

NOTICE OF DECISION NO. 0098 53/12

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:
9988077	9450 45 AVENUE NW	Plan: 0121263 Block: 3 Lot: 20A	\$6,725,000	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: MASADA ENTERPRISES CORPORATION

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 1118

Assessment Roll Number: 9988077

Municipal Address: 9450 45 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 and Procedural 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 are carried forward to this file from #8480097 and #8481095 where applicable.

[4] During the cross-examination of the Complainant, the Respondent identified a number of deficiencies in the Complainant's evidence package. Upon the Respondent's request and in the interest of efficiency, the Board directed the Respondent to provide written documentation of all discrepancies in the Complainant's evidence package, as noted by the Respondent. This was admitted into evidence as Exhibit R-1.

[5] During the Respondent's sur-rebuttal, the Complainant objected, citing new evidence not having been disclosed to the Complainant. The Respondent stated that the sur-rebuttal evidence was not new and only commented on the Complainant's evidence. The Respondent cited section 8(c) MRAC that would allow the Respondent's sur-rebuttal. The Board recessed, deliberated and rendered a decision to the parties. The Board decided that the sur-rebuttal would be allowed.

Background

[6] The subject property is a three-building medium warehouse on a lot measuring nearly five acres (211,127 square feet) in the Papaschase Industrial subdivision in southeast Edmonton. The largest building was built in 1982 and has a total main-floor area of 31,944 square feet, including an office space of 4,944 square feet. The smaller building was built in 2002 and has a main-floor space of 13,500 square feet, including finished office space of 900 square feet. The third structure is a storage shed built in 2001 that measures 1,125 square feet and has been assessed on the 'cost' basis. All three buildings are in 'average' condition with a total area of 46,569 square feet and a 2012 assessment of \$6,725,000.

Issue

[7] Is the 2012 assessment of \$6,725,000 fair, equitable and consistent with market values on the valuation date?

Legislation

[8] 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

[9] The Complainant filed this complaint on the basis that the subject property assessment of \$6,725,000 was inequitable and in excess of market value. In support of this position, the Complainant presented a 304 page assessment brief (Exhibit C-1) and a 30 page document rebutting the Respondent's evidence to the Board (Exhibit C-2).

[10] The Complainant offered the following evidence and arguments in support of this complaint.

- a. The subject property was appraised with an effective date of May 11, 2009 at \$4,900,000 (Exhibit C-1, pages 106–139), and the market has seen a steady decline to the valuation date of July 01, 2011.
- b. The subject property transferred title on June 01, 2010 for \$4,900,000 (Exhibit C-1, page 10).
- c. The income approach indicates a value of \$5,652,500 (Exhibit C-1, pages 7 – 8).

- d. Using the direct sales comparison approach, an analysis of 13 comparable sales yields a valuation of \$121.88 per square foot or a comparable market value of \$5,698,000 for the subject property (Exhibit C-1, pages 7 & 13).
- e. Relying on a set of five equity comparables, the valuation should be \$127 per square foot or \$5,914,000 (Exhibit C-1, pages 7 & 14).

[11] The Complainant alleged that being a multi-building warehouse property, the subject was assessed excessively by the Respondent, ignoring very significant factors.

- a. The table of lease rates (Exhibit C-1, pages 19–22) indicated that the ‘bay size’ was more important than the building size or the number of buildings in the property.
- b. Applying a rental rate of \$7.25 per square foot for the older building, \$9.25 per square foot for the newer building, and an excess land adjustment was more appropriate for the subject property. Doing so, resulted in the subject’s valuation of \$5,652,500 (Exhibit C-1, pages 8, 9, 19-22).
- c. In support of the excess land pricing and valuation, the Complainant provided a table of ‘excess land sales’ and a valuation of \$13.50 per square foot (Exhibit C-1, page 9).
- d. An independent third-party (Avison Young) report on Industrial land prices in Edmonton indicated a land price of \$564,934 per acre, as of July 2011 (Exhibit C-1, page 30).
- e. In support of the capitalization rate (7.25%) and the vacancy rate (3%), used for the analysis and valuation, the Complainant provided independent third-party published market information (Exhibit C-1, pages 23-41).

