



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 818/11

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 March 20, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3801131	5805 98 Street NW	Plan: 9220170 Block: A Lot: 9	\$6,400,000	Annual New	2011

Before:

Steven Kashuba, Presiding Officer
Mary Sheldon, Board Member

Board Officer:

Annet Adetunji

Persons Appearing on behalf of Complainant:

Walid Melhem, Altus Group Ltd

Persons Appearing on behalf of Respondent:

Susen Douglass, Assessor, City of Edmonton

PRELIMINARY MATTERS (February 3, 2012)

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. The parties agreed that this matter could proceed with a panel of two members.
3. The merit hearing commenced and both Complainant and Respondent presented evidence to be considered by the Board. As well as evidence concerning the fairness of the assessment of the subject with reference to sales comparables and assessment comparables, the parties referred to the present state and history of the subject as being located over an old landfill site and presented some information in that regard. The Board noted some deficiencies in this information. In particular, the Board noted that an *Industrial Adjustment* of 10% had been applied to the subject property (Exhibit R-1, page 15). However, the Respondent was unable to confirm to the Board whether or not this adjustment is reflected in the assessment, and if it was applied why it had been applied and in what manner.
4. The Respondent also indicated to the Board that an adjustment for environmental factors would only be applied to a property if they had received an environmental report from the property owner. The Board noted that there is an Environmental Search Phase I document in existence for the subject (Exhibit C-1, page 40). This document bears the logo of the City of Edmonton. This being the case, the Board, after a short recess, determined that more information should be provided in order for the assessment to be properly evaluated. As well, the parties agreed that more information is required for the merit hearing to proceed and that this was of sufficient importance that a postponement of the hearing is justified.
5. The Board concluded that the provision of this information is an exceptional circumstance which justifies a postponement under the legislation. Accordingly, the Board requests that the Respondent provide the following:
 - 5.1. To clarify to the Board whether or not a 10% industrial adjustment was reflected in the assessment of the subject and, if so, the particulars of this adjustment.
 - 5.2. To provide to the Board the method by which the Respondent had treated the environmental concerns which apply to this property when preparing the assessment.
6. This hearing will be continued on March 20, 2012 at 9 A.M. at the Assessment Review Board Hearing rooms. This Board is seized with this matter. The Board directs that there will be no further disclosure dates ordered. However, the parties are to exchange all further information simultaneously with each other and with the Assessment Review Board.

PRELIMINARY AND PROCEDURAL MATTERS (March 20, 2012)

7. On March 20, 2012 the Respondent submitted Exhibit R-3 in response to the Board Order of February 3, 2012 and the parties presented the remainder of their submissions.
8. During the continuation of this hearing, the Complainant presented an Appellant Rebuttal Disclosure document (Exhibit C-2). The Respondent objected to this document saying that:
 - 8.1. The Complainant cannot challenge the City's methodology to assess multiple building sites, and that
 - 8.2. The rebuttal document deals with the assessment of multiple building sites and constitutes new evidence and therefore should not be allowed.

DECISION OF BOARD ON PRELIMINARY MATTER #8, Above

9. The Board recessed and considered the Respondent's objection to the Complainant's Rebuttal document and rules as follows:
 - 9.1. The Board allows Page 8 of the Complainant's Rebuttal dealing with the City's method of assessing multi-building properties, and
 - 9.2. The Board disallows all other pages of the Complainant's Rebuttal in that these pages contain new evidence not disclosed in a timely fashion in accordance with legislation.

BACKGROUND

10. The subject property is a medium warehouse consisting of 2 buildings and one shed of nominal value. Located in the southeast quadrant of the City in the Coronet Industrial subdivision, the property consists of 400,108 square feet of land area, a site coverage of 9%, and a building area of 37,710 square feet. The effective year built is 1985 and the current assessment is \$6,400,000.

ISSUE(S)

11. 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 resolved and the only issues before the Board were the following:
 - 11.1. Is the assessment fair and equitable given the sales data of comparable properties,
 - 11.2. Is the assessment fair and equitable given the current assessments of comparable properties, and

- 11.3. Did the assessment take into consideration the fact that the warehouse is located on an old landfill site.

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

12. In support of their request for a reduction in the assessment amount the Complainant presented 6 sales comparables (Exhibit C-1, page 8), 4 of which have two buildings on site while the remaining two have only one building. These sales comparables reflect characteristics similar to the subject property with respect to effective year built, site coverage, and gross building area.
13. The subject property is assessed at \$171.90 per square foot of leasable building area while the comparables, on average, are assessed at \$163.84. As a result, a value of \$160.00 per square foot should be used to determine an assessment value which should be adjusted downward by 10% to recognize that the subject is located on an old landfill (Exhibit C-1, page 8).
14. Due to the size, shape, and limited access to the subject property, a value of \$144.00 per square foot should be applied to arrive at an assessment value of \$5,193,500 (Exhibit C-1, pages 7-8).
15. The Complainant presented 4 equity comparables (Exhibit C-1, page 9), two of which have two buildings on site while two of them have one building on site.
16. On average, the assessment value per square foot is \$154.67 while the subject is assessed at \$171.90 per square foot. A value of \$155.00 per square is used and adjusted by 10% for the subject being located on an old landfill site. Taking into consideration the age, size, location, and site coverage of the subject property, the Complainant is of the opinion that a value of \$139.50 per square foot should be applied to arrive at an equitable assessment amount (Exhibit C-1, page 9).
17. The Complainant presented evidence that the subject is located on a former landfill site (Exhibit C-1, page 40), stating that the cost of construction on a landfill site is considerably greater than is the cost of construction on a regular site (Exhibit C-1, page 41, Ledcor Construction Ltd. Correspondence letter).

