

NOTICE OF DECISION NO. 0098 34/12

Altus Group
780, 10180 - 101 Street 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 11, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9541202	4205 76 AVENUE NW	Plan: 143HW Lot: E	\$3,437,000	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: COUGAR PROPERTY MANAGEMENT INC

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 916

Assessment Roll Number: 9541202

Municipal Address: 4205 - 76 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

Steven Kashuba, Presiding Officer

Lillian Lundgren, Board Member

Ron Funnell, Board Member

Preliminary Matters

[1] When asked by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board members indicated they had no bias in the matter before them.

Request for Postponement by the Complainant

[2] The Respondent raised a concern respecting the lack of an Assessment Complaints Agent Authorization form for this complaint. The Respondent stated that they will not ask for a dismissal of the complaint on this occasion; however, they will be asking for a dismissal of the complaint in the future if no agent's authorization has been provided.

[3] The Respondent explained that there has been an ongoing problem with Altus Group as they either do not provide the authorization forms or do not provide the authorization forms in a timely manner as required in the legislation. This year in excess of 700 complaints were filed by Altus Group and none had an agent's authorization form. Subsequently, the Respondent received a disc which had authorization forms for approximately two thirds of the complaints. The Respondent is concerned about this practice because it necessitates considerable resources to ensure the agent is authorized to represent the property owner on each of the assessment complaints.

[4] The Respondent referenced section 51 of *The Matters Relating To Assessment Complaints Regulation (MRAC)*, which states that an agent may not file a complaint or act for an assessed person or taxpayer at a hearing unless the assessed person or taxpayer has prepared and filed with the clerk an assessment complaints agent authorization form. The Respondent also referenced schedule 4 of *MRAC* which reproduces the Assessment Complaints Agent Authorization form. The Respondent submits that Altus Group has not complied with the legislation.

[5] The Respondent does not wish to expend resources preparing for a hearing if Altus Group has no authority to act for the property owner. The Respondent alleged there were two complaints heard last year which did not have the required authorization forms. The Respondent asserted that the Assessment Review Board should not schedule complaints unless the agent authorization forms are provided as required in the legislation.

[6] The Complainant was not aware of the problem and offered to retrieve the authorization form from their office. The Complainant requested a postponement to allow the necessary time to provide the agent authorization form.

Decision On The Postponement Request

[7] The Board reviewed section 460 of the *Municipal Government Act (MGA)* that provides for a person wishing to make a complaint about an assessment. Section 460(2) requires the complaint to be filed in the form prescribed in the regulation and section 460(3) of the *MGA* states that a complaint may be made only by an assessed person or a taxpayer. If the assessed person wishes to be represented by an agent, he must comply with section 51 of *Matters Relating To Assessment Complaints Regulation*, which requires the agent to file an assessment complaints agent authorization form. If Altus Group is not authorized to act in this complaint on behalf of the assessed person, the matter is not properly before the Assessment Review Board.

[8] The Board grants the postponement request to allow the Complainant time to provide the agent authorization form. This matter is postponed until 9:00am on June 12, 2012.

Background

[9] The subject warehouse property is located at 4205 76 Avenue NW in the Weir Industrial neighborhood. The 173,735 square foot lot is improved with four buildings. Building #1 has a total area of 5,956 square feet, building #2 has a total area of 6,641 square feet, building #3 has a total area of 400 square feet and building #4 has a total area of 480 square feet. The assessment was prepared using site coverage of 7% based on buildings #1 and #2.

Issues

[10] Is the subject property assessment correct?

[11] Is the subject property assessed equitably with similar properties?

Legislation

[12] The *Municipal Government Act* reads:

Municipal Government Act, RSA 2000, c M-26

s 460(1) A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.

s 460(2) A complaint must be in the form prescribed in the regulations and must be accompanied with the fee set by the council under section 481(1), if any

s 460(3) A complaint may be made only by an assessed person or a taxpayer.

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.

