

NOTICE OF DECISION NO. 0098 221/12

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 5, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3113537	11056 97 STREET NW	Plan: 5021S Block: 21 Lot: 1 / Plan: 5021S Block: 21 Lot: 2 / Plan: 5021S Block: 21 Lot: 3	\$285,500	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: PARK MEMORIAL LTD.

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, ECARB 2012-001126

Assessment Roll Number: 3113537

Municipal Address: 11056 97 STREET NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Dean Sanduga, Presiding Officer

George Zaharia, Board Member

Howard Worrell, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties before the Board indicated no objection to the Board's composition. In addition, the Board Members indicated no bias with respect to this file.

Preliminary Matters

[2] File number 3092228 was an initial roll number heard by the Board on September 5, 2012 and evidence, argument and submissions were to be carried forward where applicable. Subsequent adjoining properties to this roll number, 3113560 and 3113545 were heard concurrently and evidence, argument and submission were to be carried forward where applicable.

Background

[3] The subject property is a paved parking lot and is located in the McCauley neighbourhood. The subject is an interior lot of 4,084 square feet with CB2 zoning and an effective zoning of CB2.

[4] The subject property has been assessed using the cost approach to value resulting in a land assessment of \$ 67.38 per square foot or \$275,167. When adding the improvement of \$10,441 the total 2012 assessment is \$285,500.

[5] There is no dispute as to the improvement value for the subject property of \$10,441.

Issue(s)

[6] Is the 2012 assessment of the subject property too high compared to sales of similar 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 provided a 48-page brief marked as exhibit C-1, arguing that the 2012 assessment of the subject property with improvement at \$285,500 or land assessment at \$67.38 per square foot was excessive. His position was that sales of similar properties indicated a value of \$55.00 per square foot (Exhibit C-1, page 8).

[9] In support of this position, the Complainant submitted fifteen sales comparables of similar properties located in McCauley, Boyle and Central McDougall neighborhoods. The sales occurred between June 13, 2006 and April 1, 2010 selling for time-adjusted sales prices ranging from \$37.18 to \$98.30 per square foot. The comparable properties ranged in size from 3,894 to 46,311 square feet and were zoned CB1, CB2, DC1, and CNC (Exhibit C-1, page 8).

[10] The median value of these fifteen sales comparables was \$54.43 per square foot, forming the basis of the requested \$55.00 per square foot value to be applied to the subject property. It was the position of the Complainant that the median rather than the average of the comparable sales was a better representation of value since it excluded outliers.

[11] The Complainant submitted a 29-page rebuttal document challenging the appropriateness of three of the Respondent’s five sales comparables. Following is an outline of the Complainant’s concerns with these three sales (Exhibit C-2, page 6 and 7):

- i. Sale #1 at 10630 98 Street was not an at arm's length sale in that it was sold to the pre-existing joint tenants.
- ii. Sale #4 at 9633 103 Avenue is a multi-parcel consolidation sale, purchased in one transaction, resulting in the sale price representing an allocation of value.
- iii. Sale #5 at 10531 101 Street was purchased in conjunction with adjacent parcels. The Complainant alleged that this type of sale *"does not represent fair and equitable market value and the purchaser was motivated to consolidate parcels."*

[12] Having accepted two of the Respondent's sales comparables, the Complainant added these two sales to his list of fifteen sales comparables which resulted in an increased median of \$56.99 per square foot (Exhibit C-2, page 8). However, the request to reduce the assessment of the subject property to \$55.00 per square foot remained.

[13] In both the brief and the rebuttal, the Complainant stated that "The adjustments indicate a downward trend in property values for 2011" (Exhibit C-1, page 8 and Exhibit C-2, page 8).

[14] During the last word, the Complainant called the assertion that onus had not been met "absurd", stating that fifteen sales comparables had been presented that clearly showed the trend for properties like the subject to be \$55.00 per square foot. As well, the Complainant stated that when dealing with small properties such as the subject and the comparables, economies of scale do not exist.

[15] In conclusion, the Complainant requested the Board to reduce the 2012 assessment of the subject property from \$285,500 to \$235,000 based on land value at \$55.00 per square foot resulting in a value of \$224,598 plus the improvement value of \$10,441.

Position of the Respondent

[16] The Respondent submitted a 29-page brief marked as (Exhibit R-1) that supported the original \$285,500 assessment of the subject property and a 44-page law and legislation brief (Exhibit R-2).

[17] In support of this position, the Respondent submitted five sales comparables located in the McCauley and Boyle Street neighborhoods. The sales occurred between July 29, 2007 and April 1, 2010, selling for time-adjusted sale prices ranging from \$65.17 to \$75.52 per square foot, resulting in an average of \$69.04 per square foot, supporting the \$67.38 per square foot assessment of the subject property. The comparable properties ranged in size from 2,966 to 6,087 square feet and were zoned CB2 or DC1 (Exhibit R-1, page 9).

[18] The Respondent also submitted three equity comparables of CB2 zoned interior lots located in the McCauley neighborhood. The equity comparables were similar in size to the subject and were assessed from \$68.54 to \$68.62 per square foot, resulting in an average of \$68.57, supporting the \$67.38 per square foot assessment of the subject property (Exhibit R-1, page 9).

[19] The Respondent advised the Board orally that, although the subject property is a corner lot, no corner lot adjustment had been applied to the assessment.

