

NOTICE OF DECISION NO. 0098 474/11

ALTUS GROUP
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 November 30, 2011, respecting a complaint for:

| Roll Number | Municipal Address | Legal Description | Assessed Value | Assessment Type | Assessment Notice for: |
|--------------------|---------------------------|---|-----------------------|------------------------|-------------------------------|
| 9961244 | 10609 104 AVENUE NW | Plan: B2 Block: 6 Lot: 163 / Plan: B2 Block: 6 Lot: 164 | \$1,161,000 | Annual Revised | 2011 |

Before:

Robert Mowbrey, Presiding Officer
Brian Frost, Board Member
Lillian Lundgren, Board Member

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

Jordan Thachuk, Analyst, Altus Group

Persons Appearing on behalf of Respondent:

Jerry Sumka, Assessor, City of Edmonton

PROCEDURAL MATTERS

At the beginning of the hearing the parties stated that they had no objection to the composition of the Board. In addition, the Board Members indicated that they had no bias on these complaints.

The Complainant, Altus Group Ltd., filed fifty seven complaints on behalf of various taxpayers. All of the complaints relate to vacant land in the downtown core area of the City of Edmonton, and all of the complaints have one issue in common. At issue is the correct rate per square foot that is to be used to calculate the land assessment. Some of the complaints have a second issue in common that relates to whether or not a corner lot influence adjustment should be applied to corner lots. The improvement assessments are not at issue.

The Complainant and Respondent requested the Board to hear all of the complaints and carry forward the evidence and argument from the first hearing to the balance of the hearings. However, each complaint is to be heard separately and sequentially. The Board agreed with the request and heard the complaints on November 30, 2011 and December 1, 2011. A separate decision will be rendered for each of the complaints.

PRELIMINARY MATTERS

There were no preliminary matters.

BACKGROUND

The subject property is a 7492.723 sq. ft. interior lot currently being utilized as a parking lot. The civic address is 10609 104 Avenue NW.

ISSUE:

What land rate should be used to calculate the subject parcel of vacant land?

LEGISLATION

Municipal Government Act, RSA 2000, c M-26

s 1(1)(n) “market value” means 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.

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 explained that, for the most part, the properties under complaint are vacant parcels of land located in the downtown area that are used for parking lots. Some of the properties have minor improvements such as paving. The Complainant is not challenging the improvement portion of the assessment for those properties with improvements.

This complaint was filed on the basis that the base land rate of \$154.29 per square foot used to prepare the land assessment is too high. The Complainant argued that sales of similar properties in the area indicate a value of \$120.00 per square foot for the land portion of the assessment. The Complainant presented the following three sales comparables that were time adjusted using the City of Edmonton time adjustment factors. The complete chart of the Complainant's sales comparables is attached as Addendum A.

Complainant's Sales Comparables

| | Address | Site Area | TASP |
|---|---------------------|------------------|-------------|
| 1 | 10120 108 Street NW | 7,771sf | \$129.80 |
| 2 | 10044 105 Street NW | 7,487sf | \$70.53 |
| 3 | 10233 105 Street NW | 7,499sf | \$154.96 |

Average: \$118.43

Median: \$129.80

The Complainant noted that sales 1 and 3 were also used by the Respondent.

The Complainant stated that the above sales comparables have an average time adjusted sale price of \$118.43 per square foot, and a median time adjusted sale price of \$129.80 per square foot. Based on these market transactions of vacant land, the Complainant requested the Board to reduce the base land rate to \$120.00 per square foot.

Complainant's Rebuttal

The Complainant asserted that some of the Respondent's sales should not be used as comparables, and commented on the following sales.

- Sale #3 10416 102 Avenue NW has contamination problems and the cost to remediate is \$700,000 which the purchaser will absorb.
- Sale #6 10424 Jasper Avenue NW is the consolidation site for Sobeys and is a clear outlier. It was not listed on the open market.

In response to the Respondent's criticism of the Complainant's sale #2, located at 10044 105 Street NW, the contamination is exaggerated and the contamination is the neighbor's responsibility.

POSITION OF THE RESPONDENT

The Respondent submitted that the properties are assessed using a vacant commercial land model that adjusts for attributes that impact market value, in order to arrive at a typical market value for

properties in these classes. The direct sales approach to value is utilized to value the land portion of these properties. The Respondent argues that the base land rate of \$154.28psf is correct and the Respondent presented eight sales comparables in support of this position. The sales comparables are set out below and the complete sales comparable chart is attached as Addendum B.

