

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group v The City of Edmonton, 2013 ECARB 01677**

**Assessment Roll Number:** 8888232

**Municipal Address:** 6203 Wagner Road 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**

**Howard Worrell, Board Member**

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#### **Procedural Matters**

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

#### **Preliminary Matters**

[2] The Presiding Officer advised the parties that two Board members would hear and adjudicate the appeal. A two member panel constitutes a quorum of the Composite Assessment Appeal Board pursuant to s. 458(2) of the *Municipal Government Act*, R.S.A. 2000, c M-26.

#### **Background**

[3] The subject property is a 39,884 square foot two building medium warehouse located at 6203 Wagner Road in the Davies Industrial West neighborhood. The effective year built is 1970, and the site coverage is 35.0%. The assessment methodology for the subject property is the direct sales approach and the 2013 assessment is \$4,780,000.

#### **Issues**

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

Is the subject property assessed equitably when compared to other similar properties?

#### **Legislation**

[5] **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**

[6] The Complainant filed this complaint on the basis that the subject property's assessment of \$4,780,000 exceeds the best estimate of market value. In support of this position, the Complainant presented a 71page evidence package marked as Exhibit C-1. In addition, the Complainant presented a 25 page rebuttal package marked as Exhibit C-2.

[7] The Complainant presented maps, photographs and assessment details to the Board (Exhibit C-1 pages 5, 6, 12 and 13).

[8] The Complainant advised the Board that the appeal was one of multiple buildings; however, the Board should view the multiple buildings as one economic unit.

[9] The Complainant presented nine sales to the Board. The sales comparables were all in group 18 and all were in average condition. The sales comparables ranged in the year of construction from 1972-1980, site coverage from 27-44% and the main building area ranged from 23,880-59,655 square feet. The time-adjusted selling price per square foot of the main building area ranged from \$78.71 to \$118.60 (Exhibit C-1 page 8).

[10] The Complainant utilized the time-adjusted factors provided by the City from the date of sale to the valuation date (Exhibit C-1 page 14).

[11] The Complainant presented ten equity comparables to the Board. The equity comparables were all in group 18 and in average condition. The equity comparables ranged in year of construction from 1973-1980, site coverage ranged from 31-39% and the main floor area ranged from 28,950 to 53,466 square feet. The assessment per square foot of main floor space ranged from \$101.16 to \$133.85 (Exhibit C-1 page 9).

[12] During cross-examination by the Respondent, the Complainant advised the Board of the following:

- a. Sales comparable #3 at 3703 98<sup>th</sup> Street has a lease rate well below market, which may or may not affect market value (Exhibit C-1 page 21).
- b. Sales comparable #4 at 4115 101<sup>st</sup> Street has lease rates somewhat below market, which may or may not affect market value (Exhibit C-1 page 24).

- c. Sales comparable #6 at 3304 Parsons Road has four of the main floor bays leased at well below market, which may or may not affect market value (Exhibit C-1 page 30).

[13] The Complainant advised the Board of the appellant's right to the lower of fairness and equity or market value. In *British Columbia (Assessor for Area 9 - Vancouver) v. Bramalea Ltd.*, 1990 CanLII 284 (BC CA) the court found:

it is my view that the principles mentioned give the taxpayer two distinct rights: (i) a right to an assessment which is not in excess of that which can be regarded as equitable; and (ii) a right not to be assessed in excess of market value...

[14] The Complainant submitted a rebuttal to the Board that outlined the following:

- a. The Respondent's sale comparable #4 at 5725/33 92<sup>nd</sup> Street has exposure to 91 Street, which is a main arterial roadway and therefore not comparable to the subject property (Exhibit C-2 page 6).
- b. The Respondent's sale comparables 2 to 7 are substantially newer than the subject property and therefore would require an adjustment (Exhibit C-2 page 11).
- c. The Respondent's sale comparable #1 at 6035 97<sup>th</sup> Street has lower site coverage than the subject property and would require a downward adjustment (Exhibit C-2 page 11).
- d. The Respondent's sale comparable #8 at 5204 86<sup>th</sup> Street has over 30,000 sq. ft. of finished area on the main floor making comparability to the subject property difficult (Exhibit C-2 page 11).
- e. The Respondent's sale comparable #9 at 6003 103A Street has 100% finished area on the main floor, so the property is not really comparable to warehouse space (Exhibit C-2 page 11).

[15] During argument and summation, the Complainant argued that the subject property was assessed in excess of market value and not equitably assessed when compared to similar properties.

[16] In addition, the Respondent assessed the subject property as two individual buildings; however, the subject property is one economic unit on one lot.

[17] The Complainant requested that the Board reduce the 2013 assessment of \$4,780,000 to \$3,788,500.

