

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2014 ECARB 00652

Assessment Roll Number: 9977582
Municipal Address: 17703 114 AVENUE NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: \$2,212,000

Between:

Classic Tops Solid Surface Manufacturing Ltd represented by Altus Group
Complainant
and

The City of Edmonton, Assessment and Taxation Branch
Respondent

DECISION OF
Petra Hagemann, Presiding Officer
Brian Frost, Board Member
Darryl Menzak, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer the parties indicated they did not object to the Board's composition. In addition, the Board members stated they had no bias with respect to this file.

Background

[2] The subject property is a 52,051 square foot (sq ft) level site upon which is situated a 9,975 warehouse in average condition. There is 770 sq ft of main floor finished office space. The building was built in 2002. Site coverage is 19.2%. The subject property is situated in the Armstrong Industrial neighborhood of northwest Edmonton at 17703 - 114 Ave NW.

[3] The assessment was completed using the Direct Sales Comparison Approach to Value.

Issues

[4] Is the assessment too high given the recent sale of the subject property for an amount less than the 2014 assessment?

Position of the Complainant

[5] The Complainant filed the complaint on the basis that the assessor had failed to recognize fair market value in the assessment of the subject property. The property, with the adjacent parcel, was purchased by the owner in August 2009 for \$1,970,000. Using the City of Edmonton Time Adjustment Factors, the Time Adjusted Sale Price, (TASP), of the subject property and adjacent land parcel, effective the July 1, 2013 valuation date, was \$2,405,961.

[6] The adjacent parcel was vacant at the time of purchase. It remains vacant and is used as parking and amenity space for the subject property. The Complainant concluded that, on the basis that the assessment of the adjacent parcel fairly represented value, deducting the 2014 assessment of the adjacent parcel (\$789,000) from the TASP of both parcels would result in the fair market value of the subject property being \$1,616,961.

[7] In support, the Complainant brought forward *697604 Alberta Ltd v Calgary (City)* [2005] A.B.Q.B. No.512 in which Madam Justice Acton referred to *Re Regional Assessment Commissioner, Region No. 11 and Nesse Holdings Ltd. et al.* 1984 CanLII 1857 (ON SC) which states:

"I think that generally speaking the recent sales price, if available... .. is in law and, in common sense, the most realistic and most reliable method of establishing market value".

Justice Acton then concluded:

"In my view, the foregoing errors demonstrate a failure on the part of the MGB to reasonably apprehend and apply the evidence before it to the principles of valuation set out in the applicable legislation. In particular, the MGB unreasonably refused to consider evidence of a recent sale that fell squarely within the statutory definition of market value."

[8] Also cited was *Nesse Holdings Ltd. et al.* 1984 CanLII 1857 (ON SC) which states:

"The other methods of establishing market value such as recent sales of comparables, capitalization of income and depreciated replacement cost, are only hypothetical and indirect means of getting to the market value and are obviously less valuable than an actual recent free sale of the subject property."

[9] The Complainant also brought forward the definition of market value from the Municipal Government Act.

[10] In response to questions from the Respondent regarding the validity of the subject property sale, the Complainant presented rebuttal evidence. The Complainant confirmed the sequence of events, backed by land transfer documents, that described an arms length sale immediately followed up by a non arms length transfer.

[11] The Complainant asked that the Board reduce the 2014 assessment of the subject property to \$1,616,961.

Position of the Respondent

[12] The Respondent stated that the sale of the property was non arms length, noting the last names on the transfer documents were the same and they were therefore related parties. Accordingly, the Respondent stated that onus had not been met and the assessment should be confirmed.

[13] The Respondent defended the assessment on the basis that the International Association of Assessing Officers (IAAO) and the Appraisal Institute of Canada recognize that all three approaches to value are valid in mass appraisal and that each may be used in certain circumstances. The Respondent explained that the majority of office/warehouse sale transactions involved owner occupied properties and the market has been very active for this type of property. Accordingly the Direct Sales Comparison approach is employed.

[14] The Respondent provided a table displaying the sale of five properties similar to the subject that occurred between July 2008 and September 2012. The Respondent's comparable sales ranged in year built from 1966 to 2000; ranged in size from 5,219 sq ft to 11,952 sq ft; and ranged in site coverage from 12% to 25%. All had a similar office component. The time adjusted sale prices (TASP) ranged between \$196.36 per sq ft and \$1257.17 per sq ft. The Respondent concluded that the \$221.76 per sq ft assessment of the subject property, built in 2002, with 9,974 sq ft of space and 19% site coverage was well supported.

[15] The Respondent provided a table displaying the assessment of six properties similar to the subject (equity comparables). The Respondent's comparables ranged in year built from 1971 to 2010; ranged in size from 7,317 sq ft to 10,271 sq ft; and in site coverage from 15% to 19%. Two of the equity comparables had second floor office space. The assessments ranged between \$201.87 and \$329.33 per sq ft. The Respondent concluded that the \$221.76 per sq ft assessment of the subject property was fair and equitable.

[16] The Respondent asked that the Board confirm the 2014 assessment of \$2,212,000.

Decision

[17] The Board confirms the 2014 assessment of \$2,212,000.

Reasons for the Decision

[18] The Board considered the evidence regarding the sale of the subject property and is satisfied that based on the land transfers and documented sequence of events set out by the Complainant, it is arms length and hence a valid sale.

[19] The Board considered the Complainant's argument and noted that it rested on the sale of the subject parcel, a sale muddled somewhat by the fact that the sale involved another adjacent parcel, and while the parcels are contiguous, they are not legally tied. The Board recognizes the sale of the subject property as being a valid sale however; it may not necessarily be reflective of market value. Market value is defined in the Municipal Government Act as an amount that 'might be expected to realize'. Market transactions result in sales and ultimately 'sales prices'. In other words a sales price is historical while market value as defined in the legislation is an anticipated value.

[20] The Board accepts that court decisions are legal and binding but the Board is also cognizant that for the premise used in a judgment to be followed in subsequent decisions, the circumstances must also be similar. The Board is not aware of all of the circumstances in the two cited decisions and must therefore exercise caution before accepting the decisions verbatim and applying the argument to this decision.

[21] In the absence of market data in support of the sale price, the Board was not persuaded to alter the assessment.

[22] The Board considered the Respondent's evidence and noted that with five sale comparables and six assessment comparables the assessor had sufficient sales and equity information to determine that the subject property assessment is both fair and equitable.

Dissenting Opinion

[23] There was no dissenting opinion.

Heard June 25, 2014.

Dated this 7th day of July, 2014, at the City of Edmonton, Alberta.



Petra Hagemann, Presiding Officer

Appearances:

Adam Greenough, Altus Group
for the Complainant

Cherie Skolney, Assessor
Jason Baldwin, Assessor
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.

Appendix

Legislation

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.

Exhibits

C-1 – Complainant’s Brief (45 pages)

C-2 – Complainant’s Rebuttal Brief (26 pages)

R-1 – Respondent’s Brief (45 pages)