



## ASSESSMENT REVIEW BOARD

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

### NOTICE OF DECISION NO. 0098 745/11

Altus Group Ltd  
17327 - 106A Avenue NW  
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 January 25, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3160108	9913 107 Street NW	Plan: NB Block: 6 Lot: 43	\$1,167,500	Annual New	2011

#### Before:

Steven Kashuba, Presiding Officer  
Petra Hagemann, Board Member  
James Wall, Board Member

**Board Officer:** Tannis Lewis

#### Persons Appearing on behalf of Complainant:

Chris Buchanan, Senior Consultant, Altus Group

#### Persons Appearing on behalf of Respondent:

Jerry Sumka, Assessor, City of Edmonton

## **PRELIMINARY MATTERS**

1. Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file.
2. There were no other preliminary matters.

## **BACKGROUND**

3. The subject property is a 7,483 square foot paved interior lot located at 9913 - 107 street. The improvement represents a paved parking lot and the site is used by the owner for surface parking.

## **ISSUE(S)**

4. The Complainant had attached a list of issues to the complaint form. However, at the time of the hearing, the majority of the issues had been abandoned and the only issue before the Board was the following:
  - 4.1 Is the 2011 assessment of the subject property in excess of its market value as of July 1, 2010?

## **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**

5. The Complainant contends that values of land similar to the subject and located west of the center line on 105th Street in the downtown area are generally lower in value than are similar properties located to the east of this line. In support of this, the Complainant provided the Board with a 42 page assessment brief (Exhibit C-1) and a 23 page rebuttal document (Exhibit C-2).
6. The assessment brief outlined the characteristics of the subject property and included maps and photographs. In addition, the brief provided 10 time adjusted sales comparables (Exhibit C-1, page 11) located in the general downtown area. These time adjusted sales

comparables represent vacant land in various locations, both east and west of 105th Street that ranged in size from 7,487 square feet to 37,440 square feet and their time adjusted sale prices ranged from \$70.53 per square foot to \$196.81 per square foot, indicating a median of \$121.61 per square foot and a mean of \$122.46 per square foot.

7. It is noted that the Complainant's sales comparables numbers one, two, three, five, seven, and nine were also used by the Respondent.
8. The assessment of the improvement portion of the subject property was not questioned by the Complainant.
9. The Complainant requested that the Board reduce the subject property's base assessment rate from \$154.28 per square foot to \$122 per square foot
10. The Complainant's rebuttal document highlighted previous Board decisions which reduced the assessment on similar vacant land parcels west of 105th Street to \$130 per square foot in one instance and \$140 per square foot in another from the city's assessment base rate of \$154.28 per square foot. The rebuttal document took issue with two of the Respondent's sales comparables (three and six, Exhibit R-1, page 13) and suggested that #3 exhibited contamination and #6 did not represent a market sale because it constituted land-banking by the adjacent property owner and had not been exposed to the open market. The Complainant requested that these sales not be considered in the Board's deliberations.
11. The Complainant outlined judicial and/or tribunal decisions in support of the Complainant's right **not to be assessed** in excess of actual value. In addition information was given to the Board pertaining to the Burden of Proof shifting to the Respondent if the Complainant provides sufficient evidence.
12. Sections of both the *Municipal Government Act* and *Matters Relating to Assessment and Taxation Regulation* were put forward to the Board and were expanded upon by the Complainant.
13. The Complainant suggested to the Board that the sales evidence he had provided should be more than adequate to shift the onus to the Respondent and requested a reduction of the 2011 assessment from \$1,167,500 to \$925,500.

### **POSITION OF THE RESPONDENT**

14. The Respondent provided the Board with an assessment brief and law and legislation brief (Exhibit R-1). The assessment brief contained Mass Appraisal Methodology, maps and photographs, an assessment detail report on the subject property, sales and equity comparables, sales datasheets, and a response to the Complainants rebuttal document.
15. The Respondent's eight sales comparables (Exhibit R-1, page 13) exhibited a time adjusted sale price range of \$111.75 per square foot to \$206.41 per square foot, a mean of \$156.40 per square foot, and a median of \$129.79 per square foot. Locations of these sales comparables were throughout the downtown area and, like the subject, represented vacant parking lots. Sizes ranged from 7,499 square feet to 37,477 square feet. The Respondent concurred with the Complainant that their sales comparables #1, 2, 4, 5, 7,

and 8 were also put forward in the Complainant's brief (Exhibit R-1, page 13 and Exhibit C-1, page 11).