Respondent's Sales Comparables

| | Address | Site Area | TASP |
|---|------------------------|-----------|----------|
| 1 | 10163/9 108 Street NW | 15,000sf | \$130.80 |
| 2 | 10178 103 Street NW | 15,000sf | \$196.84 |
| 3 | 10416 102 Avenue NW | 37,477sf | \$206.41 |
| 4 | 10350/64 105 Street NW | 22,188sf | \$142.05 |
| 5 | 10120 108 Street NW | 7,771sf | \$129.79 |
| 6 | 10424 Jasper Avenue NW | 3,000sf | \$178.60 |
| 7 | 10233 105 Street NW | 7,499sf | \$154.95 |
| 8 | 10160 106 Street NW | 21,914sf | \$111.75 |

Average: \$156.40

The Respondent noted that sales 5 and 7 were also used by the Complainant.

Respondent's Equity Comparables

The Respondent presented twenty equity comparables that were chosen randomly from the downtown core area and they each were assessed at \$154.28 per square foot. This demonstrates that the subject vacant land properties are equitably assessed with similar properties. The Board noted that the Complainant did not raise the issue.

Respondent's Rebuttal

The Respondent stated that the Complainant's second sales comparable at 10044 105 Street NW is not a good comparable because it is contaminated by dry cleaning fluid from the adjacent lot.

DECISION

The subject property assessment is reduced to \$1,054,000.

REASONS FOR THE DECISION

In the direct sales approach used to prepare the assessments for this group of properties, market value is established by reference to similar sales. The Board will focus on the similarity or

comparability of the sales presented by the Complainant and Respondent. This is one of fifty seven cases heard which included carry forward of the Complainant's and the Respondent's positions. In this particular case, the Complainant, through oversight, provided only three of the eleven comparable sales provided in the other cases.

With respect to the Complainant's sales comparables, two of the three sales were also used by the Respondent. The Board accepts these two sales because they are similar to the subject properties in size, zoning and location. Together, these two sales comparables sold for an average time adjusted sale price of \$142.38.

Respecting the Complainant's remaining sales comparable, the Board does not accept it as a good comparable for the reason set out below.

- Sale #2 10044 105 Street NW. This property is contaminated by dry cleaning fluid that migrated from an adjacent parcel of land. The purchaser was aware of the contamination and this is reflected in the sale price. The Board finds that a contaminated property is not representative of the entire market for downtown land and is rejected as an appropriate comparable.

In respect of the Respondent's sales comparables, two of the eight sales were used by the Complainant and are accepted by the Board as good comparables. Respecting the two remaining sales comparables, the Board does not accept them for the following reasons.

- Sale #3 10416 102 Avenue NW. This property has contamination problems and the Board rejects it as an appropriate comparable for the same reason the Board rejected the contaminated property located at 10044 105 Street NW.
- Sale #6 10424 Jasper Avenue NW. This property was purchased by the adjoining owner to consolidate the sites for the Sobeys development and it was not listed on the open market. While this sale may be a valid arms length sale, it does not meet the definition of a "market value" sale as defined in the Act because it was not sold on the open market.

After eliminating the Respondent's sales comparables at 10416 102 Avenue NW and 10424 Jasper Avenue NW, the Respondent's own sales comparables support a reduction in the base rate used to calculate the value of vacant land in the downtown core.

In summary, the two best sales comparables put forth by the Complainant average a time adjusted sale price of \$142.38 per square foot and median sale price of \$129.80. Based on this market evidence, the decision of the Board is to reduce the base rate to \$140.00 per square foot for the land portion of the assessment for each of the subject properties.

CONCLUSION

Land Assessment: 7492.723 sq. ft. @ \$140.00 per sq. ft = \$1,048,981

Improvements: \$ 5,214

Assessment: **\$1,054,195 (\$1,054,000 rounded)**

Dated this 20th day of December, 2011, at the City of Edmonton, in the Province of Alberta.

Robert Mowbrey, 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, RSA 2000, c M-26.

