

NOTICE OF DECISION NO. 0098 22/12

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 19, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9984978	9404 41 Avenue NW	Plan: 0024106 Block: 19 Lot: 22	\$3,939,500	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: SEAMAY INVESTMENTS INC

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 001062

Assessment Roll Number: 9984978

Municipal Address: 9404 41 AVENUE NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Ted Sadlowski, Presiding Officer
Brian Frost, Board Member
Reg Pointe, Board Member

Preliminary Matters

[1] Upon questioning by the Presiding Officer, the parties did not object to the composition of the Board. The Board members stated that they had no bias with regard to this file.

Background

[2] The subject property is a 30,979 square foot, average quality warehouse containing 7,411 square feet of finished second floor space. It is situated on a 107,094 square foot lot, exhibiting a 22% site coverage, in the Strathcona Industrial Park in Southeast Edmonton and is municipally described as 9404 – 41 Avenue NW. The subject property was built in 1989, coincidental with its effective age and is assessed at \$3,939,500.

Issue

[3] Is the subject property assessed too high?

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] It was the position of the complainant that the assessment of the subject property is excessive. In support, the Complainant entered into evidence his Brief (Exhibit C-1) and rebuttal (Exhibit C-2).

[6] Within the Brief (C-1), charts outlined sales comparables (page 8). The sales comparables detailed four sales of similar properties which reflected a time adjusted sales price ranging between \$93.22 and \$124.36 per square foot of leasable building area, with an average of \$111.48 per square foot and a median of \$114.17 per square foot. Based on these sales comparables, the Complainant requested the assessment be reduced to \$115.00 per square foot of leasable building area, or \$3,562,500.

[7] The Complainant summarized excerpts from an appraisal (pages 37 - 60) that was completed with an effective date of January 1, 2010 which estimated the value of the property to be \$2,950,000.

[8] On page 2 of the rebuttal (C-2), the Complainant critiqued the Respondent's sales comparables. The Complainant stated that the Respondent's first comparable was a sale/leaseback of a building 11 years newer than the subject and therefore it was not a fair representation of market value for the subject. The Respondent's sales three and four were both 9 years newer than the subject. Sale 4, as well, featured a 20- and 30-ton craneway and an additional compressor building, rendering them poor comparable sales. The Complainant stated that the Respondent's sixth comparable had been the subject of substantial renovation and was fully office and lab space within, rendering it a poor comparable sale.

Position of the Respondent

[9] It was the Respondent's position that the assessment of the subject property is both fair and equitable. In support of this, the Respondent entered into evidence its Brief (Exhibit R-1).

[10] Within the Brief, charts outlined sales comparables (page 21). The sales comparables detailed sales of similar properties which reflected a time adjusted sales price ranging between \$124.36 and \$146.07 per square foot of total leasable building area. On the basis of these sales comparables, the Respondent requested the assessment be confirmed.

Decision

[11] The Board confirms the 2012 subject property assessment.

Reasons for the Decision

[12] The Board is mindful of the Respondent's statement that the burden of proof lay with the Complainant in establishing that the assessment is incorrect. The Complainant's evidence and rebuttal were reviewed in an effort to determine if the Complainant's evidence was sufficient to sway the Board to reduce the assessment.

[13] The Board is cognizant of the Complainant's argument that the Respondent's comparable sales were as many as 11 years newer than the subject. The Board further notes that the Respondent's sixth comparable was sufficiently dissimilar as to question its validity as a sale comparable.

[14] The Board reviewed the Complainant's position regarding the appraisal. The Board was mindful of the Respondent's advice that the appraisal was not complete. In particular, the Respondent brought page 43 of Exhibit C-1 to the Board's attention, which stated that "the report is not a stand alone report and must be read in conjunction with the accompanying cover letter and related appendices". Since the cover letter was not included with C-1, the Board could not rely on the appraisal.

[15] The Board considered the Complainant's four sales comparables. The first was in a Northwest Edmonton location and lacked some services (curb, gutter and paved streets) that the subject enjoyed. The fourth comparable was also in a Northwest Edmonton location. The Board was not satisfied that use of comparables outside the realm of the subject was either necessary or appropriate given that the Respondent was able to locate sufficient sales data within the immediate vicinity of the subject. The Board also noted that the Complainant's second sale somewhat supported the assessment and the third sale fully supported the assessment.

[16] The Board considered the Complainant's position that the first of the Respondent's sales comparables was brought into question because it was a sale/leaseback and it was significantly newer than the subject. The Board, however, was satisfied with the Respondent's explanation that the participants in the transaction were interviewed and the Respondent was satisfied that the transaction was fully arms length and was reflective of the market at the time.

[17] The Board acknowledges that the third and fourth sale comparables were newer than the subject property and is satisfied that their time adjusted sales price per square foot of \$146.07 and \$136.93, in spite of the differences, sufficiently support the final assessment of \$127.16 per square foot. The Board acknowledges that the Respondent's sixth sale is not a good comparable

given its substantial renovation and interior finish, however the Board is satisfied that its exclusion as a comparable sale would not prejudice the assessment.

[18] The Board determined that the Complainant failed to fulfill his onus to disprove the current assessment and that the assessment should be confirmed.

Dissenting Opinion

[19] There was no dissenting opinion.

Heard commencing June 19, 2012.

Dated this 25th day of June, 2012, at the City of Edmonton, Alberta.

Ted Sadlowski, Presiding Officer

Appearances:

Walid Melhem, Altus Group
for the Complainant

David Dahl, City of Edmonton
Joel Schmaus, Assessor, City of Edmonton
for the Respondent