

**NOTICE OF DECISION      NO. 0098 203/12**

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 September 4, 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>
3940533	10006 101 STREET NW	Plan: 9023625 Block: 1 Lot: A	\$5,438,500	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: POSTMEDIA NETWORK INC

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group v The City of Edmonton, ECARB 2012-001129**

**Assessment Roll Number:** 3940533

**Municipal Address:** 10006 101 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**

**Dean Sanduga, Presiding Officer**

**George Zaharia, Board Member**

**Howard Worrell, Board Member**

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### **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 they had no bias on this file.

[2] There were no preliminary matters.

### **Background**

[3] The subject property, located in the downtown neighborhood of Edmonton is a unique property in that this roll number is for a piece of land as if it was vacant; however, situated on this property is an improvement which is identified by another roll number. Currently the two separate properties are owned by the same party, but the land and the improvement have separate titles and different roll numbers. The subject property has the Edmonton Journal building situated on it, is 37,620 square feet in size, is fully serviced, and is zoned CCA with effective zoning of CB2.

[4] It is valued as a vacant piece of land using the cost approach resulting in a 2012 assessment of \$5,438,500.

### **Issue(s)**

[5] Is the 2012 assessment of the subject property too high compared to sales of similar properties?

[6] Is the 2012 assessment of the subject property fair and equitable considering the assessed value and assessment classification of comparable properties?

### **Legislation**

[7] 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**

[8] The Complainant submitted into evidence a 45-page brief identified as C-1, arguing that the current assessment of \$5,438,500 is excessive compared to sales of similar properties.

[9] In support of this position, the Complainant submitted eight sales comparables of vacant land in downtown Edmonton. The sales occurred between March 10, 2006 and July 27, 2011, the properties selling for time-adjusted sales prices ranging from \$98.31 to \$176.97 per square foot (Exhibit C-1, page 8).

[10] Six of the comparables were zoned UW (Urban Warehouse), one was zoned MSC (Jasper Avenue Main Street Commercial), and one was zoned HA (Heritage Area). The subject is zoned CCA (Core Commercial Arts) (Exhibit C-1, page 8). The position of the Complainant was that zoning did not significantly impact the value of the property.

[11] In order to establish a representative value of the eight sales comparables, the Complainant argued that the appropriate and correct value is the median. In support of this position, the Complainant provided several quotations describing the advantage of the “median”. On page 12 of C-1, the following quote in part was highlighted: “*The median has the advantage of discounting the effects of extreme values, thus better capturing typical price trends*”.

[12] The Complainant determined that the median of the eight sales comparables was \$116.62 per square foot. Based on the median, the Complainant stated the following: *“Due to the attributes of the subject such as age, size, location, and site coverage of the subject property, it is determined that the indicated value for the subject property is \$116.50 per square foot”* (Exhibit C-1, page 8).

[13] To further support his request for a reduced value of \$116.50 per square foot, the Complainant provided a December 20<sup>th</sup>, 2011 decision of a CARB (Exhibit C-1, pages 39 – 45). Of the eleven sales comparables provided in the December 20<sup>th</sup> decision, seven were used in the current complaint. In the December 20<sup>th</sup> decision, the Board reduced the assessment, a result that the Complainant was seeking in the current file.

[14] In response to the Respondent’s concern and dismissal of three of the Complainant’s sales comparables, the Complainant submitted a 43-page Rebuttal document marked as C-2. Following is a list of the three properties and the Complainant’s response to each of the Respondent’s concerns (Exhibit C-2, page 6):

- i. *The assessor has asked the Board to discount the sale at 10204 105 Street because it was purchased by the City of Edmonton. This is not the first time the assessors have asked the Board to do this and in each instance, the Board has rejected the assessor’s assertion that the sale was invalid.* In city emails sent from the assessment branch to an assessor, it was stated that property would be purchased at “market value” (Exhibit C-2, page 41).
- ii. *The assessor has asked the Board to discount the sale at 10160 106 Street however, in numerous other briefs, the assessment department has brought this sale forward as a valid sale in support of their assessments. In numerous decisions of the Board from 2011 and 2012, the Board has deemed this transaction valid.* This position was supported by a June 28, 2012 CARB hearing where the City assessor used this sale, identifying it as a “good sale” (Exhibit C-2, page 38).
- iii. *The assessor has asked the Board to discount the sale at 10120 108 Street however, in numerous other briefs, the assessment department has brought this sale forward as a valid sale in support of their assessments. In numerous decisions of the Board from 2011 and 2012, the Board has deemed this transaction valid.* This position was supported by a 2011 CARB hearing where the City assessor used this sale to support an assessment (Exhibit C-2, page 40).

[15] In rebuttal to the Respondent’s position that zoning affected value, the Complainant provided an assessment chart of properties that were zoned CMU, EZ (formerly zoned UW), HA, and RMU, as is the subject. All of these properties were assessed at \$124.26 per square foot (Exhibit C-2, page 9).

[16] In conclusion, based on a value of \$116.50 per square foot, The Complainant requested the Board to reduce the 2012 assessment of the subject property from the original \$5,438,500 to \$4,382,500.

### **Position of the Respondent**

[17] The Respondent submitted into evidence a brief identified as R-1, arguing that the current assessment of \$5,438,500 is fair and equitable when compared to sales of similar properties.

