

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group v The City of Edmonton, 2013 ECARB 01683**

**Assessment Roll Number:** 9988077

**Municipal Address:** 9450 45 AVENUE 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 they had no objection to the composition 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 medium warehouse property located in the Papaschase Industrial Subdivision of south Edmonton. It is a three building property whose buildings were constructed in 1982, 2001 and 2002. All three buildings are in average condition and located at 9450 45 A Avenue NW. Building one is 31,942 square feet and building two is 13,499 square feet for a total of 45,441 square feet. Building three is a 1,125 square foot cost building. The assessment methodology for the first two buildings is the direct sales approach. The site coverage is 21.5 % and the 2013 assessment is for \$7,247,500.

#### **Issues**

[4] Is the market value of the subject property in excess of similar properties?

Is the subject inequitably assessed when compared to 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 \$7,247,500 exceeds the best estimate of market value and is inequitably assessed when compared to similar properties. In support of this position, the Complainant presented the Board with a 52 page evidence package marked as Exhibit C-1. In addition, the Complainant also provided the Board with a 23 page rebuttal package marked as Exhibit C-2.

[7] The Complainant presented the Board with photographs, maps, and assessment details, detailing the subject property (Exhibit C-1 pages 5-7, 13 and 14).

[8] The Complainant presented four sales comparables to the Board. The sales ranged from 1978 to 1998 for year of construction. The gross building area ranged from 26,041 square feet to 39,663 square feet and site coverage ranged from 27 to 30%. The Complainant noted that the site coverage of the subject at 22% is less than typical. The sales dates ranged from July 2008 to September 2011 and the price per square foot ranged from \$113.12 to \$152.00. The Complainant noted that the median of the four sales is \$139.25 per square foot. The Complainant stated that the subject property’s assessment of \$159.49 per square foot is an inaccurate representation of market value for the subject property (Exhibit C-1 page 9).

[9] The Complainant utilized the time-adjusted factors provided by the City from the date of sale to the valuation date (Exhibit C-1 page 15).

[10] The Complainant presented eight equity comparables to the Board. The equity comparables ranged in size from 36,998 square feet to 53,779 square feet with an assessment range from \$132.08 to \$159.76 per square foot. The median of the eight comparables is \$145.85 which is lower than the subject’s assessment of \$159.49 (Exhibit C-1 page 10).

[11] 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...

[12] During rebuttal, the Complainant critiqued the sales comparables provided by the Respondent. Sales comparables 2 and 5 are located on major arterial roadways and therefore not comparable. Sales comparables 1, 4, 5 and 6 have vastly superior site coverage and are also not comparable. Further, sales comparables 1-4 and 5 had factors that would have affected the sales including excess land, escalating lease rates, attached crane ways and a sale lease back.

[13] In the rebuttal document, the Complainant used eight equity comparables (Exhibit C-2, page 11), four from the Complainant and three from the Respondent and one that was common to both parties (Exhibit R-1, page 29). The equity comparables were selected by using a plus or minus 4% for site coverage. These blended equity comparables showed a median of \$148.08 supporting the request of \$145.00 per square foot.

[14] In conclusion the Complainant requested that the Board reduce the 2013 assessment from \$7,247,500 to \$6,589,000 based on market value and an equity value assessment.

### **Position of the Respondent**

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

[16] 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 7).

[17] 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 8, 9 and 10).

[18] The Respondent provided the Board with maps, photographs and assessment details of the subject property (Exhibit R-1 pages 12-18).

[19] In support of the City of Edmonton's assessment, the Respondent presented six sale comparables. The comparables ranged in year built from 1976 to 2007, and ranged in site coverage from 12 to 29%. The total building size ranged from 30,824 to 61,028 square feet and time-adjusted sale price per square foot of total building area ranged from \$152.00 to \$194.00 (Exhibit R-1 page 22).

[20] The Respondent presented six equity assessment comparables to the Board. The equity comparables ranged in effective age from 1983 to 2003 and site coverage ranged from 16 to 26%. The total building size ranged from 36,161 to 78,276 square feet. The assessment per square foot of total building area ranged from \$148.00 to \$187.00 (Exhibit R-1, page 29).

[21] During argument and summation, the Respondent advised the Board that averages can be misleading and the Board should concentrate and look at the best comparables.

[22] The Respondent requested that the Board confirm the 2013 assessment of \$159.00 per square foot or \$7,247,500.

### **Decision**

[23] The decision of the Board is to confirm the 2013 assessment of \$7,247,500.

### **Reasons for the Decision**

[24] The Board was persuaded by the common sale at 9330 45<sup>th</sup> Avenue provided by both the Complainant and the Respondent. Obviously, the parties selected this common sale to defend their position. The common sale at 9330 45<sup>th</sup> Avenue produced a time-adjusted selling price of total building square footage of \$152.00, compared to the subject property of \$159.00. The Board agrees with the Respondent that an upward adjustment is necessary to make this property more comparable to the subject. Accounting for the comparable's inferior site coverage would make it more comparable to the subject and provide support for the subject's assessment.

[25] The Board was further persuaded by the common assessment equity comparable at 9115 39<sup>th</sup> Avenue provided by both the Complainant and the Respondent. This property was similar to the subject in terms of location, age, building count (3), site coverage and total building area. The assessment per square foot of total building area was \$157.00 compared to the subject property of \$159.00.

[26] The Board did not place much weight on the sales comparables from either party. As the Respondent pointed out to the Board with the color coding system, numerous adjustments in value would be required and the Board did not have adequate evidence to quantify any adjustment.


[27] Jurisprudence has established the onus of showing the incorrectness of an assessment rests with the Complainant. The Board is not satisfied that the Complainant provided sufficient and compelling evidence for the Board to conclude the assessment is incorrect.

### **Dissenting Opinion**

[28] 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.*