

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group v The City of Edmonton, 2014 ECARB 00653**

**Assessment Roll Number:** 1618743

**Municipal Address:** 12230 163 STREET NW

**Assessment Year:** 2014

**Assessment Type:** Annual New

**Assessment Amount:** \$1,889,500

Between:

**BML Power Systems Ltd represented by Altus Group**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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### **DECISION OF**

**Petra Hagemann, Presiding Officer**

**Brian Frost, Board Member**

**Darryl Menzak, Board Member**

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### **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.

### **Preliminary Matters**

[2] The Respondent recommended that the assessment for the subject property be adjusted downward by 5% to reflect the irregular shaped lot. The recommended assessment was \$1,795,000. The recommendation was declined by the Complainant and hearing proceeded.

### **Background**

[3] The subject property is a small warehouse located in the Carleton Square Industrial neighborhood. The building built in 2000 is 7,317 square feet (sq ft) in size with 2,752 sq ft of main floor office area. The site area is 43,271 sq ft with 16.9% site coverage.

### **Issues**

[4] Is the current assessment greater than market value and is the irregularity of the lot correctly recognized?

### **Position of the Complainant**

[5] The Complainant took the position that the assessment of the property is too high taking into consideration the sale of the property and the irregular shape of the lot.

[6] The Complainant provided documentation for the sale of the subject property indicating a sale price of \$1,350,000 in April of 2009 with a time adjusted selling price (TASP) of \$1,616,625 or \$220.94 per sq ft compared to the assessment of \$258.23 per sq ft.

[7] The Complainant submitted several comparables where the City of Edmonton made an adjustment of -5% or -10% to their total assessments to account for irregular shaped land. The Complainant provided a calculation where a similar -10% adjustment was made to the assessment of the subject property. The result was a requested assessment of \$1,700,500.

[8] 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."*

[9] 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."*

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

### **Position of the Respondent**

[11] The Respondent provided an aerial photograph of the property which illustrated that in spite of its shape the property was well utilized.

[12] The Respondent provided seven (one property sold twice) sales comparables for the Board's consideration. All comparables were from the same Industrial group. Their effective

ages ranged from 1966 to 2007 and the site coverage ranged from 9 to 26%. The lot sizes range from 19,223 sq ft to 71,472 sq ft and all had finished office space except for the property that sold twice. The TASP for the comparables ranged from \$239.22 per sq ft to \$339.56 per sq ft. All of the sales comparable would require some and upward or downward adjustment to make them comparable to the subject. The Respondent also provided third party documents in support of the sales comparables presented.

[13] The Respondent also provided six equity comparables from the same Industrial group as the subject property. They ranged in effective age from 1975 to 2008 and had site coverage from 8 to 22%. The lots ranged in size from 31,212 sq ft to 104,987 sq ft and all had some degree of office finish. The assessments ranged from \$245 to \$357 per sq ft with the assessment of the subject at \$245 per sq ft. The Respondent suggested for comparability, four of the properties would require a downward adjustment; one would require an upward adjustment while comparable #2 required small adjustments both up and down making it similar to the subject. Its assessment is \$255 per sq ft.

[14] The Respondent also submitted that none of the sales or equity comparables provided had an adjustment applied to them for irregular shape.

[15] The Respondent noted that a negative 5% adjustment had been applied to the subject's assessment due to its irregular shaped land and respectfully requested the Board accept their recommendation to reduce the assessment to \$1,795,000.

### **Decision**

[16] The decision of the Board is to reduce the assessment to \$1,795,000.

### **Reasons for the Decision**

[17] The Board considered the sale of the subject property and is satisfied that it was valid, however no additional evidence was presented that supported the sale price as being 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.

[18] The Board noted that the sale occurred in 2009 approximately four years prior to valuation date. The Board accepts that extended passage of time opens the time adjusted sale price to question. During such an extended period of time there could have been material changes to the subject that could affect its current value. There was no evidence provided to support an argument for or against such material change to the subject property.

[19] In response to the Complainant's reference to the court decisions, the Board finds that they 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

[20] The Board also considered the Complainant's evidence to support a negative 10% reduction for shape versus the 5% recommended by the Respondent. The Board noted that comparable #5 provided by the Complainant, similar in shape to the subject property had a negative 5% adjustment applied to its assessment. The Board is satisfied that a 5% adjustment is fair.


[21] The Board considered the equity and sales comparables provided by the Respondent and found support for the assessment of the subject property.

**Dissenting Opinion**

[22] There was no dissenting opinion.

Heard June 25, 2014.

Dated this 7<sup>th</sup> day of July, 2014, at the City of Edmonton, Alberta.

  
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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 (57 pages)

R-1 – Respondent’s Brief (50 pages)