

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group v The City of Edmonton, 2013 ECARB 00908**

**Assessment Roll Number:** 10015908

**Municipal Address:** 5815 75 STREET NW

**Assessment Year:** 2013

**Assessment Type:** Annual New

Between:

**Altus Group**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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**DECISION OF**  
**Robert Mowbrey, Presiding Officer**  
**Jack Jones, Board Member**  
**Robert Kallir, Board Member**

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### **Procedural Matters**

[1] Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board members indicated no bias on this file.

### **Background**

[2] The subject property is 700,211 square foot parcel of land with a medium manufacturing plant located at 5815 75 Street NW, in the Roper Industrial subdivision. It is zoned IH. The 2013 assessment is \$10,148,500.

### **Issue**

[3] What is the market value of the subject property?

### **Legislation**

[4] **The *Municipal Government Act*, RSA 2000, c M-26, reads:**

s 1(1)(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;

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 filed this complaint on the basis that the subject property assessment of \$10,148,500 is inequitable and in excess of market value. In support of this position, the Complainant submitted a 37 page disclosure package and a 41 page rebuttal package which were entered as evidence and marked exhibits C-1 and C-2, respectively.

[6] The Complainant advised the Board that there was no issue with the valuation of the improvements on the subject property and the complaint is based only on the valuation of the land. [Exhibit C-1, page 8].

[7] The Complainant provided the Board with three sales comparables that were somewhat smaller in size to the subject property, but were all located in the same market area. The three sales comparables were zoned IM, whereas the subject property was zoned IH [Exhibit C-1, page 9]. The three sales comparables were all time adjusted to the valuation date utilizing the time adjustment factors provided by the City of Edmonton [Exhibit C-1, pages 17-19].

[8] The Complainant advised the Board that the future southeast LRT expansion would have a negative influence on the subject property in terms of creating noise and limiting access. The Complainant said that this should be considered in the 2013 assessment [Exhibit C-1, pages 10-11]. The Complainant further stated that only residential properties would be enhanced by a LRT.

[9] The Complainant noted that three of the Respondent's sales comparables were one-half the size of the subject property, or smaller. In addition, another sale comparable brought forth by the Respondent was just about double the size of the subject property. The Complainant further noted that three of the Respondent's sales comparables were in a different quadrant of the City than the subject property [Exhibit C-2 page 8].

[10] During argument, the Complainant stated that it was difficult to find appropriate sales comparables, so this makes the subject property a special purpose property.

### **Position of the Respondent**

[11] The Respondent provided a 56 page disclosure package which was entered as evidence and marked as exhibit R-1. The Respondent's evidence included six sales comparables [Exhibit R-1 page 17]. The time adjusted selling price per square foot shows an average of \$12.57 and a median of \$12.81, compared to an assessment of \$12.12 per assessment square foot for the subject property. The six sales comparables are all zoned IM, whereas the subject property is zoned IH.

[12] The Respondent provided a chart detailing the sales comparables of the Complainant [Exhibit R-1 page 16]. The Respondent stated that the Complainant's sale comparable #1 (2235

76 Ave.) would not be a good comparable, due to the purchaser utilizing a vendor take back mortgage. The Respondent provided two recent CARB decisions, both of which indicate that a VRB mortgage could negatively influence the purchase price [Exhibit R-1 pages 27-37].

[13] The Respondent provided information regarding the future southeast expansion of the LRT. The City did not consider the future southeast expansion in the 2013 assessment because no work has been done physically to the site [Exhibit R-1 pages 25-26]. Only the preliminary design is scheduled to be complete at the end of 2013. The actual construction could be years down the road. Furthermore, the Respondent argued that the subject property will not be affected by noise or limited access resulting from future LRT construction.

[14] In closing, the Respondent requested the Board to confirm the 2013 assessment of \$10,148,500.

### **Decision**

[15] The decision of the Board is to reduce the 2013 assessment of \$10,148,500 to \$9,017,500.

### **Reasons for the Decision**

[16] The Board reviewed the oral and written testimony of both the Complainant and the Respondent and found the Complainant's evidence and argument to be more compelling.

[17] Jurisprudence has established the onus of showing the assessment is incorrect rests with the Complainant. The Complainant has provided sufficient and compelling evidence to shift the onus to the City.

[18] The Board was somewhat persuaded by the sales comparables put forth by the Complainant. The sales comparables were all in the same market area as the subject property.

[19] The Board was not persuaded by the sales comparables put forth by the Respondent. The Board notes that three of the six sales comparables put forth by the Respondent are outside the market area of the subject property. In addition, the four of the six sales comparables are smaller than the subject property and one of the Respondent's sales comparables is double the size of the subject property. For these reasons, the Board put little weight on the sales comparables of the Respondent.

[20] The Board considered the Respondent's assertion that a VTB mortgage would have a negative influence on market value of a subject property. The Board accepts that a significant VTB mortgage could influence the market price, but when a purchaser outlays a significant amount of cash to close the transaction and the VTB mortgage terms are as set out in the comparable the VTB loses its significance. The Complainant's sales comparable respecting the VTB mortgage had significant outlays of cash and such terms that made the VTB mortgage issue not irrelevant.

[21] The Board put little weight on the Complainant's assertion that the future expansion of the southeast LRT would have a negative influence on the market value of the subject property. The Board suggests this issue could be revisited when the future expansion of the southeast LRT is largely finished or complete. There is simply no evidence that would support a 10% reduction in the assessment due to a future happening with the southeast LRT.

[22] The Board is persuaded by the common sale comparable utilized by both the Complainant and the Respondent [5615-72A Avenue]. The common sales comparable is in the same market area and similar in size to the subject property. The time adjusted selling price per square foot of the common comparable is \$9.72 for the Respondent and \$9.88 for the Complainant. These figures support the request of the Respondent for a reduction of subject property's 2013 assessment.

[23] The Board is persuaded that the Complainant provided sufficient and compelling evidence to show the 2013 assessment is equitable and that a value of \$10.50 time adjusted selling price per square foot is deemed appropriate. The Board applied a \$10.50 per square foot value to the land area of 700,211 square feet and added the undisputed improvement valuation of \$1,665,758 to derive a total revised assessment for the subject property of \$9,017,500 (rounded).


[24] Accordingly, the decision of the Board is to reduce the 2013 assessment to \$9,017,500.

### **Dissenting Opinion**

[25] There was no dissenting opinion.

Heard on July 16, 2013.

Dated this 1<sup>st</sup> day of August, 2013, at the City of Edmonton, Alberta.

  
Robert Mowbrey, Presiding Officer

### **Appearances:**

Brett Flesher, Altus Group  
for the Complainant

Doug McLennan, City of Edmonton  
Michael Johnson, City of Edmonton  
for the Respondent

*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.*