



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
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NOTICE OF DECISION NO. 0098 442/10

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 4028460	Municipal Address 16504 111 Avenue NW	Legal Description Plan: 8821409 Block: 1 Lot: 4
Assessed Value \$4,302,500	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

Mary-Alice Lesyk, Assessor
Steve Lutes, 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

The parties agreed that all evidence, submissions and argument on Roll # 8480097 would be carried forward to this file to the extent that matters were relevant to this file. In particular, the Complainant chose not to pursue arguments with respect to the evidence he had provided regarding the income approach to value.

The Complainant and the Respondent presented to the Board differing time adjustment figures for industrial warehouses based on the Complainant's submission that some data used in the preparation of the Respondent's time adjustment model was faulty. The Board reviewed the data from the Complainant used in the preparation of his time adjustment figures and was of the opinion that the data used was somewhat questionable (Exhibit C-2). In any event, the differences between the time adjustment charts used by the parties for industrial warehouses were small and in many cases of little significance. Therefore, the Board has accepted the time adjustment figures used by the Respondent.

BACKGROUND

The subject property is a medium warehouse built in 1980 and located in the West Sheffield Industrial subdivision of the City of Edmonton. The property has a total building area of 47,360 square feet with site coverage of 30%.

ISSUES

The Complainant had attached a schedule listing numerous issues to the complaint form. However, most of those issues had been abandoned and the issue left to be decided was as follows:

- What is the typical market value of the subject property?

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 argued that the subject is part of a complex which sold on August 10, 2009 for \$15,850,000. The combined assessments of the four roll numbers in the complex amount to \$18,560,000. The Complainant argued that this represents an A.S.R (Assessment Sales Ratio) of 117.1%. Therefore the current assessment of this account (property) should reflect the sale price of the total sale and be reduced by 17.1% for a requested amount of \$3,674,000.

Further, the Complainant argued that post facto sales (after July 1, 2009) may be used where there is conflicting opinion as to value of the property at the valuation date. Thus it can be used to test the reasonableness of the valuation where there is a conflicting opinion. The Complainant referred to *Diligentia v. Operation Kelowna et al #2* (1977 B.C.L.R. 134) in support of this argument.

POSITION OF THE RESPONDENT

The Respondent put forward four direct sales comparables ranging in value from \$90.78 to \$104.60 per sq. ft. indicating that sales # 3 and # 4 at \$104.60 and \$90.78 per sq. ft. best reflect the current value.

The Respondent further provided eight equity comparables ranging in value from \$90 to \$100 per sq. ft. indicating comparables # 1 and # 2 at \$93 and \$91 per sq. ft. are most comparable to the subject.

Further the Respondent argued that the sale of the complex wherein the subject is part of is post facto and cannot be used to establish typical market value for the subject.

The Respondent also argued that no evidence has been presented as to the validity of the sale, and that arbitrarily applying an overall discount based on the total post facto sale is not a correct method in establishing the proportionate amount of the sale to the subject.

Further, the Respondent referred to *Stringham Denecky v. Lethbridge (City)* MGB 213/98:

34 Even though limited use of post facto evidence can be made, these exceptions do not appear to permit post facto evidence to be used to solely establish value. Post facto evidence can be used to establish market trends.

DECISION

The decision of the Board is to confirm the current assessment at \$4,302,500.

REASONS FOR THE DECISION

The Board is of the opinion that the sale of the subject is post facto and further that no supporting evidence had been presented as to the details or validity of the sale.

The method of applying an overall reduction based on the sale of the entire complex does not establish the prorated value to the subject from the sale. As stated in the third party network documents, the complex is made up of three buildings of various ages, some excess land, and some description of required maintenance. The Board is not satisfied that there is sufficient evidence to determine the value of the subject.

The Board is of the opinion that the sales comparables as well as the equity comparables support the current assessment.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 4th day of November, 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
GPM (11) GP Inc.