

NOTICE OF DECISION NO. 0098 81/12

Altus Group
780-10180 101 ST NW
EDMONTON, AB T5J 3S4

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 June 26, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9976293	13940 Yellowhead Trail NW	Plan: 9926700 Block: A Lot: 11	\$18,108,500	Annual New	2012

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: CANADA SAFEWAY LIMITED

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 993

Assessment Roll Number: 9976293

Municipal Address: 13940 Yellowhead Trail NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Peter Irwin, Presiding Officer
Lillian Lundgren, Board Member
Ron Funnell, Board Member

Preliminary Matters

[1] When asked by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board members indicated they had no conflict of interest in the matter before them.

Background

[2] The subject property is a large 453,871 square foot (sf) warehouse located at 13940 Yellowhead Trail NW in the Brown Industrial neighborhood. The lot size is 1,185,610 sf. The assessment was prepared using the cost approach and the land component of the assessment is not an issue.

Issue(s)

[3] The issues are:

1. Is the improvement portion of the assessment correct?
2. Is the improvement classification correct?

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.

[5] The *Matters Relating to Assessment Complaints Regulation*, Alta Reg 310/2009 reads:

s 8(2) If a complainant is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

(a) the respondent must, at least 14 days before the hearing date,

(i) disclose to the complainant and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing

Position Of The Complainant

[6] The Complainant filed this complaint on the basis that the improvement portion of the assessment is incorrect and the classification of the warehouse is incorrect. The current assessment of the subject property is \$18,108,500 with the improvements assessed at a value of \$7,200,061. The land assessment is not an issue.

[7] The Complainant argued that the subject property which is classified as a distribution warehouse should be reclassified as a mega (storage/distribution) warehouse due to the size of the warehouse. The Complainant contended that if the subject property is properly classified as a mega warehouse, the improvement portion of the subject assessment would decrease because the base rate applied to mega warehouse space is less than the base rate applied to smaller warehouses.

[8] The Complainant also argued that if the subject improvements are assessed using the correct base rate, the value of the improvements would be \$6,384,469. In support of this position, the Complainant provided an excerpt from the Marshall & Swift Valuation Service manual showing a base rate of \$32.89/sf for a C class mega warehouse.

[9] The Complainant requested the Board to reduce the improvement portion of the assessment to \$6,384,469.

Position Of The Respondent

[10] The Respondent informed the Board that at the Complainant's request, he met the Complainant on June 8, 2012 and they inspected the property together. As a result of the inspection, some of the warehouse space was reclassified as mega warehouse which decreased the assessment for that portion of the building because it is assessed using a lower rate per square foot. However, some of the warehouse space was changed to cold storage space which increased the assessment for that portion of the building because cold storage space is assessed at a higher rate per square foot. The result of these changes is that the overall assessment for the subject property should be \$18,113,000. The Respondent requested the Board to increase the property assessment to \$18,113,000.

[11] The Respondent commented on the Complainant's replacement cost summary as follows. The Complainant failed to include all of the additional costs and the correct adjusted base rate is \$33.65/sf, rather than the \$32.89/sf used by the Complainant.

Rebuttal Of The Complainant

[12] The Complainant stated that he received an e-mail from the Respondent on or about June 11, 2012 that indicated the assessment may increase as a result of the inspection, but the Complainant was unsure of "the numbers". In any case, the Complainant objected to the Respondent's request for an increase in the assessment and requested the Board to reduce the assessment to \$6,384,469 for the improvements.

Decision

[13] The property assessment is confirmed at \$18,108,500.

Reasons For The Decision

[14] The Board finds that the inspection of the subject property attended by both parties resulted in the correct classification of the warehouse space. As a result of the inspection, both parties are in agreement respecting the area of mega/ distribution and the area of cold storage. The Respondent has changed the assessment record to show the revisions in the classification of space.

[15] The Board finds that the Complainant's requested \$6,384,469 value for the improvement does not represent market value because it is based on a base rate of \$32.89/sf that does not include the additional costs listed in the Marshall & Swift calculator method.

[16] The Board is satisfied that the correct assessment for the subject property is \$18,113,000 based on the Respondent's revised calculation using the Marshall & Swift manual.

[17] Although the Board has the jurisdiction to increase the assessment, it is required to do so in accordance with the legislation and the principles of procedural fairness. Section 8(2)(b)(i) of *Matters Relating To Assessment Complaints Regulation* confirms that the Respondent must disclose to the Complainant any evidence or argument on which it intends to rely 14 days before the hearing date. The request to increase the subject's assessment to \$18,113,000 and the

corresponding argument in support of the increase does not appear in the Respondent's disclosed submission. As a result, the Respondent has not complied with the requirements in the legislation.

[18] Furthermore, the Board is required to act in a manner that is procedurally fair. The Courts recognize a high standard in which the Complainant is entitled to know and respond to the case made against them. Increasing the assessment would be unfair as the Complainant did not have the opportunity to adequately respond to the Respondent's argument with respect to increasing the assessment.

[19] In light of the foregoing, the Board confirms the assessment at \$18,108,500.

Heard commencing June 26, 2012.

Dated this 25th day of July, 2012, at the City of Edmonton, Alberta.

Peter Irwin, Presiding Officer

Appearances:

Walid Melhem

for the Complainant

Doug McLennan

for the Respondent