



ASSESSMENT REVIEW BOARD

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

NOTICE OF DECISION NO. 0098 594/11

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 December 12, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
1549039	16830 107 Avenue NW	Plan: 938MC Block: 1 Lot: 15 - 20	\$916,500	Annual New	2011

Before:

Don Marchand, Presiding Officer
Brian Hetherington, Board Member
Howard Worrell, Board Member

Board Officer: Annet Adetunji

Persons Appearing on behalf of Complainant:

Jordan Thachuk, Altus Group

Persons Appearing on behalf of Respondent:

Darren Nagy, Assessor, City of Edmonton

PRELIMINARY MATTERS

This roll number was part of a series of roll numbers heard by the CARB over three days starting December 12, 2011 and concluding December 14, 2011. The Parties at the onset of the hearings made an oath to tell the truth. This was subsequently confirmed at each day's hearing by each party. Further, no objection was raised as to the composition of the CARB panel. In addition, the Board members indicated no bias with respect to this file.

No preliminary matters were raised by the Parties. At the outset of this hearing the CARB was advised by the Complainant that the only common issue that applies to the subject complaint is the one itemized as:

4. *the assessment of the subject property is in excess of its market value for assessment purposes*

and that the remaining common issues itemized as numbers 1-3 and 5-9 shown on the SCHEDULE OF ISSUES (C-1, pg 3) page will not be argued.

BACKGROUND

- The subject property is “undeveloped land” located in the Youngstown Industrial subdivision of the City of Edmonton and is located at 16830 107 Avenue.
- The site contains 63,969 square feet, or 1.468 acres, of land with an IM industrial zoning.*
- *The CARB at the outset of the hearing was advised that **Bylaw 15482 dated July 5, 2010** changed the zoning of the subject property from an (IB)/(IM) to General Business (CB2) and Site Specific Development Control Provision (DC2). (ref R-1, pg 27-29)
- The CARB was advised that the assessment under complaint was prepared under the subject's previous zoning parameters. This error was discovered at the time of the complainant's filing.
- The CARB was advised by the Respondent that the legislation prevents a revised assessment from being prepared in this instance and that the City is not seeking to have the assessment increased at this hearing.
- Both Parties acknowledged that the change in zoning was significant and that land values increased as a result of the zoning change.
- The CARB received the disclosed submissions from the Parties.

ISSUE(S)

Is the 2011 assessment of \$916,500 for the subject property correct?

LEGISLATION

The CARB in its deliberations gave consideration to the:

Municipal Government Act, RSA 2000, c M-26

1(1) *In this Act,*

- (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;

289(2) *Each assessment must reflect*

- (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and*
- (b) the valuation and other standards set out in the regulations for that property.*

305 (5) *If a complaint has been made under section 460 or 488 about an assessed property, the assessor must not correct or change the assessment roll in respect of that property until a decision of an assessment review board or the Municipal Government Board, as the case may be, has been rendered or the complaint has been withdrawn.*

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.*

- (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.*

Matters Relating to Assessment and Taxation Regulation (AR 220/2004)

2. *An assessment of property based on market value*

- (a) must be prepared using mass appraisal,*
- (b) must be an estimate of the value of the fee simple estate in the property, and*
- (c) must reflect typical market conditions for properties similar to that property*

POSITION OF THE COMPLAINANT

The Complainant presented the Board with a 38-page brief (C-1) in support of his complaint that the subject property had been assessed in excess of market value. To support his application, he included five direct sales comparables that showed an average TASP of \$14.00 per square foot. A further chart of larger combined properties showed an average of \$12.08 that further supported a \$12.00 per square foot rate. The Complainant requested a rate of \$13.00 per square foot and an assessment \$602,000 as the market-indicated valuation rate for the subject.

POSITION OF THE RESPONDENT

The Respondent presented the Board with a 73-page brief (R-1), including a 43-page City of Edmonton Law and Legislation document. The Respondent provided 5 sales comparables that averaged \$19.42 per square foot to support his assessment of \$19.79 per square foot or \$916,500.

FINDING

- The disclosed material is relative to a complaint and defense of an assessment that was prepared under zoning parameters that did not apply to the subject as the end of the assessment year.

REASONS FOR THE DECISION

Having regards to the details set out in the background of this order the CARB is not prepared to alter the assessment based on the evidence provided.

DECISION

The assessment of roll number **1549039** is **confirmed**.

Dated this 5th day of January, 2012, at the City of Edmonton, in the Province of Alberta.

D. H. Marchand, 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: Finwest Holdings Inc.