

NOTICE OF DECISION NO. 0098 90/12

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 July 25, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
2194652	14503 121A Avenue NW	Plan: 5951KS Block: 3 Lot: 1	\$3,235,500	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: BARAMY INVESTMENTS LTD.

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 001012

Assessment Roll Number: 2194652

Municipal Address: 14503 121A Avenue NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Robert Mowbrey, Presiding Officer

George Zaharia, Board Member

Howard Worrell, Board Member

Preliminary Matters

[1] Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board and Board members indicated no bias with respect to the file.

[2] There were no preliminary matters.

Background

[3] The subject property is a medium warehouse located at 14503 - 121A Avenue NW in the Dominion Industrial neighbourhood of northwest Edmonton. The building, built in 1963, is 39,146 square feet in size, and is located on a lot 136,486 square feet in size resulting in site coverage of 29%.

[4] The subject property was assessed by the direct sales approach resulting in a 2012 assessment of \$3,235,500.

Issue(s)

[5] Is the assessment of the subject property too high compared to sales of similar properties?

Legislation

[6] The *Municipal Government Act* reads:

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

[7] The Complainant filed this complaint on the basis that the subject property was assessed in excess of market value. In support of this position the Complainant provided a 40-page brief (C-1) in which he stated that the objective of the hearing was to determine a fair and equitable assessment for the subject property using available market data (Exhibit C-1, page 4).

[8] The position of the Complainant is that the 2012 assessment of the subject property at \$3,235,500 (\$82.65 per square foot) is too high compared to sales of similar properties (Exhibit C-1, page 7).

[9] The Complainant argued that a review of recent market transactions indicated the value of the subject property is \$2,251,000 (\$57.50 per square foot). In support of this argument, the Complainant submitted five sales comparables that sold between September 18, 2008 and April 19, 2011 for time-adjusted sales prices ranging from \$42.94 to \$66.30 per square foot and resulting in an average of \$55.46 and a median of \$57.50 per square foot (Exhibit C-1, page 8).

[10] With regards to the sales comparables, the Complainant stated that all the comparables were of similar age (all built in the 1960's as is the subject) and were similar in style with lower wall heights. He pointed out that:

- i. Sales comparable #2 was the best indicator of value in that it is an adjacent property, and sold October 6, 2010 for a time-adjusted sale price of \$57.50 per square foot.
- ii. Sales comparables #'s 1, 2 and 3 are located in close proximity to the subject.
- iii. Sales comparable #4 is the largest in building size and based on economies of scale, sold for the lowest time-adjusted sale price at \$42.94 per square foot.

[11] During cross examination of the Respondent by the Complainant, the Complainant noted that all of the Respondent's sales comparables were newer than the subject property. In addition, the wall heights were higher, thus able to have more storage and therefore command a higher per square foot rate when selling.

[12] The Complainant requested that the Board reduce 2011 assessment of the subject property from \$3,235,500 to \$2,251,000 (Exhibit C-1, page 9).

Position of the Respondent

[13] The Respondent defended the assessment by presenting the Board with a 50-page assessment brief and a 44-page law and legislation brief, maintaining that the subject property was equitably assessed.

[14] In the assessment brief, the Respondent stated that the City of Edmonton utilizes the direct sales comparison approach as the assessment methodology for its warehouse inventory. The most common unit of comparison for industrial purposes is value per square foot of building area. When comparing properties on this basis, it is imperative that the site coverage be a key factor in the comparison (Exhibit R-1 pages 42-47).

[15] To support the City of Edmonton's assessment of the subject property, the Respondent submitted five sales comparables that sold between January 4, 2008 and April 1, 2011. The sales comparables were time-adjusted from the date of sale to the valuation date. The sales prices based on total floor space ranged from \$79.40 to \$95.24 per square foot with the assessment of the subject at \$82.65 per square foot falling within the range (Exhibit R-1, page 13).

[16] In addition, the Respondent provided nine equity comparables, with assessments ranging from \$74.46 to \$94.36 per square foot with the assessment of the subject at \$82.64 per square foot falling within the range (Exhibit R-1, page 21). All the equity comparables were in average condition as is the subject, and averages of the comparables were similar in age, lot and building size, and lot coverage.

[17] The Respondent critiqued the Complainant's sales comparables with the following comments:

- i. Complainant's sale #1 (14308 118th Ave.) should not be used as the seller was under financial duress, there was a long term vacancy problem, and the lease rates were under market (Exhibit R-1 page 32).
- ii. Complainant's sale #4 (11340 120 Street) was a non-arms length sale. The sale was not an open market sale as it was a transfer of the property to a new parent company (Exhibit R-1 page 35).
- iii. Complainant's sale #5 (12325 Mount Lawn Road) is a special purpose building that is assessed on the cost approach. In addition, the sale is non-arms length, as the parties are related and therefore the sale should not be used in the audit (Exhibit R-1 pages 36 & 37).

[18] During argument and summation, the Respondent advised the Board to look at site coverage and the size of the lot and not just age. The Respondent reiterated that the equity chart indicated that the subject property was properly assessed.

[19] The Respondent requested the Board confirm the 2012 assessment of the subject property at \$3,235,500.

Decision

[20] The decision of the Board is to confirm the 2012 assessment of the subject property at \$3,235,500.

Reasons for the Decision

[21] The Board placed little weight on the Complainant's sales comparables in that they had a number of issues that made comparability to the subject property most difficult. Such issues included below market lease rates, a comparable being assessed on the cost approach, and sales of the comparables being at non-arms length.

[22] The Board placed some weight on the Respondent's sales comparables in that they were in the same condition and were similar in building size, but the Board noted that all the comparables were as little as eight years and as much as seventeen years newer than the subject. Sales comparables #s 1 and 4 with mezzanine space that sold for in excess of \$79 per square foot, and sales comparables #s 2, 3 and 5 without mezzanine space, the same as the subject, that sold for in excess of \$90 per square foot would appear to support the \$82.65 assessment of the subject when adjusted for age and mezzanine space.

[23] The Board placed greater weight on the Respondent's equity comparables in that they were the same in condition and were similar to the subject property in age, site coverage, and lot and building size. The assessment of the subject property at \$82.65 per square foot was below the average of \$85.00 per square foot of the comparables that ranged from \$74.46 to \$94.19 per square foot.

[24] The Board noted that the Complainant's sales comparable #2 and the Respondent's equity comparable # 5 were the same property. Although the property was sold for a time-adjusted sale price of \$57.50 per square foot in October of 2010, the property was assessed at \$74.46 per square foot at the July 1, 2011 valuation date.

[25] Jurisprudence has established the onus of proving an assessment is incorrect rests with the Complainant. The Board is satisfied that the Complainant did not provide sufficient and compelling evidence to challenge the correctness of the assessment.

Dissenting Opinion

[26] There was no dissenting opinion.

Heard commencing July 25, 2012.

Dated this 27th day of July, 2012, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

Walid Melhem, Altus Group
for the Complainant

Luis Delgado, Assessor, City of Edmonton
for the Respondent