[13] The *Matters Relating To Assessment Complaints Regulation* reads:

Matters Relating to Assessment Complaints Regulation, Alta Reg 310/2009

s 51 An agent may not file a complaint or act for an assessed person or taxpayer at a hearing unless the assessed person or taxpayer has prepared and filed with the clerk or administrator an assessment complaints agent authorization form set out in Schedule 4.

Schedule 4 See Attached Appendix “A”

Position Of The Complainant

Is the Subject Property Assessment Correct

[14] This matter was postponed to allow the Complainant time to produce the agent's authorization form and the hearing continued at 9:00am on June 12, 2012. The Complainant submitted the Assessment Complaints Agent Authorization form signed by Erwin Siemens, Cougar Property Management Inc. The form is dated March 12, 2012 and authorizes Altus Group Limited to represent them in this matter. The Respondent was satisfied that Altus Group is authorized to represent the property owner in this complaint.

[15] The Complainant filed this complaint on the basis that the subject property assessment of \$3,437,000 is incorrect and inequitable. The Complainant argued that a review of recent market transactions indicates the value of the subject property is \$2,533,500. In support of this position the Complainant presented three sales comparables located in the southeast quadrant of the city. The comparable sales are similar to the subject in age, site area, and building size. The site coverage for these comparables range from 7% to 16%, compared with the subject site coverage of 8%. The

comparables are time adjusted using the City of Edmonton time adjustment factors and have an average time-adjusted sale price of \$157 per square foot and a median time-adjusted sales price of \$166 per square foot.

[16] The Complainant also provided the assessment to sales ratios (ASR) for two of the sales comparables. Comparable #1, located at 2887 Parsons Road NW, sold for a time-adjusted sales price of \$2,225,000 on January 31, 2011 and is currently assessed at \$2,780,000 (ASR 1.25). Comparable #3 located at 6928 51 Avenue NW sold for a time-adjusted sales price of \$3,432,120 on May 16, 2008 and is assessed at \$2,054,000 (ASR .60). The Complainant concluded by stating that the assessments are “all over the map” with one property assessed twenty five percent higher than the sale price and the other property assessed forty percent lower than the sale price.

Is the Subject Assessed Equitably with Similar Properties

[17] The Complainant also argued that assessments on similar competing properties indicate that the subject is inequitably assessed. The Complainant presented four equity comparables of warehouse properties located in the southeast quadrant of the city. They are similar to the subject in age, site area, site coverage and building size. The assessment comparables range from \$87 per square foot to \$207 per square foot. The average assessment per square foot for the comparables is \$150 per square foot and the median is \$153 per square foot.

[18] The Complainant acknowledged that the assessment of the first comparable is very low, and therefore, relied on comparables #2, #3 and #4 which have a median assessment of \$190 per square foot. The Complainant stated that an equitable assessment for the subject property is \$2,560,500 based on \$190 per square foot.

Rebuttal

[19] The Complainant commented on two of the Respondent’s comparable sales as follows. Sales comparable #1 located at 9801 51 Avenue NW sold on June 22, 2011 for a time-adjusted sales price of \$2,700,000 (\$378 per square foot). This sale was a motivated sale because the purchaser acquired the adjoining property to the west and the vendor in that transaction leased this property for several years. Sales comparable #2 located at 9425 35 Avenue NW sold on January 11, 2008 for a time-adjusted sales price of \$2,183,561 (\$363 per square foot). This sale was also a motivated sale because land was being assembled for a car dealership.

[20] In summary, the Complainant requested the Board to reduce the subject assessment to \$2,533,500.

Position Of The Respondent

Is the Subject Property Assessment Correct

[21] The Respondent submitted that the subject property assessment of \$3,437,000 is correct. The Respondent defended the assessment with the sales of five properties with low site coverage similar to the subject site coverage of 7%. Two of the sales comparables are located in the southeast quadrant of the city and three of the sales are located in the northwest quadrant of the city. The comparables range in value from a time-adjusted sales price of \$272 per square foot to \$391 per square foot. The Respondent highlighted the property located at 15330 114 Avenue NW as a good comparable because it has a similar site coverage and same number of buildings as the subject property. This comparable sold for \$272 per square foot.

