



ASSESSMENT REVIEW BOARD

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10019 103 Avenue
Edmonton AB T5J 0G9
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NOTICE OF DECISION NO. 0098 886/11

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 23, 2012, respecting a complaint for:

| Roll Number | Municipal Address | Legal Description | Assessed Value | Assessment Type | Assessment Notice for: |
|-------------|--------------------|---|----------------|-----------------|------------------------|
| 3585007 | 10802 99 STREET NW | Plan: 3867ET Block: C Lots: 9 -12 | \$1,359,500 | Annual New | 2011 |

Before:

Don Marchand, Presiding Officer
Brian Carbol, Board Member
Mary Sheldon, Board Member

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

Walid Melhem, Altus Group

Persons Appearing on behalf of Respondent:

Ning Zheng, Assessor

PRELIMINARY MATTERS

- The Parties at the onset of the hearings affirmed to tell the truth. 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.
- The issues set out were canvassed with the Parties. The Complainant advised that the issues were contained in item numbers 4 and 5, as shown on the SCHEDULE OF ISSUES and advised that any other issue on the SCHEDULE OF ISSUES would not be argued.

BACKGROUND

The subject consists of four CB2 zoned lots that have been treated as one parcel. The improvements that previously tied together the parcel have been recently removed. Remaining on the parcel is a 1950 built wood framed warehouse type structure of 7,640 square feet serving as cold storage space.

The Complainant argues that the existing use is still the highest and best use for the parcel and presented direct sales comparison evidence in support of a market value assessment based on a comparable unit rate being applied to the size of subject's building area.

The Respondent explained that the assessment was prepared on the basis that the parcel's CB2 land value exceeds the amount that could be generated by the subject's income capability, as the current use is not the highest and best use for the parcel.

ISSUE(S)

1. Is the assessment of the subject property in excess of market value?
 - a. Should the market value be based on a comparable unit rate being applied to the size of subject's building area as the current use is the subject's highest and best use?

Or

 - b. Should the market value be based on the parcel's CB2 land value as the current use is not the subject's highest and best use?
2. Is the assessment of the subject property fair considering the market value of comparable properties?

LEGISLATION

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.*

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.*

Matters Relating to Assessment and Taxation Regulation (AR 220/2004)

2. *An assessment of property based on market value*

- (a) *must be prepared using mass appraisal,*
- (b) *must be an estimate of the value of the fee simple estate in the property, and*
- (c) *must reflect typical market conditions for properties similar to that property*

POSITION OF THE COMPLAINANT

In support of his position that market data demonstrated that the assessment of the subject was not correct, nor was it equitable, the Complainant provided a chart of the sales of three properties which he indicated were similar to the subject. The time adjusted sale price per square foot of these comparables were: \$98.31, \$114.94, and \$158.64; hence, the range of time adjusted sale prices per square foot was from \$98.31 to \$158.64 and the median time adjusted sale price per square foot of these comparables was \$114.94.

The Complainant argued that this evidence supported a reduction in the assessment of the subject from \$177.95 to \$115.00 per square foot, based on the improvement size of 7,640 square feet (7,640 @ \$115.00 = \$878,500)

In support of his position that the subject was assessed higher than the assessments of comparable properties, the Complainant presented ten equity comparables to the Board. The assessments per square foot of these comparables ranged from \$104.35 to \$151.07. The Complainant argued that this evidence supported a reduction in the assessment of the subject from \$177.95 to \$120.00 per square foot, similar to the result based on a direct comparison.

In his rebuttal argument, the Complainant responded to the Respondent's position by presenting four sales of land which had a time adjusted price per square foot from \$33.74 to \$51.06. This was contrasted to the land sales applied rate of \$62.52 presented by the Respondent.

The Complainant requested that the Board reduce the assessment of the subject to \$878,500.

POSITION OF THE RESPONDENT

The Respondent provided a chart to illustrate that none of the three sales presented by the Complainant were comparable as they were properties with DC1 and IM zoning. Also shown were the ten equity comparables with their actual DC1, IB and IM zoning as presented by the Complainant. The Respondent pointed out that the zoning not similar to the subject property, which is zoned CB2.

The Respondent submitted that the subject property was assessed on the basis of land value plus a nominal \$500.00 for the improvements.

The Respondent presented a chart of five comparable land sales within the same area (McCauley) as the subject property. The time adjusted sales price per square foot for these properties ranged from \$71.25 per square foot to \$89.96 per square foot. The assessment model concludes that the rate of \$62.52 was applied after consideration of the subject's size and site characteristics relative to the comparables.

The Respondent requested that the Board confirm the 2011 assessment of the subject property at \$1,359,500.

FINDINGS AND REASONS FOR THE DECISION

The current use of the property as a 1950's built cold storage facility is not the highest and best use for the subject. Comparable sales of vacant similarly zoned property within the subject's own neighbourhood indicate this. Then income earning potential of the cold storage space when capitalized is not equivalent to what the property is worth on the open market as vacant land.

DECISION

The assessment for roll number 3585007 is confirmed at \$1,359,500.

Dated this 16th 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: ALAN JOHN SMULSKI

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

| <i>Decision No.</i> | | <i>Roll No. 3585007Edmonton</i> | | |
|---------------------|--------------------------------|---------------------------------|----------------------------|------------------|
| <u>Subject</u> | <u>Type</u> | <u>Property Sub type</u> | <u>Issue</u> | <u>Sub Issue</u> |
| CARB | (6) Other Property Types | Assessed as vacant land | Highest and best use | Land value |
| | | | | |