

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group v The City of Edmonton, 2013 ECARB 01695**

**Assessment Roll Number:** 4149266  
**Municipal Address:** 11610 178 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**  
**Petra Hagemann, Presiding Officer**  
**John Braim, Board Member**  
**Pam Gill, Board Member**

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### **Procedural Matters**

[1] Upon questioning by the Presiding Officer, the parties before the Board indicated no objection to the Board's composition. In addition, the Board Members indicated no bias with respect to this file.

### **Preliminary Matters**

[2] There were no preliminary matters.

### **Background**

[3] The subject property is a medium warehouse located in the Edmiston Industrial neighbourhood. The building area is 26,045 square feet (sq. ft.), which is also the main floor area. It was constructed in 1997 and has 26% site coverage. The 2013 assessment based on the sales comparison approach is \$3,589,000.

### **Issue**

[4] Is the subject property assessed correctly?

### **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 presented written evidence (Exhibit C-1, 54 pages and Exhibit C-2, 19 pages) as well as oral argument for the Board's review and consideration.

[7] The Complainant advised that the subject property sold in June 2009 for \$2,375,000 and that its time-adjusted sale price of \$2,527,713 or \$97.05/sq. ft. was the best indicator of its market value. The Complainant indicated that the sale was valid and referred the Board to *697604 Alberta Ltd. v. Calgary (City of)*, 2005 ABQB, in which Justice Acton relied upon *Re Regional Assessment Commissioner, Region No. 11 v. Nesse Holdings Ltd. et al.* (1984), 47 O.R. (2d) 766 (Ont. H.C.J. Div. Ct.) (*Nesse*). The Court in *Nesse* stated "...I think that generally speaking the recent sales price, if available as it was in this case, is in law and, in common sense, the most realistic and most reliable method of establishing market value" (C-1, pg 26-32).

[8] In addition to the sale of the subject, the Complainant provided two additional sales comparables at \$130.87/sq. ft and \$130.01/sq. ft. (C-1, page 8). The subject is assessed at \$137.80/sq. ft.

[9] The Complainant criticized the Respondent's comparables (C-2, page 4). Four out of the 6 are located in the south side (a more superior market area) and all 6 have greater main floor finish while 3 have upper floor finish. Sale 5 is a leaseback and should not be used in the analysis.

[10] The Complainant requested that the Board reduce the 2013 assessment of the subject based on the sale of the subject and its time-adjusted price as of the valuation date to \$2,527,500.

### **Position of the Respondent**

[11] The Respondent presented written evidence (Exhibit R-1, 52 pages) and oral argument for the Board's review and consideration.

[12] The Respondent reminded the Board of the Mass Appraisal process (R-1, pp. 8-11) and the Factors Affecting Value (R-1, pp. 12-14). These factors in order of priority are: main floor building area, site coverage, effective age, condition, location, main floor finished area and upper floor finished area. Other adjustments, such as for rear buildings with no street access etc., may be applied to properties on a site-specific basis to recognize additional factors which may affect market value.

[13] The Respondent submitted 6 sale comparables (R-1, pg. 24) ranging from a time-adjusted sale price (TASP) of \$131/sq. ft. to \$164/sq. ft. The subject is assessed at \$138/sq. ft. Comparables outside of the market area were used as there was not sufficient data within the subject's market area.

[14] Four equity comparables were also provided (R-1, pg.31) to support the assessment of the subject. These ranged from \$130/sq. ft. to \$151/sq. ft.

[15] The Respondent critiqued the Complainant's sales comparables as follows: #1 once adjusted for age, size and location, would support the assessment of the subject; #2 (C-1, page 8) is a building of which 8000 sq. ft. is covered by a canopy which would have different utility than an enclosed area and may affect the purchase price. Comparable #3 is the sale of the subject.

[16] The Respondent submitted that during their validation process it was revealed that the vendor was "highly motivated" and sold the subject for less than market value. For this reason the subject property's sale was not used in the model.

[17] The Respondent submitted that the subject is assessed correctly and that the time-adjusted sale price would not be the correct value to attribute to the subject as it was a motivated sale. Furthermore, the Complainant's own sales comparables support the assessment. For these reasons the Respondent requested that the 2013 assessment be confirmed at \$3,589,000.

### **Decision**

[18] The correct 2013 assessment for the subject property is \$3,589,000.

### **Reasons for the Decision**

[19] The Board finds that while the sale of the subject can be a strong indicator of value, it is only the best indicator if it is found to have taken place under normal market conditions. Although it was an arm's length sale, the subject appears to have sold well below market and therefore raises some questions.

[20] The Board would have preferred more details on the sale itself. However, all it had to consider was a notation on page 37 of Exhibit R-1 referring to a comment by the agent of the vendor noting that the vendor had been highly motivated and that the subject had sold for less than market value. Neither the City's representative (who had talked to the vendor's agent) nor the agent himself were present at the hearing for questioning and further clarification. The Board further considered that this sale had not been included in the model due to it having been a motivated sale. The Board therefore finds that the sale of the subject in this case is not the best indicator of its market value.

[21] The Board reviewed the sales comparables provided by the Complainant. Comparable #2, the Tirecraft property was not given much weight as its gross building area including a canopy of 8,000 sq. ft. is not comparable to the subject. Comparable #1 similar to the subject in age, land size, site coverage and building area with minor adjustments for location, supports the assessment of the subject.

[22] The Board was persuaded by the Respondent's sales comparables similar to the subject in age and size and once adjusted for their superior location support the assessment of the subject.

[23] The Board reviewed the Respondent's equity comparables which were similar to the subject in most attributes. They ranged in TASP for total building area from \$130/sq. ft. to \$151/sq. ft. further supporting the assessment of the subject at \$138/sq. ft.


[24] The Board finds the 2013 assessment of the subject property at \$3,589,000 is correct and equitable.

**Dissenting Opinion**

[25] There is no dissenting opinion.

Heard October 16, 2013.

Dated this 13th day of November, 2013, at the City of Edmonton, Alberta.

  
Petra Hagemann, Presiding Officer

**Appearances:**

Adam Greenough  
for the Complainant

Marcia Barker  
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.*