16. The Respondent stressed that the 2011 assessment of similar properties to the subject and located in the downtown area as shown on page 35 of Exhibit R-1 are all determined on the basis of \$154.28 per square foot. As well, a 5% positive adjustment is applied by the City to property as a result of its corner advantage.
17. The Respondent provided the Board with 20 equity comparables (Exhibit R-1, page 14), even though the question of equity was not at issue. However, it should be noted that these equity comparables do support the current assessment.
18. The Respondent provided evidence and argument disputing the Complainant's sales comparables #6, and 10. In Exhibit R-1, page 78 reference is made to contamination on the property referred to in the Complainant's evidence as sales comparable #6 and a transfer document found in Exhibit R-1, page 37 suggests this property transferred most recently in March 2009, while the Complainant reported it as being sold in August 2006, which is a dated sale. The Respondent discounted the Complainant's sales comparable #10 as documentation in Exhibit R-1, pages 40-77, inclusive, refers to several encumbrances registered against the property which could affect value.
19. The Respondent requested that the Board confirm the 2011 assessment on the subject land at \$154.28 per square foot, plus \$13,020 for improvements, for an assessment value of \$1,167,500.

## **DECISION**

- 20. It is the decision of the Board to reduce the assessment the assessment for 2011 from \$1,167,500 to \$986,000.**
21. This reduction is based upon an assessment value of \$130 per square foot for the land, to which is added the improvement in the amount of \$13,020, rounded to an assessment value of \$986,000.

## **REASONS FOR THE DECISION**

22. The Board placed little weight upon the Respondent's equity comparables (Exhibit R-1, page 14) in that equity was not raised as an issue by the Complainant.
23. The Board was persuaded by a review of sales comparables provided by both parties, while at the same time noting that adjustments are in order in valuing commercial parking lots in the downtown area. Specifically, it is the Board's opinion the area of downtown considered as a value base of \$154.28 per square foot (Exhibit R-1, page 35) for these assessments is too large and location adjustments are in order in determining market value. The majority of sales comparables from both parties indicate lower values in the area west of 105th Street compared to those areas closer to the heart of downtown. In this regard, the Board agrees with the Complainant and accepts this *value premise* for commercial parking lots located in the downtown area.

24. The Board rejects the Complainant's sales comparable #6 as it does not appear to represent the most recent sale of this property (Exhibit R-1, page 36). In addition the Board accepts the Respondent's suggestion that the Complainant's sales comparable #6 is contaminated and notes this sale was also disregarded by previous CARBs because of contamination concerns. The Board agrees with the Respondent that the Complainant's sales comparable #10 cannot be relied upon to indicate market value as the existing encumbrances may affect its highest and best use.
25. The Board places little value on the Complainant's sales comparables #6, and 10 and relies on those sales located to the west of 105th Street, comparable sales #1, 2, 3, 5, and 8 to indicate value for the subject property. The Board notes that these remaining sales comparables offer a range in time-adjusted sales prices from \$110.26 per square foot to \$142.05 per square foot, a median of \$129.80 per square foot, and a mean of \$125.27 per square foot. The Board notes the Respondent's objection to the inclusion of Complainant's sales comparable #8, since it does not represent market value, even though the Board is not convinced that this objection was satisfactorily proven through evidence submitted on Exhibit R-1, page 79.
26. The Board is influenced by previous CARB decisions as brought forward by the Complainant that the Respondent's sales comparable #3 should be given little weight due to a question of possible contamination, and the Complainant's sales comparable #6 as it may not represent a market value sale. In reviewing the remainder of the Respondent's sales comparables located west of 105th Street, results in an adjusted sale price range from \$111.75 per square foot to \$142.05 per square foot, a median of \$130.30 per square foot, and a mean of \$128.60 per square foot.
27. Placing the greatest weight on the Respondent's remaining sales comparables located west of 105th Street, it is the Board's opinion that a fair and equitable estimate of market value of the subject property would be \$130 per square foot. With the addition of the assessment on the improvement value of the subject property of \$13,020, the resultant 2011 assessment is set by the Board at \$986,000.

### **DISSENTING OPINION AND REASONS**

28. There is no dissenting opinion.

Dated this 1st day of February, 2012, at the City of Edmonton, in the Province of Alberta.

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Presiding Officer

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*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.*

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cc: WORKER'S COMPENSATION BOARD