18. In further support of their position, the Complainant presented two CARB decisions (Exhibit C-1, pages 42 to 69).
19. In the one page of the rebuttal disclosure which was allowed to be admitted as evidence by the Board, the Complainant argued that a site with multiple buildings should be viewed as one parcel and that a separate value should not be assigned to each building as, they indicated, was the case in the City's assessment (Exhibit C-2, page 8).

POSITION OF THE RESPONDENT

20. In support of the assessment, the Respondent presented 5 sales of comparable sales (Exhibit R-1, page 20). The time-adjusted sales values of main floor area range from \$187.42 to \$233.76 per square foot while the assessment of the subject property is \$175.72 per square foot of the main floor area (Exhibit R-1, page 20) and \$169.72 per square foot of the total area (Exhibit R-1, page 21).
21. These sales comparables occurred in the same quadrant of the City as is the subject property, and reflect similarities in terms of site coverage, number of buildings, and condition. As for effective year built, 4 of the comparables were constructed in a similar time frame; however, sales comparable #5 is considerably newer and the sale is somewhat dated having occurred on February 15, 2007.
22. The Respondent also presented a chart of the assessments of 4 comparable properties in the same quadrant of the City. The assessments per square foot of main floor area range from \$164.72 to \$197.82, with an average assessment of \$170.72 per square foot for the total area (Exhibit R-1, page 21).
23. The Respondent advised the Board that a reduction of 10% had been applied to the assessment of the subject property (Exhibit R-3, response to Board Order of February 3, 2012) for its shape and lack of frontage.
24. As for any adjustment to the assessment of the subject property for environmental factors, the Respondent submitted that this was not raised as an issue by the Complainant and therefore not addressed in the submission of the Respondent. Further to this, the Respondent had not received any environmental reports from the Complainant through which any consideration would have been given to this concern (Exhibit R-3).
25. The Respondent requests that the Board confirm the 2011 assessment of the subject at \$6,400,000.

DECISION

26. It is the decision of the Board to reduce the assessment of the subject property for 2011 from \$6,400,000 to \$5,760,000

REASONS FOR THE DECISION

27. The Board accepts the Complainant's argument that the existence of an old landfill site, which encompasses the subject property, is an issue that was raised by the Complainant in their Schedule of Issues under #2 (Exhibit C-1, page 3) and is rightfully addressed in this appeal by the Complainant.
28. As regards the question of the landfill site, the Board notes that both parties agree that the subject warehouse is located on an old landfill site. This is confirmed by the Complainant's evidence presented in Exhibit C-1, page 40, City of Edmonton, Environment Search, Phase 1.
29. As a result of this old landfill site, the Board accepts the Complainant's submission that there are added costs to the construction of any building on this site (Ledcor letter, Exhibit C-1, page 41). This fact should be considered when determining the assessment of the subject.
30. Turning to the Complainant's sales comparables, the Board places little weight upon their significance in supporting a reduction in the assessment because sales comparable #3 is a post-facto sale occurring after the valuation date of July 1, 2010 (Exhibit C-1, page 8), sales comparables #5 and #6 are located in a different quadrant of the City, sales comparable #1 is 20 years older than the subject, sales comparable #4 has considerable finished floor area, a high ceiling and a business associated with the development, and sales comparable #2 is smaller and older than is the subject.
31. As for the Complainant's equity comparables, the Board notes that equity comparable #3 was also presented as sales comparable #2 (Exhibit C-1, page 9). The assessment of this property is \$145.96 per square foot which would indicate that the subject is over-assessed. Comparables #1 and #2 are located in superior locations.
32. In reviewing the Respondent's sales comparables, the Board accepts that these occurred in the same quadrant of the City and do support the current assessment as do the equity comparables presented by the Respondent.
33. Finally, the Board concludes that the Respondent did not take into consideration the fact that the current development is located on an old landfill site and agrees with the Complainant's submission that this factor does have a negative impact upon the market value of the subject. As a result, the assessment of the subject should be reduced.
34. The Board accepts the Complainant's argument that this multi-building industrial warehouse property should be assessed in accordance with its market value as one property under one Assessment Roll and compared with other developments of similar size and which appear on a single assessment roll. The Complainant argued further that the model used by the City of Edmonton in calculating the value of multi building parcels on a single assessment roll may have resulted in an inflated value. The Board recognizes that multiple buildings on a site on one assessment roll might have vast differences in size and condition. However, in the opinion of the Board, it should be recognized that if the multi-building parcel is on one title, a purchaser would look to a value of the parcel as a whole and thus the value should reflect the market value of similar properties.
35. In arriving at its decision to reduce the assessment of the subject property, the Board takes into consideration the following:

35.1. The subject warehouse is located on a former landfill site and as a consequence construction costs would be higher. This factor must be taken into consideration when establishing the market value for the subject property.

35.2 The Board accepts the Complainant's submission that there should be a reduction in the assessment for both the unusual shape of the property as well as the limited access to the site. However, in the opinion of the Board, the 10% reduction applied by the City is sufficient to adjust for both these factors. The Complainant did not present any evidence to the Board to substantiate any further reduction for shape and access factors.

35.3 The Board is of the opinion that the impact of the former landfill site on the subject property is substantial and constitutes a considerable negative influence on its market value. The Board concludes that the current assessment of the subject is neither fair nor correct having regard to this substantial negative impact and is of the opinion that a further reduction should be applied to the assessment.

36. In rendering its decision, the Board notes that the evidence presented by the parties contains some inconsistencies. In part, this arose as a result of the presence of a third building on site of nominal value which, in some cases, was included in calculations and in other cases was not included. As well, some values per square foot for the subject were based on leasable building area and other values were based on main floor area or total building area.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 22nd day of March, 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: Mid-Nite Sun Transportation Ltd.