

NOTICE OF DECISION NO. 0098 43/12

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 June 25, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
8481095	9515 51 AVENUE NW	Plan: 8022833 Block: 3 Lot: 18	\$4,118,000	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: AVENUE 51 PROPERTIES INC

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 597

Assessment Roll Number: 8481095

Municipal Address: 9515 51 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

Robert Mowbrey, Presiding Officer

Jasbeer Singh, Board Member

Mary Sheldon, Board Member

Preliminary Matters

[1] Upon questioning by the Presiding Officer, the parties indicated they had no objection to the composition of the Board. In addition, the Board members stated they had no bias on this file.

[2] Witnesses giving testimony were either sworn in or affirmed, the choice being that of the individual witness.

[3] Evidence, argument and submissions were carried forward to this file from #8480097 where applicable.

Background

[4] The subject property is a single medium warehouse with a total area of 30,320 square feet. The subject property was built in 1978 and is considered in average condition. The subject property has a 2012 assessment of \$4,118,000.

Issue

[5] Is the assessment of the subject property in excess of its market value?

Legislation

[6] The *Municipal Government Act* reads:

Municipal Government Act, RSA 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

[7] The Complainant filed this complaint on the basis that the subject property assessment of \$4,118,000 is in excess of market value. In support of this position, the Complainant presented six sales comparables that have been time adjusted using the City of Edmonton's factors. The sales comparables were medium warehouses of similar age. The size of the warehouses ranged from 20,213 square feet to 64,530 square feet and the site coverage ranged from 16% to 39%. The sales comparables range in time adjusted sale price (tasp) from \$74.61 to \$118.68 per square foot with a median of \$97.29 per square foot (Exhibit C-1 page 8). The Complainant stated that due to the attributes of the subject such as age, size, location, and site coverage of the subject property, it was determined that the indicated value for the subject property is \$90.00 per square foot.

[8] The Complainant advised the Board that the subject property was sold for \$3,500,000 including a neighboring lot. The Complainant explained that the best indication of market value was the sale of the subject property near the valuation date. (Exhibit C-1 page 9).

[9] Since the sale price of the subject property included the neighboring lot, the Complainant submitted to the Board that the value of that lot would have to be deducted from the selling price in order to arrive at a value for the subject. In that regard, the Complainant produced six sales of comparable lots. The sales ranged from \$13.47 per time adjusted selling price per square foot to \$18.67 tarp/sf. The average tarp/sf was \$15.50 and the median tarp/sf was \$14.83. The Complainant utilized \$14.52 assessment per square foot for the neighboring lot included in the sale and arrived at a figure of \$801,000.

[10] When that value of \$801,000 for the neighboring lot is deducted, the value of the subject at the time of the sale would be \$2,699,000 using the direct sales approach.

[11] The time adjusted value of the subject would be \$2,728,500 (Exhibit C-1 page 13).

[12] During the questioning of the Complainant by the Respondent, the Complainant stated that all of the sales comparables were in average condition. (Exhibit C-1 page 8).

[13] During questioning by the Board, the Respondent indicated the sale of the subject property was a valid sale.

[14] The Complainant presented the Board with rebuttal evidence that the Respondent's sale comparable #5 should not be used as the sale was a vendor financed sale/ lease back. (Exhibit C-2 pages 10 to 13).

[15] Further in rebuttal, the Complainant advised the Board that the Respondent's sale comparable #3 should not be considered as this was essentially an office building with lab space, and recently renovated and therefore not a comparable property.

[16] In summary, the Complainant requested a 2012 assessment of an adjusted value of \$2,699,000 based on the sale of the subject property less the value of the neighboring lot.

Position Of The Respondent

[17] The Respondent explained to the Board that the subject assessment and similar assessments were prepared using the direct comparison assessment methodology. (Exhibit R-1 pages 4-8).

[18] The Respondent stated that sales occurring from January 2008 through June 2011 were used in the model development and testing. Factors found to affect value in the warehouse inventory were the location of the property, the size of the lot, the age and condition of the buildings, the total floor area of the main floor (per building), amount of finished area on the main floor as well as developed upper area (per building). (Exhibit R-1 page 7).

[19] The most common unit of comparison for industrial properties is value per square foot of building area. When comparing properties on this basis, it is imperative that the site coverage be a key factor in the comparison. (Exhibit R-1 page 8).

[20] The Respondent defended the assessment using five sales comparables that ranged from \$115.44 to \$144.14 time adjusted sale price per square foot of total area. The sales were similar in age and all the comparables were in average condition. The Respondent advised the Board that sale comparable #4 was the sale of the subject property and the only sale comparable on a major arterial roadway. The site coverage ranged from 13% to 30%. (Exhibit R-1 page 16).

[21] The Respondent advised the Board that the sales validation questionnaire regarding the subject property indicated an appraisal was completed on April 27, 2011 and the value was \$4,880,000. (Exhibit R-1 pages 23-24).

[22] The Respondent advised the Board that the Complainant's sale comparable #1 (4900 93 Ave.) had plumbing and foundation problems at the time of the sale and some renovations took place after the sale. The purchase price reflects the condition of the property as "fair" and thus would not be considered a valid comparable with the subject property. (Exhibit R-1 page 24).

[23] The Respondent advised the Board that the Complainant's sale comparable #3 (8803 58 Ave.) should not be considered a valid comparable as the sales validation indicated the property was sold to one of the employees. Since the sale was not listed on the open market, the sale does not meet the definition of a market based sale and should not be used for comparable purposes. (Exhibit R-1 page 25).

[24] The Respondent requested the Board to confirm the 2012 assessment of \$4,118,000.

Decision

[25] The decision of the Board is to reduce the 2012 assessment of \$4,118,000 to \$2,728,500.

Reasons For The Decision

[26] Section 1(1)(n) of the *Municipal Government Act*, defines “market value” as 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.

[27] The Board found the sale price of the subject property close to the valuation date as the best means of establishing market value of the subject property. Both the Complainant and the Respondent agreed that the sale of the subject property was a valid sale.

[28] The Board put little weight on the Respondent’s sales comparables. The Respondent’s sale comparable #3 and sale comparable #5 were discounted due to one comparable not meeting the definition of a market based transaction and the other comparable being more of an office/lab space and different from warehouse space. With only two sale comparables remaining (#4 is the subject), this does not establish a bench mark for the subject property.

Dissenting Opinion

[29] There was no dissenting opinion.

Heard commencing June 25, 2012.

Dated this 4th day of July, 2012, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

Walid Melhem, Altus Group
for the Complainant

Mary-Alice Nagy, City of Edmonton
Tanya Smith, City of Edmonton
for the Respondent