



## ASSESSMENT REVIEW BOARD

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

### NOTICE OF DECISION      NO. 0098 866/11

Altus Group Limited  
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 April 11, 2012, respecting a complaint for:

| Roll Number | Municipal Address | Legal Description | Assessed Value | Assessment Type | Assessment Notice for: |
|-------------|-------------------|-------------------|----------------|-----------------|------------------------|
| 9950482     | 2950 51 AVENUE NW | SW 18-52-23-4     | \$9,468,000    | Annual Revised  | 2011                   |

#### **Before:**

Don Marchand, Presiding Officer  
Brian Hetherington, Board Member  
Howard Worrell, Board Member

**Board Officer:** Karin Lauderdale

#### **Persons Appearing on behalf of Complainant:**

Walid Melhem, Agent, Altus Group

#### **Persons Appearing on behalf of Respondent:**

Darren Nagy, Assessor, City of Edmonton

## **PRELIMINARY MATTERS**

1. No objection was raised as to the composition of the CARB panel. In addition, the Board members indicated no bias with respect to this file.
2. The issues set out were canvassed with the Parties. The Parties concurred that the parcel was considered to be serviceable and that the rate of \$318 per acre is the established rate for farmland in the subject's location.

## **BACKGROUND**

3. The subject parcel of 46.13 acres (2,009,479 sq. ft.) is described as "undeveloped land" located in the Southeast (annexed) Industrial subdivision within the City of Edmonton. The land use code for the subject is code 900.

## **ISSUE(S)**

4. Should the valuation standard for the subject be based on its agricultural use value?

## **LEGISLATION**

5. The CARB gave consideration to the following legislative requirements relative to this complaint and decision.

### ***Municipal Government Act, RSA 2000, c M-26***

#### ***In this Act,***

- (n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

#### ***289(2) each assessment must reflect***

- (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and
- (b) the valuation and other standards set out in the regulations for that property.

#### ***297 (4) (a) "farm land" means land used for farming operations as defined in the regulations;***

#### ***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.***

#### ***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.

## ***Matters Relating to Assessment and Taxation Regulation: AR 220/2004***

### ***Valuation standard for a parcel of land***

***4(1) The valuation standard for a parcel of land is***

- (a) market value, or*
- (b) if the parcel is used for farming operations, agricultural use value.*

***(2) In preparing an assessment for a parcel of land based on agricultural use value, the assessor must follow the procedures set out in the Alberta Farm Land Assessment Minister's Guidelines.***

***(3) Despite subsection (1)(b), the valuation standard for the following property is market value:***

- (a) a parcel of land containing less than one acre;*
- (b) a parcel of land containing at least one acre but not more than 3 acres that is used but not necessarily occupied for residential purposes or can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;*
- (c) an area of 3 acres located within a larger parcel of land where any part of the larger parcel is used but not necessarily occupied for residential purposes;*
- (d) an area of 3 acres that*
  - (i) is located within a parcel of land, and*
  - (ii) can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;*
- (e) any area that*
  - (i) is located within a parcel of land,*
  - (ii) is used for commercial or industrial purposes, and*
  - (iii) cannot be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;*
- (f) an area of 3 acres or more that*
  - (i) is located within a parcel of land,*
  - (ii) is used for commercial or industrial purposes, and*
  - (iii) can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel.*

## ***2010 Alberta Farm Land Assessment Ministers Guidelines***

### ***1.000 Application:***

*Pursuant to section 4(2) of the regulation, the assessor appointed by the municipality must follow the procedures set out in the 2010 Alberta Farm Land Assessment Ministers Guidelines.*

