OMERS REALTY CORPORATION

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group v The City of Edmonton, ECARB 2012-001097**

**Assessment Roll Number:** 3209608

**Municipal Address:** 11403 107 STREET NW

**Assessment Year:** 2012

**Assessment Type:** Annual New

Between:

**Altus Group**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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### **DECISION OF**

**James Fleming, Presiding Officer**

**Darryl Menzak, Board Member**

**Judy Shewchuk, Board Member**

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### **Preliminary Matters**

[1] There were no preliminary matters.

[2] The parties did not object to the composition of the Board, and no issues of bias were raised.

### **Background**

[3] The property is a 95,429 square foot (sq. ft.) parcel of vacant land on the south west corner of Kingsway Garden Mall (at 109<sup>th</sup> St. and Kingsway). The site is a former hotel and beverage room. The site is not “required parking” for the mall. The property is zoned CSC – Community Shopping Centre, and the property is valued using the Direct Sales Comparison approach. Both parties agreed on the time adjustment calculations prepared by the City.

### **Issue(s)**

[4] The Complaint form included seven issues, however at the hearing the Complainant indicated that they were only pursuing market value. Accordingly:

[5] What is the best evidence of market value for the subject? In order to determine this matter it is necessary to evaluate the impact of traffic count, location and site size on the market value.

## **Legislation**

[6] The Municipal Government Act reads:

### ***Municipal Government Act, RSA 2000, c M-26***

s 1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

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 eleven sales comparables (Ex. C1, pg. 8) which showed a median sales price of \$16.59 per sq. ft.. The comparables were located city wide; ranged in size from 57,064 sq. ft. to 216,493 sq. ft., and ranged in value from a time adjusted sales price (TASP) of \$11.78 per sq. ft. to \$18.93 per sq. ft. The Complainant argued that sales numbers 1, 5, 6, 8, 9, and 11 provided the best support for their requested \$18.00 per sq. ft., as opposed to the assessment at \$39.85 per sq. ft.

[8] The Complainant asked for a reduction in the assessment to \$18.00 per sq. ft., which equates to a total assessment of **\$1,961,500.**

## **Position of the Respondent**

[9] The Respondent provided five comparable sales and three equity comparables in support of their assessed rate of \$39.85 per sq. ft. (Ex. R1, pg. 11). The sales comparables were located city wide, and ranged in size from 24,542 sq. ft. to 274,814 sq. ft. The sale prices ranged from \$26.27 per sq. ft. to \$52.15 per sq. ft. with an average of \$41.06 per sq. ft. and a median of \$41.58 per sq. ft.

[10] The equity comparables ranged in size from 15,001 sq. ft. to 274,814 sq. ft. and ranged in value from \$46.52 per sq. ft. to \$60.40 per sq. ft. with an average of \$46.52 per sq. ft. and a median of \$51.90 per sq. ft.

[11] The Respondent indicated that both these sets of comparables provided good support for the assessment and asked that the value be confirmed at **\$4,046,500.**

## **Complainant's Rebuttal**

[12] The first part of the Complainant's Rebuttal focused on the Respondent's suggested comparable sales (Ex. C2, pg. 8). They argued that the first sale was not a valid sale because it included another adjacent property, and the allocation of value between the two parcels was arbitrary, and it sold with improvements on the site, and therefore was not a land only comparable.

[13] Three of the sales (numbers 2, 3, and 4) were significantly smaller than the subject, and one of these sales (#2) was sold to a tenant, thereby bringing into question whether it was a valid sale.

[14] The fourth sale, it was argued, was sold with a significant vendor take back mortgage (VTB) which the Complainant argued could distort the actual sales price, because the purchaser might be willing to pay more for the property because of the amount of the VTB. As well, it was pointed out that the terms of the sale were negotiated in mid – 2010, and thus might not represent a market sale due to the change in markets between mid 2010 and the valuation date in 2011.

[15] The Respondent argued that with respect to the three smaller sites, economies of scale were not recognized in the analysis, and that if these economies were properly recognized, the value of the subject would be lower, because it was three times larger than the suggested comparables

[16] The Complainant went on to discuss the traffic counts for the various comparables, having included a "Traffic Volumes Average Annual Weekday 2005 – 2010" document from the City (Ex. C2, pgs 27 – 40). The Complainant used this data to argue that there did not appear to be a direct correlation between traffic volumes and assessment values.

### **Decision**

[17] The complaint is denied and the assessment is confirmed at **\$4,046,500.**

### **Reasons for the Decision**

[18] The CARB considered all of the evidence and argument. In evaluating the comparables from the Complainant, the CARB concentrated on the comparables which the Complainant said were the best; namely comparables number 1, 5, 6, 8, 9, and 11. In analyzing these comparables, they concluded that comparables #1 and #11 did not share the same locational aspects as the subject, #11 was on a highway strip, and #1 was in a quasi industrial retail area. The traffic counts were also lower than the subject (17,300 & 10,600 respectively versus roughly 30,000 for the subject).

[19] The balance of the Complainant's "best" comparables were located on the periphery in the northern part of the City, and the CARB concluded that while they may have similar traffic counts, from its experience, the CARB notes that the Kingsway Garden Mall is one of the strongest malls in the City, and so the assessed rate should be expected to be higher than the other comparables.

[20] In the final analysis, the CARB concluded that location was a dominant attribute for the subject. The CARB noted that the comparable sale of a neighbouring property 11110 – 108<sup>th</sup> St. was concluded at \$37.69 per sq. ft. on a time adjusted basis. In reviewing this sale, the CARB noted that it was much smaller than the subject (1/3<sup>rd</sup> the size), which would suggest a lower

price for the subject. It was long and narrow, and therefore was harder to develop and had lower utility than the subject, and so this would tend to decrease the price compared to the subject.

[21] There was some question raised as to the validity of the sale, because it was sold by the City to its tenant, and this can raise doubt as to whether the sale was truly an arms-length market sale. The CARB notes that the City has validated the sale as an arms-length market transaction, and because it is included as a comparable in the City's evidence, the CARB is prepared to accept that it does represent a valid sale.

[22] The CARB also considered the sale at 10405 120<sup>th</sup> St. The size of the site and the distance from the subject persuades the CARB that it is not the best comparable (irrespective of concerns over the timing of the sales agreement and the impact of a VTB).

[23] Accordingly, the CARB concludes that the best evidence of value is the sale of 11110 108<sup>th</sup> St. which even when adjusted, shows the strength of the Kingsway area location and leads the CARB to confirm the assessment of the subject as noted above.

### **Dissenting Opinion**

[24] There was no dissenting opinion.

Heard commencing August 30, 2012.

Dated this 14<sup>th</sup> day of September, 2012, at the City of Edmonton, Alberta.

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James Fleming, Presiding Officer

### **Appearances:**

Chris Buchanan

for the Complainant

Keivan Navidikasmaei

for the Respondent

For Official Use Only

CARB	Other Property Types	Vacant Land	Cost/Sales Approach	Land Value