[12] The Complainant advised the Board that a substantial number (approximately 60%) of warehouse properties sold in Edmonton during 2011 were owner occupied (Exhibit C-1, page 41).

[13] The Complainant provided scatter diagrams of warehouse sales in Southside and Northwest Edmonton, to demonstrate that the multi-building warehouse properties did not command any higher unit price than the single building properties did (Exhibit C-1, pages 141-143).

[14] Citing several multi-building warehouse sales and corresponding sales comparables, the Complainant further stressed his assertion that the multi-building warehouse properties did not warrant any higher unit prices for sales or assessment (Exhibit C-1 pages 145-304).

[15] The Complainant questioned the validity of the first sales comparable quoted by the Respondent (Exhibit R-2, page 17) that has only 12% site coverage versus 22% for the subject. The Complainant pointed out to the Board that one would need to add nearly 177,000 square feet of additional land to the subject property to reduce the site coverage to the comparable’s 12%.

[16] The Complainant advised the Board that all three of the Respondent’s sales comparables (Exhibit R-2, page 17) were seriously flawed and did not provide reliable evidence to support the

assessment. Comparable #1 (4350 – 68 Avenue) had an incorrect sale price, site coverage and lot size; comparable #2 (9204 - 37 Avenue) was a sale/lease-back with financing from the vendor; and comparable #3 (9651 – 25 Avenue) was a new space located at the corner of two major roadways and was an office building with a warehouse (Exhibit C-2, page 2-10).

[17] The Complainant objected vehemently to the Respondent adding its own sales comparables to the Complainant's sales analysis tables to illustrate the point that multi-building warehouse properties were not valued any higher than single building properties in the market place. The sale illustration (8103 Roper Road) included with the Complainant's analysis (Exhibit R-2, page 51) was, in the Complainant's opinion, totally out of place as this was a multi-tenant, multi-use property with substantial office space and not comparable with warehouse properties.

[18] The Complainant presented a table with five equity comparables that showed an average and median assessment of \$127.40 per square foot and \$128.13 per square foot respectively, which are lower than the subject's 2012 assessment of \$144.41 per square foot (Exhibit C-1, page 14).

[19] The Complainant argued that the sales and equity comparables included in the evidence supported a lower assessment and requested that the subject's 2012 assessment be reduced to \$4,900,000 (Exhibit C-1, page 15).

Position of the Respondent

[20] The Respondent presented a 104 page assessment brief (Exhibit R-2) and a law & legislation brief (Exhibit R-3) to the Board. The assessment brief included sales comparables and equity comparables that supported the subject's 2012 assessment of \$6,725,000 as fair and equitable.

[21] The Respondent explained that the subject's assessment and similar assessments were prepared using the direct comparison assessment methodology. The Respondent stated that sales occurring from January 2008 through June 2011 were used in the model development and testing (Exhibit R-2 pages 4-8).

[22] 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 area of the main floor (per building), the amount of finished area on the main floor as well as the developed upper area (per building). (Exhibit R-2 page 7).

[23] The most common unit of comparison for industrial properties is the 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. Properties with a larger amount of land in relation to the building footprint display a higher value per square foot to account for the additional land value attributable to each unit of the building size (Exhibit R-2 page 8).

[24] The Respondent is legislatively obligated to use mass appraisal methodology for valuing individual properties. The Respondent employed the sales comparison approach for the 2012 annual assessment of all warehouse properties in Edmonton. The Respondent informed the Board that a large percentage of industrial property in Edmonton was owner occupied and had no income attributable to it, making the sales comparison a more reliable approach in this market place (Exhibit R-2, page 6).

[25] The Respondent further advised the Board that owing to differences in age, condition, street-exposure, traffic conditions, type of construction and building sizes, the City assesses each building with its own attributes and combines the individual assessments to arrive at the total annual assessment for the total property. Upon questioning by the Board, the Respondent could not think of any alternative approach to yield a more reliable or equitable outcome.

