



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
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NOTICE OF DECISION NO. 0098 602/10

Altus Group Ltd
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, 2010 respecting a complaint for:

Roll Number 3010113	Municipal Address 10330 101 Street NW	Legal Description Plan: 8021480 Block: 1 Lot: A
Assessed Value \$12,073,500	Assessment Type Annual - New	Assessment Notice for: 2010

Before:

Patricia Mowbrey, Presiding Officer
Howard Worrell, Board Member
Petra Hagemann, Board Member

Board Officer:

Segun Kaffo

Persons Appearing: Complainant

Brock Ryan – Altus

Persons Appearing: Respondent

Chris Ramsey, Assessor
Brennen Tipton, Assessor
Rebecca Ratti, Law Branch

PROCEDURAL MATTERS

Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to the file.

All parties giving evidence during the proceedings were sworn.

PRELIMINARY MATTERS

There were no preliminary matters.

BACKGROUND

The subject property is a one storey retail/wholesale building known as Staples, located on the corner of 101 Street and 104th Avenue encompassing an area of 72,646 sq ft.

ISSUES

The Complainant attached a schedule listing numerous issues on the complaint form. The following issues were considered:

1. The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian courts.
2. The assessment of the subject property is in excess of its market value for assessment purposes.
3. The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties.
4. Based on sales transactions, the assessment per square foot for the subject property is too high. Market indicators suggest the assessment should be lower.
5. The municipality has applied the incorrect methodology when creating the assessed value.
6. The income approach to value, using typical rents, typical vacancy, typical vacancy shortfall and a typical market cap rate indicated the assessment is too high.

LEGISLATION

The Municipal Government Act, R.S.A. 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

The Complainant suggests that the assessed value of the subject property is too high and is inequitable as compared to similar land parcels in downtown Edmonton. The Complainant submitted eight sales comparables (C-1, page 13).

The Complainant suggests that the subject property is an income producing property and the income approach to value should have been considered in deriving the 2010 assessment (C-1, page 36).

The Complainant provided an equity review (C-1, page 14) listing 11 equity comparables to indicate the assessed land value is too high and inequitable. The Complainant further put forth a comparable property located on 104th Avenue (C-1, page 44) indicating that the subject has been assessed inequitably.

The requested 2010 assessment value is \$6,455,000 which was based on a weighting method of 30% direct sales comparison analysis (land value), 30% equity analysis (land value), 30% income approach and 10% attributed to the equity review (C-1, pages 17 & 61).

POSITION OF THE RESPONDENT

The Respondent used the direct sales comparison approach in assessing vacant commercial land. Adjustments are made for attributes that impact the market value. For the subject property a standard \$500 improvement value was applied for the building.

The Respondent submitted a sales comparable chart (R-1, page 11) and a downtown equity comparable chart for downtown vacant land (R-1, page 12) supporting the assessment of the subject property.

The Respondent indicated that the subject property is within the downtown core which extends from 97 Avenue north to 104 Avenue and from 109 Street east to 97 Street and is specifically located on the south west corner of 104 Avenue and 101 Street (R-1, pg 33).

The Respondent stated that the onus has not been met by the Complainant and requests the 2010 assessment of \$12,073,500 be confirmed.

DECISION

The decision of the Board is to confirm the 2010 assessment of \$12,073,500.

REASONS FOR THE DECISION

1. The Board reviewed the Complainant's evidence (C-1), rebuttal (C-2) and the Respondent's evidence (R-1).
2. The Board noted that the Respondent valued the subject property for assessment purposes using the direct sales comparison approach for land as though vacant, and adding a nominal value for the improvement based on the premise of highest and best use (R-1, page 109-113).
3. The Board referred to the Appraisal of Real Estate Second Canadian Edition (R-1, page 10) that refers to land value opinion. *"Land valuation is directly related to highest and best use analysis. The relationship between highest and best use and land or site value may indicate whether an existing use is the highest and best use of the land"*.
4. The Board considered the highest and best use of land as though vacant (R-1, pg 112) *"when land is already vacant, the reasoning is obvious – an appraiser values the land as it exists, however, when land is not vacant its contribution to the value of the property as improved depends on how it can be put to use, therefore, the highest and best use of land"*

as though vacant must be considered in relation to its existing use and all potential uses”.

5. The Board is of the opinion that the appropriate method of valuation for the subject property is the direct sales comparison approach of land value as though vacant based on the highest and best use with a nominal value added for the existing improvement. However the Board noted that the Respondent neglected to provide a highest and best use analysis for the subject property.
6. The Board is of the opinion that the income approach as submitted by the Complainant is not an appropriate valuation method for the subject property, and based on land value, the subject property is underutilized.
7. The Board heard evidence from the Respondent that there are specific boundaries to delineate downtown core properties (R-1, page 33). The Board noted that there was no evidence presented by the Respondent to recognize the difference in assessment values for the downtown core properties and those adjacent to the downtown core.
8. The Board reviewed the Complainant's sales comparables (C-1, page 13) and for the following reasons were not considered comparable to the subject property:
 - Sale #1 was reported sold to the City of Edmonton on the basis that the property be reserved as a park and named for the vendor and is considered a motivated sale;
 - Sale #2 is a much smaller property between two buildings and was purchased by an adjoining owner for parking;
 - Sale #3 & 4 are much smaller parcels, not similar to the subject in size and inferior in location and development potential;
 - Sale #5 consists of multiple disjointed parcels with numerous covenants and easements.
 - Sale #6 is a large multi-family parcel with two restrictive covenants and an easement and is located outside the downtown core;
 - Sale #7 is an extremely large parcel with a 4 acre restricted utility right of way running north to south across the property. There is restricted access to the north side of the property due to future LRT developments;
 - Sale #8 is reported to be a contaminated parcel (R-1, page 49).
9. The Board reviewed the Complainant's equity comparables (C-1, page 14) and placed less weight on the comparables due to size, location, zoning and site improvements.
10. The Board reviewed the Respondent's sales comparables (R-1, page 11) and noted that sales #1 and #4 were reported as motivated sales as they were purchased by adjoining owners to advance the use of the adjoining properties (C-2, pg 2-7). The Board considered sale #3, a comparable corner property with a time adjusted sale price at \$175.10/sq. ft. which supports the assessment of the subject property at \$166.20/sq. ft. (R-1, page 24-27).
11. The Board placed greatest weight on the Respondent's equity comparables (R-1, page 12) and considered the last seven comparables as most similar in size and zoning to the subject property, but are vacant interior lots. The Respondent indicated that there is a 5% upward adjustment for a corner site. The average assessed rate for the seven equity comparables is \$159.91/sq. ft. and with the 5% corner adjustment applied, equals \$167.90/sq. ft. which supports the subject property's 2010 assessment of \$166.20/sq. ft.
12. The Board finds the 2010 assessment of \$12,073,500 is fair and equitable.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 3rd day of December, 2010, at the City of Edmonton, in the Province of Alberta.

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, R.S.A. 2000, c.M-26.

CC: Municipal Government Board
Oxford Properties Group Inc/Groupe Immobilier Oxford Inc