

NOTICE OF DECISION NO. 0098 54/12

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 27, 2012, respecting a complaint for:

| Roll Number | Municipal Address | Legal Description | Assessed Value | Assessment Type | Assessment Notice for: |
|--------------------|---------------------------|---|-----------------------|------------------------|-------------------------------|
| 8888232 | 6203 WAGNER ROAD NW | Plan: 6214NY Block: 19 Lot: 5 / Plan: 6214NY Block: 19 Lot: 6 | \$4,258,500 | 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: WAYNE CONSTRUCTION LTD.

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 798

Assessment Roll Number: 8888232

Municipal Address: 6203 WAGNER ROAD 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 # 9988077 as far as applicable.

[4] During cross-examination of the Complainant on file #9988077, 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. This written documentation was admitted into evidence as Exhibit R-3.

[5] The Respondent objected to a rebuttal document that the Complainant wished to present to the Board. The Respondent submitted that the rebuttal document forwarded by the Complainant referred to a different roll number on the cover page and on page 2. The Respondent noted the provisions of section 9(2) of the *Matters Relating to Assessment Complaints Regulation* (MRAC), which state that the Board must not hear any evidence that has not been disclosed in accordance with the provisions of section 8 MRAC. In this case, the

Respondent submitted that although the rebuttal document had been filed on time, it referred to a different file. The Board recessed, deliberated and decided that the rebuttal document would not be accepted as evidence as it had not been properly disclosed.

Background

[6] The subject property is a medium warehouse located in the Davies Industrial West subdivision of the City of Edmonton. The subject property was built in 1970. The gross building area is 39,945 square feet and the site area is 114,101 square feet. The site coverage is 35%. There are two buildings on site, both in average condition. The 2012 assessment of the subject is \$4,258,500.

Issue

[7] Is the 2012 assessment of \$4,258,500 for the subject 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.

[9] *The Matters Relating to Assessment Complaints Regulation* reads:

Matters Relating to Assessment Complaints Regulation, Alta Reg 310/2009

s 8(1) In this section, “complainant” includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

s 8(2) If a complainant is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence.

- (c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the

hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

s 9(2) a composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

Position Of The Complainant

[10] The Complainant filed this complaint on the basis that the subject property assessment of \$4,258,500 was inequitable and in excess of market value. In support of this position, the Complainant presented a 211-page assessment brief (Exhibit C-1) to the Board.

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

- a. The Complainant presented a chart of five sales comparable properties (Exhibit C-1, page 8). The Complainant advised the Board that all the comparables were newer than the subject, except for #3 (4130 99 St). Comparable #3 was also in a better location than the subject and was the only comparable without upper office space, similar to the subject. The leasable building area of the comparables ranged from 31,505 square feet to 49,999 square feet and the site coverages ranged from 27% to 44%. The time adjusted prices per square foot of leasable building area for the comparables ranged from \$65.29 to \$90.74 with an average of \$76.91 and a median of \$74.61 as compared to the subject's assessment of \$106.61 per square foot. The Complainant submitted to the Board that a value of \$80 per square foot would be appropriate for the subject based on these market comparables.
- b. The Complainant also presented a chart of five equity comparables for the Board's consideration. The Complainant advised the Board that all these comparables were situated in interior locations, similar to the subject and were similar to the subject in terms of age, size, location and site coverage. The assessments per square foot of leasable building area for these comparables ranged from \$83.33 to \$99.65 as compared to the subject's assessment of \$106.61 per square foot. The Complainant submitted to the Board that a value of \$93 per square foot would be appropriate for the subject based on these equity comparables.

[12] The Complainant also alleged that since the subject was a multi-building warehouse property, the subject was assessed excessively by the Respondent. The Complainant presented a chart of lease rates which, in the opinion of the Complainant, showed that the number of buildings on site made no difference to the lease rates achieved.

[13] In further support of its argument that the number of buildings on site should make no difference to the assessment of a property, 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 (Exhibit C-1, page 48-51).

[14] The Complainant cited several multi-building warehouses and corresponding sales comparables and submitted to the Board that this evidence demonstrated that the multi-building warehouse properties did not warrant any higher unit prices for sales or assessment (Exhibit C-1, pages 52-211).

[15] The Complainant confirmed that the income approach to value for the subject was not an issue and that no evidence or argument would be presented in that regard.

[16] The Complainant submitted that based on the sales comparables presented (Exhibit C-1, page 8), a value of \$3,195,500 was appropriate for the subject and based on the equity comparables presented (Exhibit C-1, page 9), a value of \$3,714,500 was appropriate. The Complainant requested that the Board reduce the current assessment of the subject to \$3,195,500.

Position Of The Respondent

[17] The Respondent presented an 86-page assessment brief (Exhibit R-1) and a law and legislation brief (Exhibit R-2) to the Board. The assessment brief included sales comparables and equity comparables that supported a 2012 assessment of the subject.

[18] The Respondent explained to the Board 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.

[19] 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 of the main floor as well as the developed upper area (per building) (Exhibit R-1, page 7).

