



ASSESSMENT REVIEW BOARD

Churchill Building
10019 103 Avenue
Edmonton AB T5J 0G9
Phone: (780) 496-5026

NOTICE OF DECISION NO. 0098 520/11

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 24, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3845468	12603-170 Street NW	Plan: 9223007 Block: 7	\$13,034,500	Annual	2011

Before:

Warren Garten, Presiding Officer
Brian Carbol, Board Member
Mary Sheldon, Board Member

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

Walid Melhem, Altus Group

Persons Appearing on behalf of Respondent:

Shelly Milligan, Assessor, City of Edmonton

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.

No other preliminary matters were brought forward before the Board

BACKGROUND

The subject property is a “garbage – land fill” located in the Kinokamau Plains Area subdivision of the City of Edmonton with a municipal property address of 10020-56 Avenue. The property has a site area of 6,630,141 square feet. The land is currently zoned DC(272)(1) and has full municipal servicing.

ISSUE(S)

The main merit issue before the board is market value of the land (only) using the Direct Sales Comparison Approach to Value of the subject parcel totaling 6,630,141 Square Feet.

A secondary issue is the setback requirements of the zoning resulting in a potential loss of land use which negatively affects the value of the subject site.

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 argued that the Respondent has assessed the improvements affixed to the property incorrectly. The correct improvement value based on the Marshall and Swift Manual is \$31,643 (C-1, p.9).
- The Complainant notes that the Respondent has assessed the entire land area of the subject property as usable, however due to site specific zoning of the subject property,

25.5 hectares of the total site size is not permitted for use. The Complainant drew the attention of the Board to the Site and Data Report (C-1, p. 18-19).

- The Complainant argued that the Respondent did not make an adjustment for contamination and stigma associated with the subject property being a landfill.
- The Complainant presented four sales comparables of similar sales of land that indicate that the land assessment for the subject property is too high (C-1, p. 9).
- The Complainant's sales comparables resulted in an average sales price of \$2.16 per square foot and a median sales price of \$2.16 per square foot.
- The Complainant requested a revised assessment based on \$1.02 for the entire property, resulting in a land value of \$6,744,572 combined with a revised value for the improvements of \$31,643 for a total requested assessment of \$6,776,000.
- The Complainant requested that pages 16-25 of C-1, the Complainant's disclosure, be sealed on the basis of confidentiality of the information contained on those pages.

POSITION OF THE RESPONDENT

- With respect to the value of the land portion of the assessment, the Respondent presented to the Board a chart of seven sales of land comparable to the land portion of the subject (R-2). The median time adjusted sale price per square foot of the comparables was \$4.72.
- The Respondent advised the Board that the assessment per square foot of the subject land was \$1.94. However, the Respondent further advised the Board that, in its opinion, a fair and equitable assessment would be to categorize 41 acres of the subject land as industrial at an assessment of \$3.86 per square foot and by categorizing the remaining 111.2 acres as parkland at an assessed value of \$.46 per square foot.
- The Respondent argued further that there was no wasted or unusable portion of the land and that therefore there should not be a 25% reduction in the assessment as argued by the Complainant. The Respondent pointed to evidence in disclosure to show that the setback areas of the land could be used for berms, security fences etc (C-1, page 29).
- With respect to the value of the improvements, after some discussion the parties agreed that the Respondent's value of \$104,794 was correct.
- The Respondent submitted to the Board that a fair and equitable assessment per square foot for the land would be \$1.37 based on the categorization of 41 acres of the site as industrial and the balance of 111.12 acres as parkland. This would reduce the assessment of the land to \$9,117,143 and would reduce the total assessment of the subject to \$9,221,500.
- The Respondent requested that the Board reduce the current assessment of the subject to the recommended amended amount of \$9,221,500.

DECISION

It is the Board's decision to reduce the current assessment to \$9,221,500 based on the City of Edmonton's recommendation.

The Board considered the Complainant's request that pages 16-25 of C-1 be sealed and granted that request. Pages 16-25 of C-1 are to be sealed.

REASONS FOR THE DECISION

The Complainant provided 4 comparables to the Board as evidence to support a lower tax assessment. Of the 4 comparables the Board found that the average and median is calculated to be \$2.16 which supports the current assessment by the City of Edmonton totaling \$1.94.

The Complainant further requested that the Board reduce the useable area of the site due to the required setback from 6,630,141 square feet to 5,274,318 square feet which is a 25% reduction. The Board found that this percentage could not be verified as a survey supporting this amount was not available.

The Board further found that the setback, which was required by the zoning, was being used to accommodate security fences, screen berms, monitoring wells, subsurface gas trenches, drainage swales, drainage management and access roads. This use is required for the ongoing development of the site and is not unused as suggested by the Complainant.

The Respondent provided a revised list of 6 comparables. Further the Respondent requested that the assessment be changed to \$1.375 per square foot to account for a portion of parkland in the site. The Respondent requested that the site be re-categorized to 41 acres of industrial and 111.2 acres of parkland. This re-categorization results in an assessment of \$6,893,806 for the industrial portion and \$2,223,337 for the parkland portion.

The Board found that the request by the Respondent was fair and equitable and placed the most weight on this form of calculation.

DISSENTING OPINION AND REASONS

There were no dissenting opinions regarding this decision.

Dated this 14th day of December, 2011, 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, RSA 2000, c M-26.

cc: WASTE MANAGEMENT OF CANADA CORPORATION.