



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
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NOTICE OF DECISION NO. 0098 289/10

Altus Group Ltd
17327 - 106A Avenue
Edmonton AB T5S 1M7

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 between August 23 and October 21, 2010 respecting a complaint for:

Roll Number 8480097	Municipal Address 4816 99 Street NW	Legal Description Plan: 4187RS Block: 1 Lot: 4
Assessed Value \$3,256,000	Assessment Type Annual – New	Assessment Notice For: 2010

Before:

Tom Robert, Presiding Officer
Dale Doan, Board Member
Mary Sheldon, Board Member

Board Officer:

Segun Kaffo

Persons Appearing: Complainant

Walid Melhem

Persons Appearing: Respondent

Stephen Leroux, Assessor
Cameron Ashmore, Law Branch

PROCEDURAL MATTERS

Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to the file.

All parties giving evidence during the proceedings were sworn by the Board Officer.

PRELIMINARY MATTERS

Upon commencement of the hearing both parties brought forward the following preliminary matters:

1. Which Roll Number to hear first;
2. The validity and admissibility of rebuttal evidence;
3. The disclosure of lease evidence by the Complainant;
4. Admissibility of testimonial evidence.

Upon discussion only the issue of the order of roll numbers remained, and it was agreed that Roll Number 8480097 would be heard first, as the Respondent's expert witness had based his presentation on the Income Approach methodology on this file.

It should be noted that this Roll Number is considered to be the Master File and that the evidence, submissions and arguments are carried forward to the extent to which they are relevant to the other files.

BACKGROUND

The subject property is a medium warehouse built in 1971 in the Papaschase Industrial subdivision of the City of Edmonton. The subject property has a building area of 25,355 sq. ft. with site coverage of 32% (Exhibit C-3a, page 5).

ISSUES

The Complainant had attached a schedule listing numerous issues to the complaint form. However, most of those issues were abandoned and only the following issues remained for the Board to decide:

1. Is the Income Approach a more appropriate methodology for the valuation of the subject property?
2. What is the typical market value of the subject property?
3. Is the assessment of the subject fair and equitable when compared to similar properties?

LEGISLATION

The Municipal Government Act, R.S.A. 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

The Complainant submitted a considerable amount of evidence regarding the Income Approach to Valuation method. However, upon cross-examination by the Respondent, the evidence was found to have some calculation errors which called into question the accuracy of the pro formas. Due to these calculation errors, both parties agreed to withdraw the Income Approach as an argument, and the Complainant agreed to proceed on the basis of the Sales Comparison Approach and equity arguments.

In support of his position that the 2010 assessment of the subject was not correct based on comparable sales, the Complainant provided a chart of the sales of five comparable properties (C-3a, page 12). The average time adjusted sale price per sq. ft. of these properties was \$101.44 while the subject was assessed at \$128.42 per sq. ft. The Complainant also provided three equity comparables with an average assessment of \$103.09 per sq. ft. (C-3a, page 14).

The Complainant acknowledged that there were some differences between the sales comparables and the subject property such as site coverage, building size, age and location, but submitted they were sufficiently similar to enable comparison in the absence of properties with all of the same characteristics as the subject property.

The Complainant submitted that the Respondent's disclosure did not indicate which sales were included in its assessment model, as a result of which the Complainant was unable to determine if incorrect properties were included or if valid sales were excluded. The Complainant provided a list of all of the properties which he used for comparison to the subject, and submitted that this rendered his evidence more reliable.

The Complainant also submitted a chart of time adjustment factors different from that of the Respondent, which he argued would have an effect on the market price of the properties used in the comparison model. The Complainant acknowledged that the time adjustment calculation was produced by a computer and supporting data was not available, but submitted that this is also applicable to the Respondent's figures.

The Complainant requested a reduction in the assessment of the subject to \$2,571,500 based on a value of \$101.42 per sq. ft. (C-3a, page 12).

POSITION OF THE RESPONDENT

The Respondent submitted to the Board a chart of eight sales comparables in support of his position that the assessment of the subject was at market value. These sales comparables ranged in value from \$114.29 to \$170.77 per sq. ft. (R-3a, page 17). The Respondent challenged the validity of three of the Complainant's sales comparables and submitted that market value cannot be determined on the basis of the few remaining properties.

The Respondent also provided to the Board a chart of seven equity comparables ranging in value from \$119.65 to \$128.22 per sq. ft. in support of his argument that the assessment is fair and equitable.

The Respondent further argued that it is not acceptable practice to average the time adjusted sale price (TASP) per sq. ft. of a small number of properties to determine market value. Rather, market value is determined by establishing a range of values for similar properties and assessing the subject within the established range.

The Respondent submitted that any post facto sale should not be considered in establishing assessment value as was done in the Complainant's model. Moreover, while the Complainant has attempted to account for various factors which might affect the value of the property by relying on common sense, the Respondent tested the effects of various factors and accounted for only those factors which have proven to affect value.

The Respondent argued that any differences between the Complainant's time adjustment factors and those of the Respondent were minor, particularly when post facto sales used by the Complainant are excluded.

The Respondent requested that the Board confirm the assessment of the subject property at \$3,256,000.

DECISION

The decision of the Board is to confirm the current assessment of the subject property at \$3,256,000.

REASONS FOR THE DECISION

With respect to Complainant's argument on time adjustment factors and the data used by the Respondent, the Board accepts the submission of the Respondent that the time adjustment differences produced by the parties are not large, and are indeed within the margin of error, particularly when the fact is considered that some post facto sales were used by the Complainant in compiling his data. As well, the Board is of the opinion that the question of the respective computer models used by the parties is not an issue.

The Board notes that of the five sales comparables presented by the Complainant, at least three were found, after questioning, to be unreliable. One comparable was found to be part of a multi-parcel transaction, one had the price of a new roof factored into the purchase price, and one was found to be on a non-arterial roadway whereas the subject was on a main thoroughfare.

The Board also notes that one of the Complainant's equity comparables was not on a main arterial roadway, and the other two, while on the same street as the subject, have substantially different site coverages and building sizes which would account for the lower assessments.

The Board is of the opinion that the value of the subject at \$128.42 per sq. ft is within the range indicated by the Respondent's sales and equity comparables.

The Board is of the opinion that the Complainant has failed to discharge the burden of proof required to revise the assessment, and pursuant to section 467 of the MGA confirms the assessment.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 22nd day of October, 2010, at the City of Edmonton, in the Province of Alberta.

Presiding Officer

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, R.S.A. 2000, c.M-26.

CC: Municipal Government Board
Baramy Investments Ltd.