



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 575/11

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:
8487902	4404 97 Street NW	Plan: 7721481 Block: 7 Lot: 18	\$22,793,500	Annual New	2011

Before:

John Noonan, Presiding Officer
Taras Luciw, Board Member

Board Officer: Jason Morris

Persons Appearing on behalf of Complainant:

Walid Melhem, Altus Group

Persons Appearing on behalf of Respondent:

Joel Schmaus, Assessor, City of Edmonton
Marty Carpentier, Assessor, City of Edmonton

PROCEDURAL MATTERS

The third assigned member, Mr. Pointe, was unable to attend due to a previous engagement, and the hearing proceeded with a quorum as allowed at *MGA* s 458(2).

PRELIMINARY MATTER

At the commencement of the hearing Mr. Carpentier asked the CARB and the Complainant to accept a recommendation that the assessment be reduced to \$21,192,500. The recommendation was in recognition of the fact that of the six separate office/warehouse buildings onsite, buildings number 5 and 6 were “landlocked” and had access problems. In the opinion of the Complainant, the recommendation failed to meet the indications of value derived from the evidence, and the Board proceeded to hear the merits of the complaint.

BACKGROUND

The subject industrial property comprises six office/warehouse buildings constructed over the years 1979-1981 with a total main floor area of 196,771 sq.ft., total building area of 224,935 sq.ft., on a 534,660 sq.ft. lot at the northwest corner of 97 Street and Whitemud Drive. There is no direct access to or from the Whitemud. Four of the buildings have main floor areas of 26,000+ sq.ft., and the other two are greater than 42,000 sq.ft. Site coverage is 37%. The 2011 assessment was prepared by the direct sales comparison model, where the total assessment is the aggregate of the six individual buildings, each considered as having 37% site coverage.

ISSUE(S)

An attachment to the complaint form identified the following issues:

1. The subject property is assessed in contravention of Section 293 of the Municipal Government Act and Alberta Regulation 220/2004.
2. The use, quality, and physical condition attributed by the municipality to the subject property are incorrect, inequitable and do not satisfy the requirement of Section 289 (2) of the Municipal Government Act.
3. The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts.
4. The assessment of the subject property is in excess of its market value for assessment purposes.
5. The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties.
6. The information requested from the municipality with regards to the assessment roll was so expensive that the costs impeded access to information.
7. The classification of the subject premise is neither fair, equitable, nor correct.

The complaint form listed an eighth issue:

8. The municipality has failed to account for various elements of physical, economic and/or functional obsolescence.

At the hearing, the CARB heard evidence and argument on the following issues:

1. Do the sales comparables show the subject is assessed in excess of its market value?
2. Has the subject been equitably assessed?

LEGISLATION

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

Issue 1: Sales comparables

Eight sales comparables were presented, selected for similarity to the subject in age, lot size, site coverage and leasable area.

	Subject	Comparables Range
Lot size sq.ft.	534,644	213,448 – 1,017,311
Site coverage %	37	28 - 54
Leasable area	229,671	89,446 – 399,767
TASP/sf (subject assessment)	\$92.27 (recommendation)	\$67.46 - \$87.90

The Complainant argued that the market evidence indicated \$75 per sq.ft. would be a fair value, resulting in a requested assessment of \$17,225,000.

Issue 2: Assessment equity

Eight equity comparables were presented, selected for similarity to the subject in lot size, site coverage and leasable area.

	Subject	Comparables Range
Lot size sq.ft.	534,644	233,477 – 810,191
Site coverage %	37	22 - 52
Leasable area	229,671	104,800 – 327,898
Assessment per sq.ft.	\$92.27 (recommendation)	\$50.59 - \$112.07

The equity comparables showed average and median values of \$80.58 and \$80.67 per sq.ft., and the Complainant argued that an \$80 rate applied to the subject would yield an equitable assessment of \$18,373,500.

POSITION OF THE RESPONDENT

Issue 1: Sales comparables

Five sales were presented.

	Subject	Comparables Range
Site coverage %	37	34 - 42
Total building area sq. ft.	224,935	63,652 – 291,285
Upper office	28,163	0 – 17,330
TASP/sf (subject assessment)	\$94.22	\$109.39 - \$147.66

Issue 2: Equity comparables

The Respondent introduced two sets of comparables, one set with large building sizes, and the other with mid-sized buildings.

Six comparables, all drawn from the southeast, showed a range of value. Four of the six properties were identified as multi-building in nature, with their assessments ranging from \$98.88 to \$119.36 per sq.ft. The highest valued property, at \$131.16 per sq.ft., was also the largest at 231,572 sq.ft. and the newest. It was identified as being on a major road while the rest were inferior locations to the subject.

