

NOTICE OF DECISION NO. 0098 570/11

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:
4041125		Plan: 8522037 Lot: 3	\$2,635,500	Annual New	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 22,710.117 sq. ft. vacant interior lot located to the south of a parkade which is located on the south side of Jasper Avenue opposite 99 Street. It is currently being utilized as a parking lot. The site is irregular in shape, subject to deficiencies in access/egress and slope due to its top of the bank location.

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 eleven 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	10163/69 108 Street NW	15,000sf	\$130.80
3	10350 105 Street NW	22,188sf	\$142.05
4	10160 106 Street NW & 10168 106 Street NW	22,211sf	\$ 99.33
5	10160 106 Street NW & 10168 106 Street NW	22,211sf	\$110.26
6	10044 105 Street NW	7,487sf	\$70.53
7	10174 103 Street NW	15,002sf	\$196.81
8	10230 105 Street NW	37,440sf	\$113.43
9	10233 105 Street NW	7,499sf	\$154.96
10	10128 104 Avenue NW/ 10157 105 Avenue NW	472,859sf	\$55.56
11	10085 100 Street NW; 4 Thornton Court NW; 9955 Jasper Avenue NW; 10073 100 Street NW	64,130sf	\$76.67

Average: \$116.38

Median: \$113.43

The Complainant noted that sales 1, 2, 3, 5, 7, and 9 were also used by the Respondent.

The Complainant stated that the above sales comparables have an average time adjusted sale price of \$116.38 per square foot, and a median time adjusted sale price of \$113.43 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 6, located at 10044 105 Street NW, the contamination is exaggerated and the contamination is the neighbour'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 \$154.28 per square foot 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 1, 2, 4, 5, 7 and 8 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. The assessments range from \$154.25 to \$154.29 per square foot. This demonstrates that the subject vacant land properties are equitably assessed with similar properties.

Respondent's Rebuttal

The Respondent stated that several of the Complainant's sales comparables are not good comparables. The Respondent commented on each of these sales:

- Sale #5 10160 106 Street & 10168 106 Street NW sold twice in the same day. First, it sold for \$99.33psf (Complainant's sale #4) and then, it resold for \$110.26psf (Complainant's sale # 5). The Complainant used both sales, however only the most recent sale (Complainant's sale #5) should be used.
- Sale #6 10044 105 Street NW is contaminated by dry cleaning fluid from the adjacent lot.
- Sale #8 10230 105 Street NW sold for less than the updated indication of market value according to an e-mail from Terry Herbert (Assessment). The e-mail also states that the land was to be purchased at market value.
- Sale #10 10128 104 Avenue NW / 10157 105 Avenue NW is a 10.86 acre site and it is outside of the boundary of the downtown core.
- Sale #11 10085 100 Street is comprised of five parcels that have numerous caveats restricting the use. The total site area of these parcels is 64,130sf.

DECISION

The subject property assessment is reduced to \$2,392,000.

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.

With respect to the Complainant's sales comparables, six of the eleven sales were also used by the Respondent. The Board accepts these six sales because they are similar to the subject properties in size, zoning and location. This sample of six sales may be too selective to represent the market for vacant land in the downtown core, therefore, the Board also accepts the Complainant's sale at 10230 105 Street NW. This 37,440sf comparable is at the top of the size range, but it is very comparable in zoning and location. Together, these seven sales comparables sold for an average time adjusted sale price of \$139.73.

Respecting the Complainant's four remaining sales comparables, the Board does not accept them as good comparables for the reasons set out below.

- Sale #4 10160 106 Street NW and 10168 106 Street NW. It is not typical for a property to sell twice in the same day. However, the fact that there is no evidence that the second sale is not reflective of market value and also the fact that both parties used this comparable, the Board accepts the second sale (Sale #5).
- Sale #6 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.

- Sale #10 10128 104 Avenue NW/ 10157 105 Avenue NW. This property is not similar to the subject properties. It is a very large property that has a site area of 10.86 acres or 472,859sf, whereas, the subject properties have a site area of less than 25,000sf. Large parcels of land tend to sell for less per square foot than small parcels of land. Therefore, this is not a good indicator of value for the subject properties.
- Sale #11 10085 100 Street NW; 4 Thornton Court NW; 9955 Jasper Avenue NW; 10073 100 Street NW. This sale comparable is comprised of five parcels with a total site area of 64,130sf. It is located on the bank of the North Saskatchewan River which could have a positive influence on the sale price. On the other hand, there are many influences that may have a negative effect on the sale price, for example, numerous caveats that restrict the use of the land. Neither party produced any evidence to show what affect, if any, these influences had on the sale price. The Board rejects this comparable because it is much larger than any of the properties under complaint. Further, it is not a typical property in consideration of the potential negative influences on value.

In respect of the Respondent's sales comparables, six 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 seven best sales comparables put forth by the Complainant average a time adjusted sale price of \$139.73 per square foot. 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.

The subject parcel is as well subject to deficiencies in shape, access/egress and slope, (top of the bank), all of which result in reductions of 10%, 5% and 10% respectively, for a total 25% reduction in assessment. These adjustments form part of the Respondent's Assessment Model and were not disputed by the Complainant.

CONCLUSION

Land Assessment: 22,710.117 sq. ft. @ \$140 per sq. ft. – 25% =\$2,384,562

Improvements: \$ 7,656

Total Assessment: **\$2,392,218 (\$2,392,000)**

Dated this 23rd 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: LUXOR LAND LTD
MESA WEST CAPITAL CORP

		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