### **Position of the Respondent**

[18] The Respondent defended the 2013 assessment by providing the Board with a 43 page evidence package marked as Exhibit R-1.

[19] The Respondent explained that the assessment and similar assessments were prepared using the direct sales comparison methodology. The Respondent advised the Board that "there is ample data from which to derive reliable estimates and only a portion of the inventory is traded

based on its ability to generate income. A large percentage of industrial property in Edmonton is owner-occupied, and as such has no income attributable to it" (Exhibit R-1 page 6).

[20] The Respondent advised the Board that sales occurring from January 2008 through June 2012 were used in the model development and testing. Factors found to affect value in the warehouse inventory are as follows: total main floor area (per building), site coverage, effective age (per building), condition (per building), location of the property, main floor finished area, as well as finished area (per building). The most common unit of comparison for industrial properties is value per square foot of building area (Exhibit R-1 pages 7, 8 and 11).

[21] The Respondent provided the Board with maps, photographs and assessment details of the subject property (Exhibit R-1 pages 12-19).

[22] In support of the City of Edmonton's assessment, the Respondent presented six sale comparables. The comparables ranged in year built from 1972 to 1978, and ranged in site coverage from 25 to 46%. The Respondent provided the Board with two groupings of sales based on the premise that there were two buildings on the property and one grouping of sales referred to one building and the second grouping of sales referred to the second building. The total building size for the first grouping ranged from 23,880 to 27,750 square feet and the total building size for the second grouping ranged from 14,868 to 15,089 square feet. The time-adjusted sale price per square foot of total building area for all the sales comparables ranged from \$106.00 to \$155.00 (Exhibit R-1 page 21).

[23] The Respondent presented nine equity assessment comparables. All the equity comparables had two buildings, the same as the subject property. The equity comparables ranged in effective age from 1968 to 1995 and site coverage ranged from 28 to 42%. The total building size ranged from 26,990 to 52,607 square feet. The assessment per square foot of total building area ranged from \$115.00 to \$144.00 per sq. ft. (Exhibit R- page 28).

[24] During cross-examination by the Complainant and questioning by the Board, the Respondent advised the Board of the following:

- a. Sale comparable #2 at 4810 93<sup>rd</sup> Street was demised into office and laboratory space and little space was left for warehouse.
- b. All the sales comparables were single buildings.

[25] During argument and summation, the Respondent advised the Board that the subject property was assessed fairly based on market and equity.

[26] The Respondent noted the Complainant's sale comparables were inferior and the subject property had more than 14,000 square feet of finished main floor area. In addition, the Respondent stated that many of the Complainant's sale comparables had below market leases that would affect their market value.

[27] The Respondent requested that the Board confirm the 2013 assessment of \$4,780,000.

### **Decision**

[28] The decision of the Board is to confirm the 2013 assessment of \$4,780,000.

### **Reasons for the Decision**

[29] The Board was not persuaded by the Complainant's sale comparables. A number of the sales have below market leases which could affect their market value. In addition, a number of the sales had a higher site coverage and more upper office finish than the subject property. These factors diminished the comparability of the sales to the subject.

[30] The Board was not persuaded by the Respondent's sale comparables. The Board wondered about the assessment methodology of bringing forth sale comparable groupings for each individual building. Each sale comparable grouping did not compare with the subject property.

[31] The Board was somewhat persuaded by the equity comparables presented by the Respondent. All of the equity comparables had a two building count, the same as the subject property and all were in neighborhood group 18. The equity comparables were similar in site coverage, and similar in total building area. Although the effective age of numerous equity comparables was newer than the subject property, there was still room for a downward adjustment. In addition, none of the Respondent's equity comparables had upper finished areas, which is similar to the subject property. The equity comparables ranged from \$115.00 per square foot to \$144.00 per square foot and the subject property at \$120.00 fits well within the range.

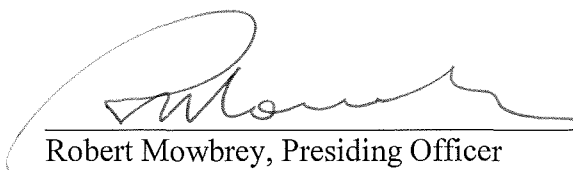
[32] The onus is on the Complainant to provide sufficient and compelling evidence to show the incorrectness of an assessment. The Board is not satisfied that the Complainant provided sufficient and compelling evidence for the Board to conclude the assessment is incorrect.

### **Dissenting Opinion**

[33] There was no dissenting opinion.

Heard November 27, 2013.

Dated this 17<sup>th</sup> day of December, 2013, at the City of Edmonton, Alberta.



Robert Mowbrey, Presiding Officer

### **Appearances:**

Adam Greenough  
for the Complainant

Suzanne Magdiak  
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.*