



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
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NOTICE OF DECISION 0098 304/10

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:

Roll Number 7097553	Municipal Address	Legal Description Plan I Block 63 Lot 10
Assessed Value \$741,500	Assessment Type Annual New	Assessment Notice for: 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 on page 13 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.

ISSUES

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 4,358 sq. ft. paved parking lot adjacent to a financial institution (Bank of Nova Scotia) and located at approximately 10537 82 Avenue in the Queen Alexandra 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 (pg. 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%.

Also, the Complainant in C-1 (pg. 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, in this instance, requiring the adjacent Bank of Nova Scotia to provide a total of 20 parking stalls. In the evidence package, it was pointed out that there are 6 parking stalls on the Bank's site and 14 parking stalls on the subject parking lot for a total of 18 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 by bylaw to maintain a prescribed parking ratio, the assessed value should be included in the assessed value of the Bank's site. The Bank's assessment is fair and equitable for typical financial institutions with normalized SCRs.

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 plus \$7,711 of net items.

POSITION OF THE RESPONDENT

The Respondent provided evidence package R-1 that included two vacant land comparables along 82 Avenue (R-1, pg. 13). Also, the Respondent provided evidence relating to an ARB decision on a property at 12703 - 97 Street (R-1, pgs. 14-27).

The Respondent further provided evidence with excerpts from s.819 of City of Edmonton Bylaw #12800 and an overlay of the subject property requiring a parking ratio of 1.1 stalls per 100 sq. meters (R-1, pgs. 28-33).

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

DECISION

The Board's decision is to confirm the assessment at \$741,500.

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 considered the requirement under City of Edmonton Bylaw #12800 and found that the requirements had been satisfied on the existing bank site adjacent to the subject. This was due to Bylaw #12800 s. 819 “Pedestrian Commercial Shopping Street Overlay”. The overlay requires 1.1 parking spaces per 100 square meters which equates to a requirement of six parking stalls.

6,269 sq. ft. = 582.409 sq. metres X 1.1 Stall per 100/sq. metres = 6.4065 required parking stalls (rounded to 6 stalls).

The Board considered the SCR and placed little weight on the Complainant’s position as s. 819 of Bylaw #12800 reflects a different requirement.

Also, the Board placed little weight on the Respondent’s comparables as neither were parking lots required under Bylaw #12800. Further, the Board placed little weight on the ARB decision brought forward by the Respondent as this decision was 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.

The Board found that the subject parking lot was surplus to the requirements of s. 819 of Bylaw #12800 “Pedestrian Commercial Shopping Street Overlay” and that double assessment is not an issue in this case.

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.

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.

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