## **POSITION OF THE COMPLAINANT**

6. The Complainant provided a 106-page brief identified as (C-1) during the preliminary hearing held December 14, 2011. This brief contained the following;
  - an executive summary
  - property map
  - photos
  - assessment summary
  - sales comparable chart with comparable details
  - equity comparable chart with comparable details
  - a time adjustment chart,
  - a legal brief,
  - excerpts of the Alberta Farmland Assessment Ministers Guidelines,
  - a copy of a Farm Lease
  - e-mail correspondence from the owners tax agent to the City of Edmonton.
7. The Complainant stated that the subject is farm land as identified by the Alberta Farmland Assessment Minister's Guidelines and provided photographs and a lease to prove the subject is being farmed. As such the subject site of 46.13 acres should be broken into a three acre market value site and a 43.13 acre farm site.
8. The farmland assessment should be based upon the regulated farmland value of \$315 per acre as established in the Minister's Guidelines that would provide an assessment of \$13,586 for the 43.13 acre farmland portion of the land.
9. The Complainant provided six sales comparable to support the market value for the three acres (130,680 square feet) of land that showed a time-adjusted average of \$3.57 per square foot or a median-time adjusted price of \$3.67 per square foot. The Complainant requested the three acres or 130,680 square foot assessment for this part of the property to be \$470,448.
10. Collectively the assessment for 2011 requested by the Complainant should be \$484,000.

## **POSITION OF THE RESPONDENT**

11. The Respondent presented the Board with a 78-page document (C-1), which contained;
  - photographs of the site taken in March 2011
  - an aerial view and map showing its location in the south-east quadrant of Edmonton
  - the original Complaint form
  - a chart of four comparable property sales together with detailed support documents
  - a Complaint form submitted on the same date by the same company
  - and a 42-page section on the City's 2011 Property Assessment Law and Legislation.

12. The Respondent drew the Board's attention to photographs taken by the City in March, 2011, which showed the property under a snow cover and a City sign showing that land had been re-zoned.
13. He drew attention to the Complaint form, which had not identified in the property-type section that the subject property was farmland.
14. To further support the City's position in its assessment, the Respondent presented a chart of four property sales that had been concluded between July, 2006 and September, 2008, which showed an average time-adjusted sale price per acre of \$233,844, which he claimed supported the City's assessment of \$205,232 per acre.
15. He acknowledged that he had inspected the property in 2011 and that it was being farmed with a crop of canola at that time, but he had not been responsible for this kind of property in 2010, the time of this particular complaint, so had no personal evidence on its status.
16. He also acknowledged to the Board that had it been classified as farmland for 2010, the calculation would have been at a rate of \$295 for the first three acres with the remaining 43.13 acres at \$318 per acre, creating a total assessment of \$900,000.

### **FINDINGS AND REASONS FOR THE DECISION**

17. Based on the evidence provide to the hearing the CARB finds that the parcel is used for farming operations for the 2011 assessment year, and the valuation standard for the parcel of land is its agricultural use value.
  - The Complainant's photographs provided are taken from and within locations on the subject parcel.
  - The photographs were provided by the lessee and the CARB was advised that they were taken in the fall of 2010.
  - The photographs show harvest activity taking place on the site.
  - A response to a City request about the status of the subject roll number from the owner's agent was provided in an email dated October 14, 2010. The email also indicated an attached lease and the statement that the leaseholder is actively farming the subject parcel.
  - The lease agreement sets the term of the lease from March 1, 2010 to October 31, 2015.
  - No attempt was made by the Municipality to verify the use of the property in 2010 even after the email was received.
  - Both parties inspected the subject parcel in 2011 and concede that an agricultural use was being made of the subject property at the time of their inspections - hence an "agricultural use valued assessment" for 2012 assessment year.
  - Both parties presented sales data in support of a per unit rate for the entire parcel.
  - Neither party presented evidence as to the value of a three acre parcel.
  - The CARB was advised that had the parcel been assessed at its agricultural use value for the 2011 assessment year the assessment notice amount would have been \$900,000.

## **DECISION**

18. The assessment for roll number 9950482 is revised to \$900,000.

Dated this 13<sup>th</sup> day of April, 2012, at the City of Edmonton, in the Province of Alberta.

---

Don Marchand, 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: HOPEWELL (WHITEMUD) DEVELOPMENTS INC

For MGB Administrative Use Only: *From D. H. Marchand*

| <i>Decision No.</i> |                                | <i>Roll No. 9950482 Edmonton</i> |                       |                  |
|---------------------|--------------------------------|----------------------------------|-----------------------|------------------|
| <u>Subject</u>      | <u>Type</u>                    | <u>Property Sub<br/>type</u>     | <u>Issue</u>          | <u>Sub Issue</u> |
| CARB                | (6) Other<br>Property<br>Types | Farmland                         | Valuation<br>standard |                  |
|                     |                                |                                  |                       |                  |