

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group for Capilano Investment Inc. v The City of Edmonton, 2014 ECARB 01572**

**Assessment Roll Number:** 9558404  
**Municipal Address:** 9945 50 Street NW  
**Assessment Year:** 2014  
**Assessment Type:** Annual New  
**Assessment Amount:** \$15,839,000

Between:

**Altus Group for Capilano Investment Inc.**

Complainant

and

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

Respondent

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**DECISION OF**  
**Petra Hagemann, Presiding Officer**  
**Darryl Menzak, Board Member**  
**Taras Luciw, 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.

### **Background**

[2] The subject property known as Capilano Center, consists of two buildings constructed in 1978. The main or first building is multi storey with office on the upper floors and CRUs (Commercial Retail Unit) space on the main level. There is also parking on the main level of the first building. The second building is one storey and contains CRU space and an area used for enclosed parking.

### **Issues**

[3] Is the allocation of office space, CRU space, storage space and parking stalls correct?

[4] Should the converted space in the second building (north of the main building) be assessed as warehouse space or on the basis of its current use for parking?

### **Position of the Complainant**

[5] The Complainant took the position that the areas allocated for office space should be 69,021 square feet, the CRU space should be 21,218 square feet and storage space should be 720 square feet.

[6] With respect to the converted parking area in the second building, the Complainant suggested that the area should be assessed on the basis that it is used for parking and that a rate of \$60 per stall should be applied to the 15 stalls. This area of the building was converted from CRU space to parking space approximately 18 months ago.

[7] The Complainant neglected to include 36 above ground parking stalls in the revised pro forma but was in agreement with the Respondent that they should be included and assessed at \$45 per stall.

[8] Taking into account the agreed to changes for the above ground parking and the request for the converted parking area, the Complainant requested that the assessment be reduced to \$15,347,000.

### **Position of the Respondent**

[9] The Respondent was in agreement with the Complainant with respect to the area allocation changes to the office, CRUs and storage space as submitted by the Complainant. The Respondent provided a revised pro forma and recommended assessment of \$15,672,000 for the subject property.

[10] The Respondent took the position that the portion of the one storey building which was converted to a parking garage should be assessed as warehouse space. The area is correctly assessed as a CRU unit and currently has warehouse attributes such as open ceiling, concrete block construction, overhead heaters, concrete floors and a bay door.

[11] The Respondent argued that the space could be used for other purposes and that the change to the space as a parking garage was a management decision.

[12] The Respondent referred to their tenant space type definition for a CRU-warehouse as unfinished space, containing one or more bay doors and typically utilized for storage, light manufacturing or product distribution.

[13] The Respondent also stated that parking areas can be at, below or above ground, part of a parking structure and may or may not provide protection from the elements. The converted area of the subject property does not meet the criteria of the definitions as outlined in the assessment brief.

[14] The Respondent requested the Board to accept the recommendation based on the agreed to space allocations changes and that the assessment should be reduced to \$15,672,000.

### **Decision**

[15] The decision of the Board is to reduce the assessment to \$15,347,000.

### **Reasons for the Decision**

[16] The Board accepted the space allocation changes that were agreed to by both parties.

[17] The Board further accepted that the 36 covered stalls should be included in the assessment of the property.

[18] The Board reviewed the definitions for parking as outlined in the Respondent's assessment brief. There are two definitions that were considered by the Board. The definition for covered parking is on ground level that is not a parking structure and has limited protection from the outside elements. Aboveground parking is on ground level or higher in a parking structure that has protection from the outside elements. The Board had difficulty in determining which criteria best fit the subject. The subject property straddles both definitions as it is not a typical parking area or structure.

[19] The Board then considered the highest and best use of the property and its relationship to its current use. While the previous use of the converted area may have been as a CRU, the fact remains that it is currently used for parking. The Board then referred to the Principles of Assessment published by Alberta Municipal Affairs where it states in part:

*"Highest and best use is driven by the market..... For assessment purposes, the actual use of the property on December 31 of the assessment year is the use that is typically assessed. For most properties, the highest and best use is the actual current use of the property."*

[20] The Board did not accept the position of the Respondent that the area converted to parking should be assessed as a warehouse. The area does have some of the attributes of warehouse space but the Board placed more weight on the current use.

[21] The Board finds that the assessment should reflect the current use of the converted area as a parking structure and reduces the assessment to \$15,347,000.

### **Dissenting Opinion**

[22] There was no dissenting opinion.

Heard September 3, 2014.

Dated this 26<sup>th</sup> day of September, 2014, at the City of Edmonton, Alberta.



Petra Hagemann, Presiding Officer

### **Appearances:**

Chris Buchanan  
for the Complainant

Marsali Huolt, City of Edmonton  
Steve Lutes, City of Edmonton  
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

R-1 Respondent’s Brief