

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01112

Assessment Roll Number: 6991830

Municipal Address: 15411 97 Street NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Patricia Mowbrey, Presiding Officer
Lillian Lundgren, Board Member
Darryl Menzak, Board Member

Procedural Matters

[1] When asked by the Presiding Officer, the parties did not object to the composition of the Board. In addition, the Board Members indicated no bias in the matter before them.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject property, known as No Frills Gas Bar, is located at 15411 97 Street in the Eaux Claires neighborhood. The lot size is 149,884 square feet (sf). There is a storm water drainage pond that extends the length of the parcel and affects an area of 50,625 sf. The property is assessed on the cost approach with a land value of \$2,513,788 and a building value of \$537,933 for a total assessment of \$3,051,500.

Issue

[4] Should the assessment be adjusted for topography?

Legislation

[5] The *Municipal Government Act* (MGA), 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 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.

Position of the Complainant

[6] The Complainant filed this complaint on the basis that the land component of the assessment should be reduced to reflect the existence of a storm water drainage pond.

[7] The Complainant argued that the pond has a negative effect on the market value of the land because the 50,625 sf area affected by the pond cannot be developed. Photographs depicting the site show the pond and the chain link fence which secures the perimeter of the pond (Exhibit C-1).

[8] The Complainant stated that the construction of the pond was a requirement imposed by the municipality at the time of development. In answer to questions, the Complainant replied that no documentary evidence to support this fact was disclosed.

[9] The municipality assessed the land at a value of \$2,513,788 (\$16.77/sf). The dispute centers on the rate of \$16.77/sf applied to the portion of land affected by the pond. The Complainant agreed with the rate of \$16.77/sf applied to the balance of the land.

[10] The Complainant argued that the land affected by the storm water drainage pond should be assessed using the City of Edmonton’s Parkland rate of \$20,031/acre (\$0.46/sf). When the parkland rate is applied to the 50,625 sf area of the pond, the result is a value of \$23,280. The land value calculation proposed by the Complainant is as follows:

99,259 sf @ \$16.77/sf = \$1,664,573

50,625 sf @ \$0.46/sf = \$23,280

Total Land Value = \$1,687,853

[11] When the improvement value of \$537,933 is added to the revised land value of \$1,687,853, it produces a value estimate of \$2,225,500.

[12] In the alternative, the Complainant stated that the subject property should receive an extreme topography adjustment to the land component. A 20% adjustment to the land value would result in a value of \$2,011,030. When the improvement value is added to this land value, it produces an assessment of \$2,548,500.

[13] In summary, the Complainant requested that the Board reduce the assessment to one of the two values calculated by the Complainant.

Position of the Respondent

[14] The Respondent agreed with the Complainant that an area of 50,625 sf is affected by the storm water drainage pond. However, the Respondent argued that no evidence was disclosed to support the Complainant's claim that a pond was required or that a pond of this size was required.

[15] The Respondent argued that the pond could be filled and developed because there is no caveat on title restricting the use of the property. The Respondent produced a copy of the Land Title Certificate, registered on May 1, 2007 for the subject property, which does not show any encumbrances (Exhibit R-1).

[16] In answer to questions, the Respondent agreed that, normally, an assessor would give a 20% topography influence adjustment in this instance.

[17] In summary, the Respondent requested that the Board confirm the assessment at \$3,051,500.

Decision

[18] The subject assessment is reduced to \$2,548,500.

Reasons for the Decision

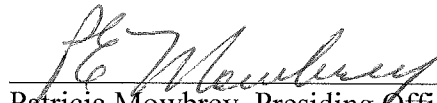
[19] The only issue in this complaint is whether the land component of the subject property should be adjusted for the existence of the storm water drainage pond, and if so, by what amount.

[20] In determining this matter, the Board reviewed section 289(2) of the MGA, which requires that the characteristics of a property be considered as of December 31, of the year prior to the tax year. The parties agree that the pond existed on December 31, 2012 and no adjustment was made to the assessment for the pond. The Board finds that the subject property has a topography issue and should receive a negative adjustment of 20% to the land component of the assessment.

[21] Accordingly, the assessment is reduced to \$2,548,500.

Heard August 6th, 2013.

Dated this 22nd day of August, 2013, at the City of Edmonton, Alberta.


Patricia Mowbrey, Presiding Officer

Appearances:

Chris Buchanan
for the Complainant

Ryan Heit
Steve Lutes
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.