	Subject	Comparables Range
Site coverage %	37	31 - 38
Total building area sq. ft.	224,935	96,955 – 231,572
Upper office	28,164	0 - 5558
Assessment per sq.ft.	\$94.22 (recommendation)	\$98.88 – \$131.16

Twelve equity comparables were presented to show the value of mid-sized industrial warehouses, most with slightly higher than typical coverage. The average site coverage of all twelve comparables was 38%, average building size 35,414 sq.ft. and the average assessment was \$98.65 per sq.ft.

	Subject	Comparables Range
Site coverage %	37	32 - 45
Total building area sq. ft.	26,000 – 48,000 6 bldgs	31,506 – 39,234
Upper office	0 - 8560	0 - 7533
Assessment per sq.ft.	\$94.22	\$94.27 - \$105.40

DECISION

The CARB reduces the assessment to \$19,119,500.

REASONS FOR THE DECISION

The CARB noted a difference between the parties in the total building area. The Board as a rule uses the City measurement, here 224,935 sq.ft., unless it can be shown that number is incorrect. In this case, the rule works to the advantage of the Complainant, who was using a higher number, 229,671 sq.ft.

The Board addressed in another decision, roll 1523315, some of the difficulties encountered in dealing with multi-building properties. Those difficulties are apparent here. Specifically, should the property be viewed as the sum of six smaller buildings, each assessed as if they were on separate title, or should the property be compared to other large industrial developments of equal or approximately equal total size? The Board previously decided to weigh the evidence presented case by case, but betrayed a predilection to view a multi-building parcel as closer in value to a large lump rather than the sum of many small lumps.

The equity evidence from the Respondent clearly shows a value in the \$95-\$100 per sq.ft. range for typical industrial buildings of 30,000-40,000 sq.ft. Equally apparent from the Complainant's equity comparables is a value range of \$75-\$85 per sq.ft. for buildings of 105,000-180,000 sq.ft. So far, as expected but illumination is lacking in determining whether the property is equitably assessed. The conundrum is neatly encapsulated in showing some details of two properties:

	Lot size	Leasable area	Site coverage	Assessment
3850 98 St.	541,550 sq.ft.	327,898 sq.ft	52%	\$16,588,500
3404 78 Ave	405,668	148,297	35%	\$16,620,000

The owner of the first property has more than double the leasable area and 3+ acres more than the second, yet the assessment model values the two at virtually the same dollar amount. The second property is newer, 1984 versus 1978, but the significant difference is that the 78 Ave property has five separate buildings as compared to one large lump.

The Respondent supplied a list of six equity comparables designed to show the value of large building spaces, 97,000 sq.ft. and greater. In the course of the presentation, the Board understood that four of these properties had more than one building. Closer inspection of the written evidence, however, suggests that perhaps all of these comparables are multi-building in nature. In any event, the CARB was struck by the counter-intuitive conclusion that building sizes three, five or seven times larger than medium-sized 30,000-40,000 sq.ft. buildings should be worth more. The large buildings had a range of \$99 to \$131 while the smaller ones had a range of \$95 to \$102 in ten of twelve cases.

The CARB turned to the sales evidence, having explored the equity blind alley without result.

As the Complainant pointed out, three of the five sales comparables presented by the Respondent were significantly smaller than the subject's 225,000 sq.ft.: 75,000, 76,000 and 64,000 sq.ft. The other two, and one of the smaller as well, were much newer than the subject's 1979-1981 vintage: 2001, 2005 and 2008. The largest property at 290,000 sq.ft., beside being built in 2001, had laboratory, bank, and quasi-retail space, unlike the subject. The Board was inclined to agree that the Respondent's comparables were not especially helpful.

The CARB found blemishes with a good number of the Complainant's comparables as well, the usual suspects being age, location and in some cases measurements at odds with Network data.

The best evidence before the Board was the February 2009 sale of a three building complex in the west end: 10203 184 Street. This well-located property has about $\frac{3}{4}$ the leasable area of the subject and no mezzanine office. It is also newer, built in 1996. The Network data sheet advised that some 75,000 sq.ft. was leased at below market rates until February 2011, two years after the sale date. That \$4.85 lease rate may have influenced the sale price of \$84.55 per sq.ft., but not to a punishing extent as the lease matured in the not-too-distant future. While the Network sheet also talked of some excess land, the CARB noted none as the site coverage is 35%, close to typical. Given the features of this property, the CARB determined that the subject should not command in the marketplace an appreciably higher value. Using \$85 per sq.ft., applied to the subject's 224,935 sq.ft., the Board finds that \$19,119,500 is a reasonable estimate of market value.

Dated this 22nd day of December, 2011, at the City of Edmonton, in the Province of Alberta.

John Noonan, 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: SREIT (PAPASCHASE) LTD