

NOTICE OF DECISION NO. 0098 215/12

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 (the Board) from a hearing held on August 21, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3236155	10823 Kingsway NW	Plan: 2813KS Block: 8 Lot: 267	\$1,513,500	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.

cc: Terra Nova Enterprises Ltd.

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 896

Assessment Roll Number: 3236155
Municipal Address: 10823 Kingsway NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
James Fleming, Presiding Officer
James Wall, Board Member
Brian Hetherington, Board Member

Preliminary Matters

[1] When asked, the parties indicated no objection to the composition of the Board. Each of the Board members indicated that they had no bias with respect to this complaint.

[2] The Board advised the parties that the Board's administration had no record of the Respondent's disclosure being provided to the Board in accordance with s. 8(2) of the *Matters Relating to Assessment Complaints Regulation*, Alta. Reg. 310/2009 [MRAC]. The Respondent advised that they were not aware of such issue, but that there may have been a problem using the City's computer system. After consideration, the Complainant agreed to abridge the disclosure deadline, pursuant to s. 10(3) of MRAC, and agreed that the Respondent's disclosure should be admitted into evidence, notwithstanding s. 9(2) of MRAC. Accordingly, the Board accepted the Respondent's evidence.

[3] The Presiding Officer asked for, and was provided with, a letter from the Complainant agreeing to the abridged time.

Background

[4] The subject property is located on the corner of 109 Street NW and Kingsway Avenue, across the street from the Kingsway Garden Mall. This land parcel has a gross area of 34,749 square feet zoned CSC, and is improved with a fast food outlet (A&W). The property is assessed on Cost Approach (land only), due to the low site coverage.

[5] Both parties agree that the subject property's Highest and Best use is as vacant land as opposed to its current configuration as a drive-in/sit-down restaurant (land value only).

Issue(s)

[6] The Complainant put forward several issues in their assessment brief, however, upon questioning from the Presiding Officer, the Complainant agreed that the main issue was that the subject property's 2012 assessment was in excess of its market value.

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 provided the Board with a 29-page assessment brief (Exhibit C1). The Complainant confirmed that the market value for the subject property was calculated based on the value of the land.

[9] In support of a reduced assessment, the Complainant provided the Board with a total of five land sales comparables with an indicated time-adjusted sale price range of \$23.91 per square foot to \$49.06 per square foot, an indicated median of \$32.56 per square foot and a mean average of \$32.50 per square foot. The subject property's 2012 assessment was calculated on the basis of \$43.54 per square foot for land plus a token amount of \$500.00 for the existing improvement.

[10] The Complainant confirmed that the time adjustment factors applied to the sales data were the same as the factors used by the Assessment Department.

[11] The Complainant suggested to the Board that the subject property's location allows direct access to only the southeast bound lanes of Kingsway Avenue and the northbound lanes of 109 Street. This represents an adverse effect to the subject site, compared to other corner commercial sites which enjoy all directional access.

[12] The Complainant requested the Board reduce the subject property's 2012 assessment to **\$1,216,000 (\$35.00 per square foot).**

Position of the Respondent

[13] The Respondent provided the Board with a 79-page assessment brief (Exhibit R1) which included a section on law and legislation. The brief put forward four time-adjusted land sales comparables located in the subject or comparable areas. The sales ranged in size from 6,181 square feet to 28,575 square feet. The subject land's area is 34,749 square feet.

[14] The time-adjusted sale prices range from \$36.12 per square foot to \$97.40 per square foot. The subject property is assessed at \$43.54 per square foot.

[15] The Respondent provided the board with four equity comparables which ranged in size from 18,388 square feet to 95,429 square feet. These equity comparables were located in close proximity to the subject property and were assessed at rates of \$37.71 per square foot to \$44.31 per square foot.

[16] The Respondent informed the Board that sales comparable #2 was vacant land located in close proximity to the subject property, and its time-adjusted sale price offered significant support for the subject property's current assessment.

[17] The Respondent requested that the Board confirm the 2012 assessment of the subject property at **\$1,513,500**.

Complainant's Rebuttal

[18] The Complainant provided the Board with a 28-page rebuttal document (Exhibit C2). In this document the Complainant analyzed the Respondent's disclosure evidence and specifically took issue with the sales comparables it contained:

- a) The Complainant suggested that the time adjustment factor and sale price used by the Respondent in sales comparable #1 were in error, and the correction of these errors would result in a time-adjusted sale price for this property of \$31.86 per square foot not \$36.12 per square foot as stated on page nine of R1. The Complainant informed the Board that the Respondent's sales comparable #2 was purchased by a long-term tenant of this property who had utilized the property for surface parking in conjunction with their adjoining improvement (Petroleum Club). The Complainant calculates that the time-adjusted sale price for this property should have been \$37.69 per square foot and not \$40.58 per square foot as indicated by the Respondent. In addition a further discount should be applied to this property to reflect a motivated purchaser.
- b) The Complainant indicated that the Respondent's sales comparable #3 was also improperly adjusted for time and suggested the correct time-adjusted sale price would be \$46.50 per square foot, not \$49.05 per square foot.
- c) The Complainant said that the Respondent's sales comparable #4 was an improved property, not land only.

[19] The Complainant provided the Board with a chart containing the Respondent's sales comparables with suggested adjustments (Exhibit C2, pg. 8), together with the Complainant's time-adjusted sales comparables. The resultant range was \$23.91 per square foot to \$49.06 per square foot, indicating a median of \$34.87 per square foot. The Complainant suggested that this indicated rate should be applied to the subject property in determining its assessment.

Decision

[20] The decision of the Board is to reduce the subject property's 2012 assessment to **\$1,216,000 (\$35.00 per square foot).**

Reasons for the Decision

[21] The Board finds that the advantage enjoyed by the subject property as a result of its exposure to heavily traveled arteries close to a regional shopping center is partially off-set by its limited access to those arteries.

[22] While the Respondent in their disclosure made a strong case in support of the current assessment, the Board notes that the Complainant's rebuttal brings all of the Respondent's sales comparables into question. The Complainant proved to the satisfaction of the Board that the time-adjusted per square foot rates applicable to these sales comparables were applied in error. Based on the Respondent's time-adjustment factors, which were accepted by the Complainant, the Respondent's sales comparables #s 1, 2 and 3 had incorrect time-adjustment factors applied.

[23] The result of applying the proper time-adjusted sale price factors to the Respondent's comparables reveals that the Respondent has overstated the time-adjusted sale prices by between 5 – 10%. The Respondent's sales comparable #4 had substantial improvements, which were not taken into consideration.

[24] When the errors are corrected (Exhibit C2, pg. 8) the Respondent's sales comparables suggest the 2012 assessment is higher than its market value.

[25] The Board finds that the best evidence of value is in the Complainant's rebuttal document (Exhibit C2, pg. 8) where the three corrected Respondent's sales comparables and the Complainant's five sales comparables indicate a median per square foot value of \$34.87. The Board finds this supports an assessment of \$35.00 per square foot, or \$1,216,000.

Dissenting Opinion

[26] There is no dissenting opinion.

Heard commencing August 21, 2012.

Dated this 18 day of September, 2012, at the City of Edmonton, Alberta.

James Fleming, Presiding Officer

Appearances:

Chris Buchanan, Altus Group
for the Complainant

Chris Rumsey, Assessor
for the Respondent

For Official Use Only

Appeal Type	Property Type	Property Sub-Type	Issue	Sub Issue
CARB	Other Property Types	Vacant Land	Cost/Sales Approach	Land Value