



ASSESSMENT REVIEW BOARD

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

NOTICE OF DECISION NO. 0098 789/11

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 February 27, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
10157746	16901 109 AVENUE NW	Plan: 0922009 Block: 1 Lot: 25	\$16,409,500	Annual New	2011

Before:

Robert Mowbrey, Presiding Officer
Brian Frost, Board Member
Mary Sheldon, Board Member

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

John Trelford, Altus Group Ltd.

Persons Appearing on behalf of Respondent:

Brennen Tipton, Assessor, City of Edmonton
Cameron Ashmore, Lawyer, City of Edmonton
Vasily Kim, Assessor, City of Edmonton

PRELIMINARY AND PROCEDURAL MATTERS

[1] Upon questioning by the Presiding Officer, the parties indicated they had no objection to the composition of the Board. In addition, the Board advised the parties they had no bias with respect to this file. The parties giving testimony were sworn in.

BACKGROUND

[2] The subject property, a 76,437 sq. ft. 4 storey office building located at 16901–109 Ave NW, is centrally sited on a 201,288 sq. ft. site and is assessed for the 2011 taxation year at \$16,409,500.

ISSUE(S)

[3] What is the market value of the subject property?

- a. During the hearing, the parties agreed the only sub issue was whether the excess land value should be included in the assessment.

LEGISLATION

[4] The *Municipal Government Act, RSA 2000, c M-26* reads:

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 filed this complaint on the basis that the subject assessment of \$16,409,500 is in excess of market value.

[6] In support of this position, the Complainant presented evidence in the form of City of Edmonton Bylaw 14407 (C-1, pages 13-20) which related to subdivision and the resultant DC2 zoning for the subject parcel. The Bylaw suggested that the development as it currently exists was approved under the bylaw, by virtue of its being developed “in general accordance with the site plan, elevation and rendering illustrated under Appendices I, II and III of the Bylaw” as stated in Development Regulation DC2.686.4 (a), (C-1, pg 15) and confirmed in the Appendices, (C-1, pages 16-20). Because the development was restricted to such general accordance, the

opportunity for development of any excess land was negated by the restriction under the bylaw, so in fact the excess land was of no additional value.

[7] Accordingly, the Complainant requested the assessment be reduced by the amount attributed to excess land, to \$14,417,000.

POSITION OF THE RESPONDENT

[8] The Respondent advised the Board regarding the mass appraisal process the City of Edmonton utilizes for their office building inventory stating “the suburban office properties are assessed using the income approach via the direct capitalization method. This approach adjusts for attributes to arrive at a typical market value for the properties in the inventory”.

[9] Mass appraisal is a methodology for valuing individual properties which involves the following process:

1. Properties are stratified into groups of comparable property.
2. Common property attributes are identified for the properties in each group.
3. A uniform valuation model is calibrated for each group using market information incorporating the property attributes (R-1, pg 4).

[10] The Respondent, in addressing the sub issue of excess land, stated the City of Edmonton Bylaw 14407 is very clear on what is permitted to be developed on the site under its DC2 designation. Any suggestion that the bylaw’s reference to the development of the property in general accordance with the site plan, elevation and rendering illustrated under Appendices I, II and III of the Bylaw is further qualified by the Development Regulations itemized under (a) to (k), (R-1, pg 31), which are specific as to limitations of development height, floor area ratio, side yard etc. Notwithstanding that the current development is referenced in the bylaw’s Appendices I, II and III, this does not limit the opportunity to further develop the property as long as it remains within the full limitations under the regulation. Further, the site exhibits only 10% site coverage versus the typical 25% as recognized in usual excess site calculations. This is a significant divergence from “typical”.

[11] In summation the Respondent stated general accordance does not trump specific requirements and under those specific requirements there remains further development potential, upon which is based the rationale for consideration of excess land value.

[12] The position then is that the Respondent is correct in its assessment of \$16,409,500 and that it should be confirmed.

DECISION

[13] It is the Board’s decision that the assessment be confirmed at \$16,409,500.

REASONS FOR THE DECISION

[14] The Board was persuaded by the Respondent’s position that there were several specific Regulations within the Bylaw that permitted development beyond the current development. The

Board further acknowledged that the actual approximately 10% site coverage was substantially below the typical 25% used in assessment.

[15] The Board was not convinced by the Complainant's position that the Bylaw limited development to only that evidenced in the Appendices and accordingly agreed to confirm the assessment at \$16, 409,500.

[16] The Board was not persuaded by the Complainant's position that the Bylaw 14407 restricted development to that referenced in the Appendices I, II and III so no further development was possible, therefore negating any value in excess land.

DISSENTING OPINION AND REASONS

[17] There was no dissenting opinion.

Dated this 28th day of February, 2012, at the City of Edmonton, in the Province of Alberta.

Robert Mowbrey, 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