



## ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL  
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EDMONTON AB T5J 2R7  
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### NOTICE OF DECISION 0098 303/10

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 on September 27, 2010 respecting a complaint for:

<b>Roll Number</b> 6350391	<b>Municipal Address</b> 13124 97 Street NW	<b>Legal Description</b> Plan 618KS Block 10 Lot 12
<b>Assessed Value</b> \$474,000	<b>Assessment Type</b> Annual New	<b>Assessment Notice for:</b> 2010

#### **Before:**

Warren Garten, Presiding Officer  
Ron Funnell, Board Member  
Reg Pointe, Board Member

#### **Board Officer:**

J. Halicki

#### **Persons Appearing: Complainant**

David Fu, Agent, Altus Group Ltd.

#### **Persons Appearing: Respondent**

Steve Lutes, Solicitor  
Chris Rumsey, Assessor

#### **Observer:**

Jerry Sumka, Assessor

### **PRELIMINARY 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 this file.

The Respondent did not have any recommendation on the file.

A preliminary matter was raised by the Complainant who specifically objected to the inclusion of two sales comparables and supporting documentation on pages 13-21 of the Respondent's disclosure package (R-1). This, in the Complainant's opinion, was an attempt to introduce a new issue (i.e. market value per square foot) and did not directly address the Complainant's issue of alleged double-assessment/taxation (i.e. the value of one parcel being reflected in another assessment) as identified on the complaint form.

The Respondent countered that the City of Edmonton had a duty to defend its assessment and that its disclosure package should be accepted in its entirety with the Board determining the degree to which it would give weight on any piece of evidence. Further, the Respondent's counsel expressed the opinion that the provisions of s.9(1) of *Matters Relating to Assessment Complaints Regulation*, Alberta Regulation 310/2009 were only applicable to the Complainant.

The Board considered the arguments and ruled that the hearing would proceed with the disclosure as exchanged and submitted. The Board found that the Complaint form was filled out with one notation checked-off that being box #3. This complaint was a general complaint on "an assessment amount". As such, all related evidence was admitted.

Subsequently, Messieurs Fu and Rumsey were sworn in by the Board.

### **MERIT ISSUE(S)**

The main issue is "fair and equitable" application to the subject property.

A sub-issue of double assessment application to the subject property.

### **BACKGROUND**

The subject property is a 7,545 sq. ft. paved parking lot adjacent to a financial institution (Bank of Nova Scotia) and located at approximately 13124 - 97 Street in the Lauderdale neighbourhood.

### **LEGISLATION**

#### ***Matters Relating to Assessment Complaints Regulation, Alberta Regulation 310/2009***

9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

#### ***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 provided evidence package C-1 (Appellant Disclosure and Witness Report) that included a list (page 13) of site coverage ratios (SCRs) from a sample of 22 financial institutions in Edmonton. The sampling calculated and average SCR of 19%. Further the subject, including the adjacent financial institution, had a SCR of 48%.

Further, the Complainant in C-1 (page 14) noted that City of Edmonton Zoning Bylaw #12800, 54.2 Schedule 1 – Vehicular Parking Requirement specifies a ratio of 3.4 parking stalls per 100 square meters of floor area thus requiring the adjacent Bank of Nova Scotia to provide a total of 16 parking stalls. In the evidence package, it was pointed out that there are 5 parking stalls on the Bank's site and 23 parking stalls on the subject parking lot for a total of 28 parking stalls.

The Complainant's argument (C-1, pg. 15) and conclusion (C-1, pg. 21) is that since there is a requirement by municipal bylaw to comply with parking requirements, it is necessary, in order for the Complainant to be compliant, to have additional parking to the Bank's site.

The Complainant argued that since the subject was required under bylaw to maintain a prescribed parking ratio, the assessed value should be included in the assessed value of the Bank's site.

In rebuttal, the Complainant argued that the SCR is extremely high compared to similar financial institution property. Furthermore, there is a requirement under Bylaw #12800 to provide additional parking stalls over and above the available stalls on the Bank's adjacent site and, as such, the subject assessment should be reduced to \$500.

## **POSITION OF THE RESPONDENT**

The Respondent provided evidence package R-1 in which two vacant land comparables at 12904-97 Street and 9703-137 Avenue were presented.

The Respondent provided further evidence: an unsigned and unrelated ARB decision on a property at 12703-97 Street indicating there is no evidence of a restrictive covenant tying the subject parcel to the adjacent Bank of Nova Scotia parcel (R-1, pg. 35).

The Respondent also provided evidence from prior Assessment Review Board (ARB) decisions on adjacent parcels of land (R-1, pgs. 37-47).

The Respondent provided an evidence package: Property Assessment Law and Legislation (exhibit R-2).

## **DECISION**

The Board's decision is to reduce the assessment amount to \$268,000.

## **REASONS FOR THE DECISION**

In reaching its decision, the Board considered all argument and evidence (exhibits C1, C2, R1, R2) presented to it.

The Board placed little weight on the unsigned, unrelated ARB decision brought forward by the Respondent (R-1, pg. 35).

The Board placed little weight on the Respondent's comparables as the sales were approximately three years old and was not subject to similar City of Edmonton bylaw requirements or restrictions.

The Board placed little weight on the ARB decisions (R-1, pgs. 37-47) brought forward by the Respondent as these decisions did not reflect requirements under City of Edmonton Bylaw #12800 and, as such, were unrelated.

The Board found that both the Complainant and the Respondent agreed that the \$27 per square foot used in calculating the assessment for the adjacent Bank of Nova Scotia was fair and equitable provided the site coverage ratio (SCR) satisfies municipal bylaw.

The Board found that although there is not a restrictive covenant on the subject, the City of Edmonton's Bylaw #12800 requirements act as though there is a restrictive covenant on the subject as long as the Bank continues in operation. The assessed values reflected on the Bank's site should include the subject site due to this enforceable municipal bylaw. In this particular case, the City of Edmonton has ignored its own Bylaw #12800.

The Board considered the requirement under Bylaw #12800 and found that the requirement under the bylaw has been met by the subject including in the calculation of required parking spaces. The requirement is to provide a total of 15 parking spaces.

Main floor space: 4,852 sq. ft. = 450.765 sq. metres at 3.4 stalls/100 sq. meters = 15.33 stalls or rounded to 15 parking spaces.

The Board found that 13 parking spaces (28 total spaces less 15 required) are surplus to the requirements of City of Edmonton Bylaw #12800. As such, 56.5% (13/23) of the subject site is considered surplus parking to the City of Edmonton Bylaw. The revised 2010 assessment is calculated as \$474,000 X 56.5% = \$267,810 or rounded to \$268,000.

### **DISSENTING OPINIONS AND REASONS**

There was no dissenting decision.

Dated this twentieth day of October, 2010 A.D., at the City of Edmonton, in the Province of Alberta.

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Warren Garten  
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.*

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CC:   Municipal Government Board  
          City of Edmonton, Assessment & Taxation Branch  
          City of Edmonton, Law Branch  
          Scotiabank  
          Bank of Nova Scotia