[22] The Respondent submitted that the subject property sold on August 31, 2007 for \$3,200,000 or \$254.05 per square foot. In answer to a question, the Respondent agreed that this sale price is not time adjusted and if it was time adjusted it would be lower in value.

Is the Subject Assessed Equitably with Similar Properties

[23] Although equity was one of the issues identified by the Complainant, the Respondent did not provide any equity comparables.

Rebuttal

[24] The Respondent stated that the Complainant's first comparable sale located at 2887 Parsons Road NW is the only good comparable. The other two comparables are inferior. Comparable #2 is much larger than the subject property and comparable #3 has rural servicing.

[25] The Respondent defends the use of the sales comparables located at 9801 51 Avenue NW and 9425 35 Avenue NW because they are valid arms length transactions.

[26] The Respondent questioned the accuracy of the Complainant's equity comparables; however, he did not attempt to validate the comparables. The Respondent speculated that the Complainant's first equity comparable located at 6603 34 Street NW that is assessed at \$87 per square foot may be in poor condition, but has no evidence of this.

[27] In summary, the Respondent requested the Board to confirm the assessment at \$3,437,000.

Decision

[28] It is the decision of the Board to reduce the assessment of the subject property for 2012 from \$3,437,000 to \$2,560,500.

Reasons For The Decision

Correctness

[29] With respect to the issue of whether the subject property assessment is correct, the Board reviewed the sales evidence presented by the Complainant and finds as follows. The Complainant's sale #1 (2887 Parsons Road NW) is a good indicator of value because it is similar in location, age, site area, site coverage and building area. It sold for a time-adjusted sales price of \$179 per square foot compared with the subject assessment of \$255 per square foot. The Complainant's sale #2 (9515 51 Avenue NW) is not a good indicator of value because it has site coverage of 16% which is double the subject site coverage of 8%. The Complainant's sale #3 (6928 51 Avenue NW) is inferior to the subject property because it has rural servicing and may not have water or sewer. The Board will not alter the assessment on the basis of one sale.

[30] The Board also reviewed the Respondent's five sales comparables and finds that the two best comparables are located at 9801 51 Avenue NW and 9425 35 Avenue NW because they are similar in location and site coverage to the subject. These comparables sold for a time-adjusted sales price of \$378 per square foot and \$363 per square foot respectively, which supports the subject assessment of \$272 per square foot.

Equity

[31] Next, the Board considered whether the subject property is assessed equitably with similar properties. The Complainant presented four equity comparables and the Respondent presented none.

[32] The Complainant's four equity comparables range from \$87 per square foot to \$207 per square foot. The Board finds that the comparable located at 6603 34 Street NW may not be similar to the subject because of the very low \$87 per square foot assessment. Similar properties tend to be assessed within a closer range. As this property appears to be an outlier, the Board will not place any weight on it. The Board will rely on the remaining comparables put forth by the Complainant because they are similar in location, age, site coverage, building size and have a reasonable range of assessments. They have a median assessment of \$193 per square foot compared with the subject assessment of \$255 per square foot. Further, there is no evidence that the assessment comparables have been incorrectly valued.

Conclusion

[33] With respect to the issue of correctness, the subject assessment may be correct because it falls within the range of the best sales comparables presented by the parties; however, the Board finds that the subject property is inequitably assessed with similar properties. The taxpayer is entitled to an equitable assessment and the assessments of similar property indicate that the subject assessment should be reduced to \$2,560,500.

Heard commencing June 11, 2012.

Dated this 3rd day of July, 2012, at the City of Edmonton, Alberta.

