



## **ASSESSMENT REVIEW BOARD**

MAIN FLOOR CITY HALL  
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EDMONTON AB T5J 2R7  
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### **NOTICE OF DECISION 0098 604/10**

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 November 16, 2010 respecting a complaint for:

<b>Roll Number</b> 10033183	<b>Municipal Address</b> 11621 Kingsway NW	<b>Legal Description</b> Plan: 0521891 Block: 21 Lot: 5
<b>Assessed Value</b> \$1,602,500	<b>Assessment Type</b> Annual – New	<b>Assessment Notice for:</b> 2010

#### **Before:**

Darryl Trueman, Presiding Officer  
Terri Mann, Board Member  
Brian Frost, Board Member

#### **Board Officer:**

Karin Lauderdale

#### **Persons Appearing: Complainant**

Steven Cook

#### **Persons Appearing: Respondent**

Tony Mah, Assessor  
Tanya Smith, Law Branch

## **PROCEDURAL MATTERS**

The parties indicated no objection to the composition of the Board. At a previous hearing regarding related appeals and involving the same parties the Presiding Officer advised that he and the person appearing on behalf of the Complainant had formerly served at the same time as appointees to the Municipal Government Board. Neither the Presiding Officer nor either of the parties felt that this suggested a conflict or bias for the purpose of this hearing.

The oath was administered, and/or the witnesses remained under oath from previous hearings with respect to the evidence they were to provide.

## **BACKGROUND**

The subject is a free-standing commercial rental unit comprising 2,813 square feet, on a parcel of land that forms a portion of a much larger shopping centre site. There is excess land of 33,214 square feet.

## **ISSUES**

The Complainant submitted 14 issues (C-1 p.9). At the hearing, the Complainant presented evidence on a singular issue, being the value of the excess land (C-1 p.5).

## **LEGISLATION**

***The Municipal Government Act, R.S.A. 2000, c. M-26;***

***s.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.*

***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 position of the Complainant is that the rate applied by the City of Edmonton to the excess land of \$24.50 per square foot is excessive.

The Complainant presented 15 adjusted vacant land sales, averaging \$16.95 (C-1 p.13). The Complainant also provided 12 equity comparables which averaged \$17.41 (C-1 p.14).

The Complainant submitted that the assessed land value should be reduced to \$17.50 per square foot, arriving at a reduced assessment of \$1,370,000 (C-1 p.16).

## **POSITION OF THE RESPONDENT**

It is the Respondent's position that the assessment is fair and equitable and that the assessment should be confirmed.

The Respondent presented evidence to substantiate his rate applied to the excess land, by virtue of land sales and assessment comparables (R-1, p.11 and 14).

The Respondent noted that his comparables took into account significant variables such as traffic count, time of sale and corner influence and size.

## **DECISION**

The complaint is allowed and the assessment is reduced to \$1,370,000.

## **REASONS FOR THE DECISION**

The Board first noted that there is a distinction between lands that are simply over and above the needs of the improvements situated thereon and lands which are in excess of the needs of the improvement and also have the potential for subdivision and resale. The parties agreed that the excess lands in question were potentially subdividable and salable and thus qualified as excess land.

The Board reviewed the Complainant's evidence respecting sale comparables. The Board discounted sale No. 3 (as it was re-sold and represented as No. 7), and No. 15 as it lacked sanitary sewage servicing and was slightly post-facto (C-1, p.28 and p.39). The Board noted that sale No. 12 has an improvement upon it, albeit of minor value (C-1 p.37). The Board found the remaining sales persuasive because of their comparable location, size and corner adjustment. The average of the remaining sales supported a reduction in the assessment.

The Respondent argued that his sales should be more persuasive than the Complainant's sales, as they took into consideration significant variables such as traffic count and corner influence. However, the Board noted that the Complainant's comparables were adjusted for corner influence. As well, the Network data which accompanied the Complainant's sales provided indication of traffic count, and frontage on busy intersections.

The Respondent also argued that the Complainant's land sales were less reliable due to their encumbrances. The Board reviewed the information respecting encumbrances and noted that in many cases, the encumbrances referred to utility right of way and in some cases, easements. The Board accepted the Complainant's submission that encumbrances such as easements and utility right of ways are fairly standard on vacant commercial lands. The Board could not discern from the Respondent's sales data whether or not these comparables had encumbrances.

The Board reviewed the Respondent's sales comparables and found they were less persuasive than the Complainant's sales comparables. The subject lands are 54,914 per sq. ft., however, the Respondent's 2<sup>nd</sup> and 3<sup>rd</sup> comparables are only 16,311 and 3,795 respectively. The 1<sup>st</sup> comparable is also somewhat dissimilar in size, being 28,575 per sq. ft. The average size of the Respondent's sales comparables was only approximately 1/3 of the subject, and there was no adjustment for this size differential. Although time adjusted, two of the sales occurred in 2007, and one occurred in 2008.

The Board reviewed the information pertaining to the Respondent's sales and noted that sale No. 1 was a purchase by the adjoining owner, for parking, and that the purchaser had been leasing the site. The data indicated that the seller was the City of Edmonton and the purchaser was Edmonton Petroleum Club (R-1 p.20). Given this information, a question was raised as to whether the sale was motivated, resulting in a price that did not fairly reflect market value.

The Board reviewed the equity comparables presented by the Complainant and noted that these supported a reduction in the assessment. The Board felt that the Complainant's list of 12 equity comparables, which suggested an average assessment amount of \$17.41 per sq. foot, provided reasonable support for the Complainant's expectation of a reduced assessment.

The Board reviewed the Respondent's equity comparables. Three comparables reflected assessment values which were roughly double that of the subject, therefore requiring excessive adjustment. The Board noted the Complainant's argument that the 5<sup>th</sup> equity comparable, located very close in proximity to the subject, in fact supported a reduction in the assessment when the principle of economies of scale was applied to it. (The Respondent accepted the validity of this principle).

The Board notes that the City of Edmonton applies assessment rates for excess land taken from the original land value for a larger unsubdivided site prior to its development. It is a decision of the Board nevertheless that these sites, as submitted by the Complainant, are sufficiently similar to the subject property that an assessed person can reasonably expect that this site will attract a similar assessment given the instruction of the Bramalea decision.

Given the foregoing, the Board reduced the assessment to \$1,370,000.00 as requested by the Complainant.

Dated this 10<sup>th</sup> day of December, 2010, at the City of Edmonton, in the Province of Alberta.

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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.*

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CC: Municipal Government Board  
1254115 Ontario Inc.