cc: 1082476 ALBERTA LTD

| | | | | | | | | | |
|---|----------|--|----------|-----------|-----------|-----------------|----------|-----------------|----------|
| | | ADDENDUM A | | | | | | | |
| | | COMPLAINANTS SALES COMPARABLES | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| Sale No. | Roll No. | Address | Zoning | Site Area | Sale Date | Sale Price | Price/SF | TASP | TASP/SF |
| 1 | n/a | 10120 - 108 St | MSC | 7,771 | 31-Jan-06 | \$640,000.00 | \$82.36 | \$1,008,576.00 | \$129.80 |
| 2 | Multiple | 10163/69-108 St | EZ | 15,000 | 10-Mar-06 | \$1,245,000.00 | \$83.00 | \$1,961,996.00 | \$130.80 |
| 3 | Multiple | 10350-105 STREET NW | EZ | 22,188 | 20-Apr-06 | \$2,000,000.00 | \$90.14 | \$3,151,800.00 | \$142.05 |
| 4 | Multiple | 10160-106 St & 10168-106 St | EZ | 22,211 | 28-Apr-06 | \$1,400,000.00 | \$63.03 | \$2,206,260.00 | \$99.33 |
| 5 | Multiple | 10160-106 St & 10168-106 St | EZ | 22,211 | 28-Apr-06 | \$1,554,000.00 | \$69.97 | \$2,448,949.00 | \$110.26 |
| 6 | 3128600 | 10044-105 STREET NW | CMU | 7,487 | 31-Aug-06 | \$350,000.00 | \$46.75 | \$528,080.00 | \$70.53 |
| 7 | Multiple | 10174-103 STREET NW | HA | 15,002 | 11-Sep-06 | \$2,000,000.00 | \$133.32 | \$2,952,600.00 | \$196.81 |
| 8 | Multiple | 10230-105 STREET NW | UW | 37,440 | 13-Apr-07 | \$3,350,000.00 | \$89.48 | \$4,246,795.00 | \$113.43 |
| 9 | 3105681 | 10233-105 STREET NW | UW | 7,499 | 07-Aug-07 | \$1,000,000.00 | \$133.35 | \$1,162,000.00 | \$154.96 |
| 10 | Multiple | 10128-104 Ave 10157-105 Ave | DC2(500) | 472,859 | 04-Mar-09 | \$30,000,000.00 | \$63.44 | \$26,271,000.00 | \$55.56 |
| 11 | Multiple | St; 4 Thornton Court;9955 Jasper Ave;100 | DC2 (E) | 58,867 | 26-Mar-09 | \$5,250,000.00 | \$87.55 | \$4,597,425.00 | \$76.67 |
| Average | | | | 62,694 | 29-Jan-07 | \$4,435,364.00 | \$85.67 | \$4,594,135.00 | \$116.38 |
| Median | | | | 22,188 | 31-Aug-06 | \$1,554,000.00 | \$83.00 | \$2,448,949.00 | \$113.43 |
| | | | | | | | | | |
| There are discrepancies in the data presented for Sale #11 including site size and the unit values. | | | | | | | | | |

| | | | ADDENDUM B | | | | | | |
|----------|----------------|-------------------------------|------------|-------------|-----------|--------------|-------------|----------------|----------|
| | | | | | | | | | |
| | | RESPONDENTS SALES COMPARABLES | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| Sale No. | Roll # | Address | Zoning | Lot Size | Sale Date | Sale Price | TASP* | Sale Price/ft2 | TASP/ft2 |
| | | | | Square Feet | | | | | |
| 1 | 3196557/706 | 10163/9-108 STREET | CB2 | 15,000 | 1-Mar-06 | \$ 1,245,000 | \$1,961,996 | \$83.00 | \$130.80 |
| 2 | 10020550/1 | 10178-103 STREET | CB2 | 15,000 | 1-Sep-06 | \$ 2,000,000 | \$2,952,600 | \$133.33 | \$196.84 |
| 3 | 10014611 etc. | 10416-102 AVENUE | CB2 | 37,477 | 1-Dec-07 | \$ 7,262,150 | \$7,735,642 | \$193.78 | \$206.41 |
| 4 | 37502/10014613 | 10350/64-105 STREET | CB2 | 22,188 | 1-Apr-06 | \$ 2,000,000 | \$3,151,800 | \$90.14 | \$142.05 |
| 5 | 3221306 | 10120-108 STREET | CB2 | 7,771 | 1-Feb-06 | \$ 640,000 | \$1,008,576 | \$82.36 | \$129.79 |
| 6 | 3104502 | 10424 JASPER AVENUE | CB2 | 3,000 | 1-Jan-06 | \$ 340,000 | \$535,806 | \$113.33 | \$178.60 |
| 7 | 3105681 | 10233-105 STREET | CB2 | 7,499 | 1-Aug-07 | \$ 1,000,000 | \$1,162,000 | \$133.35 | \$154.95 |
| 8 | 9966275/6/7 | 10160-106 STREET | CB2 | 21,914 | 1-Apr-06 | \$ 1,554,000 | \$2,448,949 | \$70.91 | \$111.75 |
| AVERAGE | | | | | | | | | \$156.40 |