



ASSESSMENT REVIEW BOARD

Churchill Building
10019 103 Avenue
Edmonton AB T5J 0G9
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NOTICE OF DECISION NO. 0098 821/11

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 March 14, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9552787	4350 82 Avenue NW	Plan: 7520086 Block: 1 Lot: 3	\$2,346,500	Annual New	2011

Before:

James Fleming, Presiding Officer
Dale Doan, Board Member
Petra Hagemann, Board Member

Board Officer:

Annet Adetunji

Persons Appearing on behalf of Complainant:

Walid Melhem, Altus Group Ltd

Persons Appearing on behalf of Respondent:

Joel Schmaus, Assessor, City of Edmonton
Cherie Skolney, Assessor, City of Edmonton

PRELIMINARY MATTERS

1. It should be noted that due to considerable delays experienced as a result of the City's preliminary challenge of the validity of Altus CARB complaints, including filing of a leave to appeal the CARB decision of the preliminary hearing in the Court of Queen's Bench, the Assessment Review Board (ARB) administration determined it would be unable to meet the deadlines set out in s. 468 (1) of the Municipal Government Act (MGA), and s. 53 (b) of Matters Relating to Assessment Complaints. Accordingly, the ARB administration requested and obtained a Ministerial extension to hear the affected roll numbers, including the subject property in 2012 under the authority of s. 605(2) of the MGA.
2. 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 CARB.

BACKGROUND

3. The subject property is a medium warehouse zoned IM, located at 4350-82 Avenue in the City of Edmonton. It was built in 1979, has a building area of 15,629 square feet (sq ft), no finished upper space and site coverage of 21% on a building site of 74,917 sq ft. The property was valued by the Direct Sales Comparison method.

ISSUE(S)

4. Eight issues were outlined in the Complainant's brief (C-1, pg 3), however the Complainant advised that only issue #4 "*the assessment of the subject property is in excess of its market value for assessment purposes*" remained as the main issue and sales of comparable properties were to be used to challenge the 2011 assessment.

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 provided the Board with a 46 page brief (C-1) challenging the 2011 assessment of the subject property. The brief contained five comparable sales located in the general area of the subject property. These properties sold from January 2007 to May 2010 and were time adjusted to July 1, 2010 valuation date using the time adjustment factors as provided by the City (C-1, pg 13). These properties were somewhat similar in site coverage (17% - 30%), similar in leasable building areas (11,217 sq ft to 25,529 sq ft) and ranged in year built from 1977 to 1989. The subject has no upper office space whereas four of the five comparables have upper office space. The average and median time adjusted sales prices were \$138.99/sq ft and \$138.23/sq ft respectively suggesting that the assessment of the subject at \$150.13/sq ft is excessive.
6. The Complainant requests the CARB reduce the assessment of the subject property from \$150.13/sq ft to \$140.00/sq ft or \$2,188,000.

POSITION OF THE RESPONDENT

7. The Respondent presented a 64 page assessment brief (R-1) defending the 2011 assessment of the subject property. This brief included corrections to two of the sales comparables provided by the Complainant (C-1, pg 13 + 14), five sales comparables, Network data sheets supporting these sales and law and legislation documentation.
8. The Respondent advised that the Complainant's sales comparable #2, located at 9333-37 Avenue has been shown to have an incorrect size of 23,175 sq ft. Based on the City's detail report, the correct size is 19,903 sq ft which would change the time adjusted sales price from \$122.63/sq ft to \$142.79/sq ft. The Complainant's sales comparable #3 located at 9333-45 Avenue is shown to have two cost buildings on the property. These would sell for less and therefore the time adjusted sales price would have to be adjusted to allow for comparability to the subject property.
9. The five sales comparables provided by the Respondent (R-1, pg 15) are located in the general area of the subject property. Comparable # 1 located at 10035-29A Avenue and comparable # 5 located at 1431-70 Ave were also used by the Complainant. The five sales comparables sold from Jan 2007 to May 2010 and ranged in effective year built from 1965 to 1982. All but one have upper finished space whereas the subject does not; the total building areas range from 10,637 sq ft to 15,102 sq ft and their time adjusted sales prices range from \$143.01/sq ft to \$177.58/sq ft.
10. Based on the sales comparables provided, the Respondent requests the CARB to confirm the 2011 assessment.

DECISION

11. The decision of the CARB is to deny the complaint and confirm the 2011 assessment at \$2,346,500.

REASONS FOR THE DECISION

12. The CARB reviewed all the evidence and argument. In order to aid in the comparison of the Comparables relative to the subject, it should be recalled that the subject was built in 1979; it sits on a site of 74,917 sq. ft. and has 21% site coverage based on 15,629 sq. ft. improvement.
13. The Complainant provided five sales comparables (C-1, pg 8) which they asserted could be adjusted where necessary to support their request for a value of \$140.00/ sq. ft. The comparables of the Complainant required adjustments for year of construction (from 1977 to 1989), site area (55,327 to 109,792/ sq. ft.), site coverage (17% to 30%), size of the improvement (11,217 to 25,529 sq. ft.), and amount of finished upper level space (0 to 6,577 sq. ft.). In analyzing the Complainant's sales, it was noted that adjustments to the calculations were required to the property at 9333 - 37th Ave (R-1 pg 12) which would serve to increase the Time Adjusted Sales Price (TASP) from \$122.63/sq. ft. to \$142.79/sq. ft.
14. The impact of this change is significant, because it boosts the average and the median to \$143.02/sq. ft. and \$142.79/sq. ft. respectively. This brings the average and the median to within 95% of the assessed value. The CARB supports the legal decisions which hold that Market Value is within a range, and that range has traditionally been held to be plus or minus 5%. With the change to the average and medians, these numbers are now well within 5% of the assessment. While the CARB accepts that the Complainant has asked for a rate per sq. ft. of \$140.00, the only support for that request is the Complainant's sales comparables, and when the average and median of those comparables is within 5% of the assessment, the CARB can see no compelling reason to disturb the assessment.
15. That having been said, the CARB did go on to review the Respondent's five sales comparables, two of which were common to both parties (10035-20A Ave and 1431-70 Ave). These comparables required adjustment for sale date (Jan. 07 to May. 10), age from 1965 to 1982), site coverage (15% to 28%), and amount of finished upper level space (0 to 3460 sq. ft.) and size (10,637 to 15,630 sq. ft.).
16. In evaluating the presentations, the CARB was concerned because neither party provided sufficient evidence for the CARB to understand the magnitude of the adjustments required to make the Comparables compare with the subject. The only "solid" evidence demonstrating support for any adjustment was the time adjustment where both parties accepted the City's time adjustment study (C-1 pg 12). The CARB found that there were too many "types" of adjustments to be made (i.e. location and size and site coverage and finished upper level etc.), and in addition, there was little if any evidence showing/proving the magnitude of any adjustment (except for the time adjustment noted above). The Complainant's "unadjusted" comparables ranged from \$131.42 to \$159.66/sq ft. Likewise, the Respondent's "unadjusted" comparables also exhibited a wide range, from \$143.01 to \$177.53/sq. ft., compared to the subject's \$150.14/sq. ft.

17. Accordingly, the CARB put little weight on the comparable evidence of either party because of the lack of evidence to quantify “any” of the adjustments.
18. The burden of proof is on the Complainant to show that the assessment is incorrect. This was not done as is outlined above; therefore, the CARB did not find any reason to disturb the assessment.

DISSENTING OPINION AND REASONS

19. There was no dissenting opinion.

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

James Fleming, 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: PARAGON INVESTMENTS LTD