[18] In support of this position, the Respondent submitted five sales comparables of vacant land in downtown Edmonton. These sales were five of the eight sales that the Complainant had provided. The sales occurred between March 10, 2006 and July 27, 2011, the properties selling for time-adjusted sales prices ranging from \$116.57 to \$176.95 per square foot resulting in an average sales price of \$136.13 per square foot compared to the assessment of the subject property at \$144.56 per square foot (Exhibit R-1, page 9).

[19] The Respondent discounted the other three sales comparables submitted by the Complainant for the following reasons:

- i. Property at 10204 105 Street was a City purchase and therefore considered not at market value.
- ii. Property at 10160 106 Street lacked evidence of actually being listed on the open market, and was found to be suspect when at a time-adjusted sale price of \$98.26 per square foot fell below the threshold of \$100 per square foot that no other property in the downtown area sold below.
- iii. Property at 10120 108 Street was considered part of 2 related transactions to build an office building with the question of whether there was motivation involved in the sale, and again, was the property listed for sale?

[20] In support of his position that zoning impacted land value, the Respondent addressed six zones showing the maximum “floor area ratio” (FAR) applicable to each zone. The floor area ratio ranged from a low of 6.0 in the land zoned EZ to a high of 13.1 in the land zoned CCA (Exhibit R-1, page 68).

[21] In response to the Complainant’s assessment chart included in Exhibit C-2, the Respondent stated that the three properties zoned “HA” were incorrectly assessed at \$124.26 per square foot, and in fact should be higher, although no value was identified.

[22] The Respondent stated that no equity chart had been provided for this file since any purchaser of the subject property, which is land only, would have to purchase the improvement situated thereon. Consequently, the subject property was assessed at \$144.56 per square foot which is lower than the assessments of the interior lots located within the block of the subject on Jasper Avenue.

[23] As a result of Board questions as to whether there was a caveat on the subject property due to the uniqueness of the situation, and what impact a caveat could have on the value of the property, it was stated that there was no caveat in front of the Board.

[24] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at \$5,438,500.

## **Decision**

[25] The decision of the Board is to confirm the 2012 assessment of the subject property at \$5,438,500.

## **Reasons for the Decision**

[26] The Board placed less weight on the Complainant's request to reduce the assessment of the subject property to rate of \$116.50 per square foot.

- i. Although all the sales comparables are located in the downtown district, the subject property is located in the core financial district while all the other sales comparables, except the property at 10174 103 Street, are located either in the urban warehouse area from four to five blocks west of the subject, or in the JAMSC zoned area located seven blocks west of the subject. The Board determined that the sales comparables lacked location comparability, one of the attributes in valuing commercial vacant land.
- ii. Although the Complainant's requested \$116.50 per square foot came from determining the median of the eight sales comparables submitted by the Complainant, the Board was not persuaded by the Complainant's argument that the "median" is a better indication of value than the "average". The Board offers two reasons, both based on material provided by the Complainant in C-1. In discussing the advantages of a median on page 12 of C-1, the comment includes a further explanation shown in brackets that states "*a trimmed mean could be used to the same advantage*". The Board interprets this comment as eliminating outliers as is the procedure in determining the median. Further, in discussing "unusual properties" a fact that both parties agreed applied to the subject property, the Alberta Assessors' Association Valuation Guide states: "*The tabulation process may uncover certain properties that do not seem to fit in with other properties. These properties may be mis-classified or they may simply be somewhat unusual. In such cases the tabulation and analysis done to determine the valuation parameters should exclude the unusual property, establishing a more homogeneous group*".

[27] The Board placed less weight on the Respondent's sales comparables which were the same as five of the Complainant's comparables since, other than the property zoned HA, all the other properties had zonings that would provide lower floor area ratios.

[28] The Board placed greatest weight on the sales comparable that was submitted by both parties located at 10174 103 street because of its location (nearest to the subject and just off Jasper Avenue), and its zoning (HA which has a floor area ratio of 10 compared to the 13.1 for the subject). The time-adjusted sale price of this property at \$176.95 per square foot more than supported the assessment of the subject at \$144.56 per square foot, and seriously challenged the Complainant's position that the subject property should be assessed at \$116.50 per square foot.

[29] Since the Board is restricting the sales comparables to the one at 10174 103 Street, it won't comment on the Complainant's three comparable properties that the Respondent suggested should not be used.

[30] The Board accepted the Respondent's position that zoning had an impact on value. The one sales comparable submitted by the Complainant, and used by the Respondent, at 10174 103

Street is zoned HA and has a maximum floor area ratio of 10 (for all properties south of 102 Avenue), where the subject is located. This property sold for a time-adjusted sale price of \$176.95 per square foot which is significantly higher than the other sales comparables with different zonings that command a lower floor area ratio at 6 or 7.

[31] The Board accepted the Respondent's position that the subject's assessment would be lower than similar properties located near the subject because of the improvement situated on the subject. Due to the uniqueness of the property, it is most likely that any buyer wishing to purchase the land for some other use than it is currently being used for, would expect some kind of discount.

[32] Without any evidence as to a caveat on the subject property and what it might entail, the Board had no bases to contemplate what impact on value a caveat could have on the subject property.

[33] The Board was persuaded that the assessment of the subject property at \$5,438,500 or \$144.65 per square foot was fair and equitable.

### **Dissenting Opinion**

[34] There was no dissenting opinion.

Heard commencing September 4, 2012.

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

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Dean Sanduga, Presiding Officer

### **Appearances:**

Chris Buchanan  
for the Complainant

Keivan Navidikasmaei  
for the Respondent