[20] In summary, the Respondent

- i. suggested that the Complainant had failed to meet onus - to prove that the assessment was incorrect,
- ii. stated that one half of the Complainant's sales comparables would have to be adjusted upwards because of economies of scale, as these sales comparables were considerably larger than the subject, and
- iii. dismissed the Complainant's position that three of the sales comparables were invalid sales, stating that all sales are reviewed and validated, and that there was no proof that bonuses were paid as a result of consolidation of properties as was alleged by the Complainant.

[21] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at \$285,500.

Decision

[22] The decision of the Board is to confirm the 2012 assessment of the subject property at \$285,500.

Reasons for the Decision

[23] The Board placed less weight on the Complainant's sales comparables because of the size discrepancies in comparison to the subject, sales that were quite dated, the comparables were spread over a fairly large geographic area, and there was a significant variation between the high and low prices.

[24] In the rebuttal document, the Complainant stated that he had no issue with two of the Respondent's five sales comparables, those being sales #'s 2 and 3.

- i. Respondent's sale #2 at 10567 101 Street NW was the same as the Complainant's sale #10 which sold for a time-adjusted sale price of \$68.60 per square foot.
- ii. Respondent's sale #3 at 9645 103 Avenue NW that sold for a time-adjusted sale price of \$66.40 per square foot.

[25] The Complainant wanted the Respondent's sales comparables #'s 1, 4 and 5 to be discarded, stating that they should not be used in the sales analysis. Following is a summary of the Board's findings regarding these three sales:

- i. The Respondent's sales comparable #1 and the Complainant's sales comparable #15 were a common sale. The only difference is that the address of this property as per the Respondent's details was 10630 98 Street NW, while the Complainant showed the address as 10628 98 Street NW. However, both Exhibit R-1 and Exhibit C-2 showed the land title number as 102105702. This property sold April 1, 2010, closest to the valuation date, is similar in size at 3,894 square feet, and is located in close proximity to the subject. It sold for a time-adjusted sale price of \$65.17 per square foot which is 3.3% lower than the subject's \$67.38 per square foot original assessment, within the threshold

of the +/- 5% quality standard as identified in section 10 of the *Matters Relating to Assessment and Taxation Regulation*.

- ii. The Board was puzzled by the Complainant's argument about the Respondent's sales comparable #4 at 9633 103 Avenue since in the Summary of Evidence and Testimony, the Complainant clearly stated that the sale should not be used as a comparable in analyzing commercially zoned properties because it had been part of a multi-purchase transaction with price allocation to each of three properties. However, promptly thereafter in the combined Altus/COE Direct Sales Analysis, this comparable was used.
- iii. The Board found no issue with sales comparable #5 utilized by the Respondent that the Complainant wanted to discard. The Board could not find any evidence to support the Complainant's assertion that this sale was suspect. Upon review of the information provided by the Complainant, the Board acknowledges that the sale is part of a multi-purchase transaction that occurred on the same day, but it is noted that the one purchaser purchased the three properties from three different vendors for three different rates per square foot, implying to the Board that the three vendors sold their property at market value.

[26] Upon questioning by the Respondent, the Complainant indicated that his best sales comparables were #'s 3, 5, 10, 11, 12, and 15. By adding the two sales comparables submitted by the Respondent as listed in the rebuttal document, the resulting median is \$65.17 per square foot which is 3.3% lower than the subject's \$67.38 per square foot original assessment, within the threshold of the +/- 5% quality standard as identified in section 10 of the *Matters Relating to Assessment and Taxation Regulation*.

[27] The Board found some of the Complainant's positions/responses to be contradictory. In responses to questions on the value of property size, the Complainant answered that size of the property does have an impact on the sale price, and that the time-adjusted sale price of the larger 46,311 square foot site compared to the subject's 4,084 square feet would need an upward adjustment. However, in his last word, the Complainant stated that when dealing with lots this small, economies of scale do not exist.

[28] In addressing time adjustment factors, although the Complainant argued that "The time adjustments indicate a downward trend in property values for 2011", the time-adjustment factors included in Exhibit C-1 showed a slow but continuous rise in values from a factor of 0.96550 in January, 2011 to a factor of 1.00000 at July, 2011.

[29] The Board was not persuaded by the Respondent's argument that the Complainant had not met onus. Although the Board did not feel the Complainant's position justified a reduction in the assessment, the Board does acknowledge that the Complainant provided fifteen sales comparables that had to be analyzed in order to arrive at its decision.

[30] The Board placed greatest weight on the Respondent's sales comparables because the sizes better reflected the subject, the sales were more recent, the geographic area in which these comparables were located was much smaller, and the price range was much tighter. The average of the five sales comparables at \$69.04 supported the \$67.38 per square foot assessment of the subject property. Even the median of these five sales at \$66.40, which is 1.5% less than the

subject's \$67.38 assessment, is within the threshold of the +/- 5% quality standard as identified in section 10 of the *Matters Relating to Assessment and Taxation Regulation*.

[31] Although the Complainant was arguing market value only, the Respondent was able to support the subject's assessment on an equity basis. The Board also placed considerable weight on the three equity comparables provided by the Respondent since they were all very close in size, located in the same neighborhood as the subject, were interior lots, and zoned the same as the subject, and at an average assessment of \$68.57 per square foot supported the assessment of the subject's \$67.38 per square foot.

[32] The Board was persuaded that the 2012 assessment of the subject property at \$285,500 is fair and equitable.

Dissenting Opinion

[33] There was no dissenting opinion.

Heard commencing September 5, 2012.

Dated this 21st day of September, 2012, at the City of Edmonton, Alberta.

Dean Sanduga, Presiding Officer

Appearances:

Chris Buchanan
for the Complainant

Jerry Sumka
Tanya Smith
for the Respondent