Steven Kashuba, Presiding Officer

Appearances:

Walid Melhem, Altus Group
for the Complainant

Cam Ashmore, City of Edmonton
Marty Carpentier, City of Edmonton
Stephen Leroux, City of Edmonton
for the Respondent

Appendix "A"
Matters Relating to Assessment Complaints Regulation, Alta Reg 310/2009

Schedule 4

**Government
of Alberta** ■

Assessment Complaints Agent Authorization

SECTION 1 - Assessed Person / Taxpayer Information		Tax Year	
Assessed Person(s) or Taxpayer(s) <i>(if the assessed person or taxpayer is a company, enter the complete legal name of the company)</i>			
Business Name (if pertaining to business tax)		Business Owner(s)	
SECTION 2 - Municipal and Property Information		<i>(for linear property go to Section 3)</i>	
Municipality Name (as shown on your assessment notice or tax notice)		Assessment Roll or Tax Roll Number	
Property Address		Legal Land Description (i.e. Plan, Block, Lot or ATS 1/4 Sec-Twp-Rng-Mer)	
<div style="display: flex; justify-content: space-between;"><div><div>Property Type</div><div><i>(check all that apply)</i></div></div><div><div><input type="checkbox"/> Residential property with 3 or less dwelling units</div><div><input type="checkbox"/> Residential property with 4 or more dwelling units</div></div><div><div><input type="checkbox"/> Farm land</div><div><input type="checkbox"/> Non-residential property</div></div><div><div><input type="checkbox"/> Machinery and equipment</div></div></div>			
SECTION 3 - Agent Information			
Note: Agent means a person or company who for a fee or potential fee acts for an assessed person or taxpayer during the assessment complaint process or at a hearing before an assessment review board or the Municipal Government Board.			
Agent Name		Contact Name (if different) and Position Held	
Mailing Address (if different from above)		City/Town	Province Postal Code
Telephone Number <i>(include area code)</i>	Fax Number <i>(include area code)</i>	Email Address	

SECTION 4 - Acknowledgement and Certification

By signing below, I acknowledge and certify that:

1. I am the assessed person or taxpayer identified in section 1, or a legally authorized officer of the assessed person or taxpayer.
2. To initiate the processing of this agent authorization, I am attaching this agent authorization form to:
 - (a) the complaint form if the agent is authorized to file the complaint on my behalf, or
 - (b) a letter, signed by me on my personal or company letterhead, and the letter is submitted to the municipality's assessment review board clerk or to the Municipal Government Board administrator, as the case may be, before the hearing of the complaint.
3. I provide authority to the agent, as identified in section 3, to represent the assessed person or taxpayer, identified in section 1, to:
 - (a) file a complaint on behalf of the assessed person or taxpayer for the property described on this form,
 - (b) discuss the issues or matters of the complaint with the municipality's assessor (or the assessor designated by the Minister for linear property),
 - (c) prepare and submit disclosure regarding the complaint,
 - (d) represent the assessed person or taxpayer at hearings before the assessment review board (or before the Municipal Government Board for linear property),
 - (e) reach an agreement with the assessor to correct a matter under complaint, and
 - (f) to withdraw the complaint at any time.
4. I understand that the assessed person or taxpayer continues to be subject to all provisions required by the *Municipal Government Act* and its attendant regulations, and any authorization of agency is not a substitute for any of those provisions.
5. I understand that this document does not act as an authorization of agency for the purposes of Section 299 or Section 300 of the *Municipal Government Act*.
6. I understand that the assessed person or taxpayer is liable for any costs awarded against the agent by an assessment review board (or by the Municipal Government Board for linear property), or for any change in assessment that may result from a hearing.
7. I understand that this authorization is only applicable to the tax year entered on this form.
8. The agent has disclosed the qualifications, professional designations, certifications, or affiliations of the agent, if any, with respect to property assessment or appraisal.
9. I may revoke authorization at any time in writing to the assessment review board clerk, or the Municipal Government Board administrator.

Signature of the Assessed Person or Taxpayer

Printed Name of Signatory Person and Title

Date (mm/dd/yyyy)