[26] Responding to the Complainant's assertion that the market value of a property is not affected whether the total size of the improvements are comprised of a single building or of multiple buildings, the Respondent pointed out multiple errors and omissions in the Complainant's evidence package that could potentially change the outcomes and not support the Complainant's position at all (Exhibit R-2, page 45).

- a. The Respondent advised the Board that a property (9755 – 62 Avenue NW) shown to have been sold in January 2008, in the Complainant's evidence (Exhibit C-1, page 145), actually did not sell and there had been no change in ownership since 1960 (Exhibit R-2, page 68).
- b. The Respondent challenged the accuracy of the Complainant's information with respect to one of the sales comparables at 8055 Coronet Road NW (Exhibit C-1, page 145). The Respondent advised the Board that the condition, site coverage, sizes and the time adjusted sales price were in error in the Complainant's evidence (Exhibit R-2, page 47).
- c. The Respondent pointed out to the Board that one of the sales comparables (5918 – Roper Road NW) used by the Complainant (Exhibit C-1, page 161) was invalid since it was a 'non arms length' sale (Exhibit R-2, pages 22-32).
- d. The Respondent further pointed out to the Board that in another sales comparable (178031 – 118 Avenue) relied upon by the Complainant, the building size had been stated as 17,401 square feet, whereas the correct building area was 8,793 square feet. This also put into question the site coverage (17% versus 9%) and the resulting time adjusted sales price of \$121.85 per square foot (Exhibit C-1, page 190 and Exhibit R-2, page 58).

[27] The Respondent highlighted several other factual inaccuracies in the evidence submitted by the Complainant. In the interest of efficiency and with the Complainant's consent, the Board directed the Respondent to provide written documentation of all the discrepancies in the Complainant's evidence package, as noted by the Respondent. This was admitted into evidence as Exhibit R-1.

[28] The Respondent defended the assessment using three sales comparables that ranged from \$142.24 per square foot to \$161.30 per square foot. This supports the subject's 2012 assessment of \$144.41 per square foot (Exhibit R-2, page 17).

[29] The Respondent pointed out the inconsistency in the Complainant's own evidence and testimony. The Respondent stated that while the Complainant was arguing for the total floor area spread over multiple buildings to be treated as one, the Complainant was also treating the two buildings as separate entities in comparing these to two different sets of sales comparables (Exhibit C-1, page 13).

[30] During questioning, the Respondent indicated that economies of scale and other influencing factors such as the age, size, condition, location and functional obsolescence were adequately reflected in the time adjusted sales prices of the properties. This, in the Respondent's view, was evident from the ASR values being very close to 1 and the fact that all these had passed the provincial audit.

[31] In response to the Complainant's concerns with the sales comparables, the Respondent advised the Board that there were very few multi-building warehouse property sales in the city. The three comparables (Exhibit R-2, page 17) were as close to the subject as possible, but these needed adjustments for individual building sizes, site coverage and office space on the main or upper floors.

[32] In response to questions, the Respondent advised the Board that while several factors such as the cost of construction, size and interior finishes; decreased investment risks and upward potential associated with multiple buildings; better site configuration or utilization; increased potential for subdivision for sale or rental options; and ability to make precise adjustments for assessment purposes all influenced the value of the property, these were all accounted for in the market valuation and the sale prices of the properties.

[33] In response to the Complainant's argument to use the 'income approach' for industrial properties, as advocated in 'Standard on Mass Appraisal of Real Property – 2012' (Exhibit C-2, page 14), the Respondent advised the Board that the same publication, continuing further in the same paragraph (4.6.3) stated, "direct sales comparison models can be equally effective in large jurisdictions with sufficient sales", and stressed that the City of Edmonton was certainly such a jurisdiction (Exhibit R-5, pages 1-2).

[34] The Respondent presented a set of five equity comparables to support the subject's 2012 assessment (Exhibit R-2, page 21). One of the comparables (3420 –74 Avenue) was also included in the Complainant's set of equity comparables (Exhibit C-1, page 14 & 91). The Respondent's equity comparables showed assessment values ranging between \$130.12 and \$159.22, which supported the subject's assessment at \$144.41 per square foot (Exhibit R-2, page 21).