[20] The Respondent explained further that 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 foot print display a higher value per square foot to account for the additional land value attributable to each unit of the building size (Exhibit R-1, page 8).

[21] The Respondent stated that there is a legislative obligation 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-1, page 6).

[22] 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 on a multi-building site with its own attributes and combines the individual assessments to arrive at the total annual assessment for the total property.

[23] 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.

[24] As examples of the above, 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 actually did not sell and that there had been no change in ownership since 1960 (Exhibit R-1, page 31). Further, the Respondent demonstrated to the Board that the information presented by the Complainant with respect to 8055 Coronet Road was inaccurate as to condition, site coverage, size and time adjusted sale price (Exhibit R-1, p 29). Another sales comparable 5918 Roper Road NW) used by the Complainant in its multi building versus single building analysis was invalid as it was a non-arms length sale (Exhibit R-1, page 34).

[25] The Respondent highlighted several other factual inaccuracies in the Complainant's evidence in respect of its analysis of multi-building versus single building values. In the interest of efficiency and with the Complainant's consent, the Board directed the Respondent to provide written documentation of all instances of discrepancy in the Complainant's evidence package as noted by the Respondent. This was admitted into evidence as Exhibit R-3.

[26] The Respondent defended the assessment by presenting to the Board five sales comparables (Exhibit R-1 page 17). The time adjusted price per square foot of these comparables ranged from \$97.70 to \$127.94. The Respondent stated that the subject's assessment per square foot at \$106.61 was well within an acceptable range. The Respondent advised the Board that there was a lack of sales for multi-building properties and as a result, all the sales comparables presented by the Respondent were of single building properties. However, the Respondent argued that with appropriate adjustments, the comparables could assist in establishing value for the subject.

[27] The Respondent also provided the Board with a chart of five equity comparables (Exhibit R-1, page 23). These were of multi-building properties. The range of assessments per square foot was from \$100.81 to \$113.59. The Respondent argued that this supported the assessment of the subject at \$106.61 per square foot.

[28] The Respondent pointed out to the Board that of the sales comparables presented as evidence by the Complainant, only one was a multi building property similar to the subject. As well, the Respondent noted for the Board that the Complainant had not provided any evidence as to condition of the sales and equity comparables. Further, the Respondent noted that another of the Complainant's sales comparables (4130 99 Street) required extensive roof repair which would affect the sale price and another sales comparable (3304 Parsons Road) presented by the Complainant included below market leases. The Respondent noted further for the Board that all the Complainant's equity comparables were of single building properties.

[29] The Respondent requested that the Board confirm the 2012 assessment of the subject at \$4,258,500.

Decision

[30] The decision of the Board is to confirm the 2012 assessment of the subject at \$4,258,500.

Reasons For the Decision

[31] The Board notes that the Respondent is legislatively obligated to rely on mass appraisal methodology using one of the three approaches to value. The Respondent based the 2012 assessment in respect of medium warehouses on the direct sales comparison approach. The Complainant also used the direct sales comparison approach and did not advance the income approach to value the subject.

[32] The Board notes that the Complainant relied on the presentation of sales and equity comparables to demonstrate that the 2012 assessment of the subject was not correct, fair and equitable. The Complainant also argued that the Respondent had assessed multi-building warehouse properties unfairly.

[33] With respect to the Complainant's argument that the Respondent's method of assessing multi-building properties was unfair, the Board notes the many factual errors and inconsistencies in the Complainant's evidence and analysis of multi-building and single-building properties. As a result, these errors put the value of the Complainant's evidence into question. This is highlighted by the Respondent in its list (R-3) of discrepancies and inconsistencies in the Complainant's evidence. In particular, the Board notes that the scatter charts presented by the Complainant in support of the position that the market did not differentiate between single building and multiple building warehouses were found to have excluded several sales during the period. As pointed out by the Respondent, inclusion of all such sales would have altered the possible inferences. The Board places more weight on the reasoning of the Respondent that owing to differences in age, condition, street-exposure, traffic condition, type of construction and building sizes, it is appropriate to assess each building on a multi-building site with its own characteristics and combine the individual assessments to arrive at the total annual assessment for the subject.

[34] With respect to the sales comparables presented by the Complainant, the Board notes several difficulties which make these comparables of less assistance in establishing value for the subject. In particular, only one of the sales comparables advanced by the Complainant is a multi-building site, similar to the subject. One sales comparable (4130 99 Street) required extensive roof repair and another (3304 Parsons Road) was subject to below market leases at the time of sale.

[35] With respect to the equity comparables presented by the Complainant, none were multi-building sites, similar to the subject.

[36] With respect to the evidence presented by the Respondent, the Board notes that all the sales comparables presented were of single building parcels, which are of limited assistance in establishing value for the subject.

[37] 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. Therefore, the conclusion of the Board is that the 2012 assessment of the subject at \$4,258,500 is correct, fair and equitable.

Dissenting Opinion

[38] There was no dissenting opinion.

Heard commencing June 27, 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

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