



ASSESSMENT REVIEW BOARD

Churchill Building
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NOTICE OF DECISION NO. 0098 765/11

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:
3045507	10216 99 Avenue NW	Plan: NB Block: 2 Lot: 100 / 101	\$415,000	Annual New	2011

Before:

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

PROCEDURAL MATTERS

1. The Board Members indicated that they had no bias with regard to this file. The parties indicated that they had no objection to the composition of the Board.

PRELIMINARY MATTERS

2. There were no preliminary matters.

BACKGROUND

3. The subject property is a 5,051 square foot undeveloped parcel of land located in 1090 Downtown Neighbourhood in the City of Edmonton. The Effective Zoning is RA-9 High Rise apartment district and the actual zoning is HDR-High Density Residential.

ISSUE(S)

4. Is the assessment of the subject land correct when compared to similar parcels of land?

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
the valuation and other standards set out in the regulations,
the procedures set out in the regulations, and
the assessments of similar property or businesses in the same municipality.

POSITION OF THE COMPLAINANT

5. The Complainant submitted a 35 page brief (Exhibit C-1) to the Board to support a requested reduction in the assessment of the subject property from \$415,000 to \$171,742.
6. To support the requested reduction, 5 equity comparables were provided for the Board's consideration. These comparables were similar to the subject in location, land use code, HDR zoning, and size. The assessments of these properties exhibit an average of \$35.98 per square foot and their median is \$31.98 per square foot compared to the assessment of the subject at \$82.24 per square foot. Each of these properties is improved with a single family dwelling.
7. In argument, the Complainant advised the Board that being vacant, the subject does not require effective (HDR) zoning until its use changes from vacant. When asked by the Board what the highest and best use is for the property, the Complainant suggested its

current use “*vacant land*” and not its potential use as “*high density multi residential*” as suggested by the Respondent.

8. The Complainant directed the Board to a decision by the British Columbia Court of Appeal in the case of *Bramalea vs British Columbia* (1990). The court states “*that the taxpayer has two distinct rights: (i) the right to an assessment which is not in excess of that which can be regarded as equitable; and (ii) a right not to be assessed in excess of actual value*”.
9. 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 (Exhibit C-1, page 21).
10. The Complainant suggested to the Board that the sales evidence they had provided should be more than adequate to shift the onus to the Respondent and requested a reduction in the 2011 assessment from \$415,000 to \$171,742.

POSITION OF THE RESPONDENT

11. The Respondent provided the Board with an assessment brief (Exhibit R-1) and requested that a 42 page Law and Legislation brief from a prior merit hearing on roll number 6066518 (Exhibit R-2) be carried forward into the current hearing.
12. The assessment brief contained Mass Appraisal Methodology, maps and photographs of the subject property, assessment detail reports on the subject property. In addition equity comparables were provided.
13. The Respondent provided three equity comparables (Exhibit R-1, page 16), wherein all were single, unimproved lots located in the vicinity of the subject land. These equity comparables were slightly larger in square footage than the subject (7,567, 6,058, and 7,486 respectively), compared to the subject land which has a size of 5,051 square feet. All equity comparables have the same zoning as the subject and are assessed at a per square foot rate of \$79.56, \$80.88, and \$79.75 respectively, for an indicated average of \$80.06 per square foot which compares favorably to the 2011 assessment of the subject property at \$82.16 per square foot.
14. The Respondent indicated the subject land was assessed slightly higher in per square foot rate than any of the equity comparables because of its smaller size and the premise of *economies of scale*.
15. In cross-examination, the Respondent indicated that the subject type of land when improved with a single family residence is assessed on the basis of an effective R - 1 (single-family) zoning. The subject land is unimproved, therefore its current zoning is taken into consideration in its assessment.
16. The Respondent requested that the Board confirm the subject property’s assessment of \$415,000.

DECISION

17. It is the decision of the Board to confirm the assessment of the subject property for 2011 at \$415,000.

REASONS FOR THE DECISION

18. The Board finds, as indicated by the Respondent, that the assessment of vacant land parcels are not necessarily based on the same principles applied to improved single-family residential properties, although they may be located in similar actual zoning.
19. The subject zoning is the same zoning as the Complainant's equity comparables, however, these equity comparables are each improved with a single-family residence and effective zonings of RF – 1, as applied by the City.
20. The Board finds that the equity comparables provided by the Complainant, although close to the subject property in location, cannot be considered similar as they have occupied building improvements, whereas the subject land is vacant.
21. The Board is persuaded that in order to be considered similar, the equity comparables must represent vacant land as is the case with the subject property.
22. The Board accepts the Respondent's equity comparables (Exhibit R-1, page 16) as fair and equitable in relation to the subject land's 2011 assessment.
23. Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. The Board finds that the Complainant did not provide sufficient and compelling evidence to justify altering the 2011 assessment.

DISSENTING OPINION

24. There was no dissenting opinion.

Dated this 16th day of February, 2012, at the City of Edmonton, in the Province of Alberta.

Steven Kashuba, 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: 979242 ALBERTA LTD