Decision

[35] The decision of the Board is to confirm the 2012 assessment at \$6,725,000 as fair and equitable.

Reasons for the Decision

[36] The Board is not persuaded by the Complainant's evidence. The Board is of the opinion that there are significant issues with the Complainant's sales comparables establishing the subject's market value. All 13 comparables (Exhibit C-1, page 13) are single building properties while the subject has three buildings on it. The condition of the comparables is not evident from the table and raises questions about the age and the sizes of the comparables presented. The Board agrees that the chart presented by the Respondent (Exhibit R-1) showing deficiencies in the Complainant's comparables played a significant role in minimizing the weight placed on these sales comparables.

[37] The Board puts little weight on the Respondent's sales comparables (Exhibit R-2, page 17) as there are significant differences in the sizes of the buildings, lot sizes, site coverage, location, the nature of the use, and extent of finishes.

[38] The Board recognizes that the income approach is a valid methodology for establishing market value; however, the Board is persuaded by the Respondent's reasoning that a large percentage of industrial property in Edmonton is owner-occupied and as such, has no income attributable to it.

[39] The Board notes that the Respondent is legislatively obligated to rely on mass appraisal methodology by using one of the three approaches and that the City of Edmonton based its 2012 assessment in respect of medium warehouses on the direct sales comparison approach.

[40] The Board notes that the Complainant relied primarily on two arguments: one, that the respondent had assessed multi-building warehouse properties unfairly, and two, that the Respondent had relied solely on the direct sales comparables ignoring the income approach that involved typical rental rates and capitalization rates to arrive at the market value.

[41] The Board is not persuaded by the Complainant's argument that the 'Standard on Mass Appraisal of Real Property' text advocates the indiscriminate use of the income approach for valuing industrial properties. As pointed out by the Respondent, the Board notes further in the quoted text that, 'direct sales comparison' models are deemed equally and validly applicable.

[42] The Board is persuaded by the Respondent's reasoning that owing to differences in age, condition, street-exposure, traffic conditions, type of construction and building sizes, it is fair and appropriate to assess each building with its own characteristics and to combine the individual assessments to arrive at the total annual assessment for the property. The Board further notes that the City of Edmonton's 2012 warehouse assessments passed the provincial government audit.

[43] The Board is persuaded by the Respondent's evidence that all warehouse properties in the jurisdiction were assessed on direct sales comparison approach. The Board agrees that the time adjusted sales prices include all meaningful influences, economies of scale being one, on the property and provide a basis for fair comparison. The Board places considerable weight on the Respondent's evidence that approximately 60% of the warehouse sales that occurred in the year preceding the valuation date were in respect of owner-occupied warehouse properties with no reliable rental data. Furthermore, the Complainant's evidence confirmed that a large proportion of industrial warehouses in southeast Edmonton are owner-occupied.

[44] The Board is not persuaded by the Complainant's evidence in support of the argument that the multi-building warehouse properties had been assessed unfairly and excessively by the City. The scatter chart (Exhibit C-1, page 141) presented in support of the argument excludes several sales during the period. As pointed out by the Respondent, inclusion of all such sales would have altered the possible inferences.

[45] The Board notes that the Complainant's sales comparable tables, demonstrating that market valuations did not differentiate between single building and multiple building warehouses, is flawed and not of much assistance to the Board. This was highlighted by the Respondent's list (Exhibit R-1) of discrepancies and inconsistencies in the Complainant's sales comparable tables.

[46] Jurisprudence has established that the onus of showing that an assessment is incorrect rests with the Complainant. The Board is satisfied that the Complainant did not provide sufficient and compelling evidence for the Board to form an opinion as to the incorrectness of the assessment.

Dissenting Opinion

[47] There was no dissenting opinion.

Heard commencing June 25, 2012.

Dated this 11th day of July, 2012, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

Walid Melhem, Altus Group
for the Complainant

Luis Delgado, City of Edmonton

Mary-Alice Nagy, City of Edmonton

Tanya Smith, City of Edmonton
for the Respondent