EDMONTON
Assessment Review Board

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NOTICE OF DECISION NO. 0098 172/12

Altus Group
780-10180 101 ST NW
Edmonton, AB T5J 3S4

The City of Edmonton
Assessment and Taxation Branch
600 Chancery Hall
3 Sir Winston Churchill Square
Edmonton AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on July 30, 2012, respecting a complaint for:

Roll Number	**Municipal Address**	**Legal Description**	**Assessed Value**	**Assessment Type**	**Assessment Notice for:**
9546326	4703 68 Avenue NW	Plan: 7520797 Block: X	$57,273,500	Annual New	2012

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.

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cc: Associated Developers Ltd.

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 846

Assessment Roll Number:	9546326
Municipal Address:	4703 68 Avenue NW
Assessment Year:	2012
Assessment Type:	Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Lynn Patrick, Presiding Officer
Taras Luciw, Board Member
Thomas Eapen, Board Member

Preliminary Matters

[1] Neither party objected to the composition of the Board. The Board indicated no bias with respect to this matter.

[2] Upon the parties' request, evidence was carried forward from Roll 9994009, and 10014321.

Background

[3] The property is a 7 building site, located at 4703 - 68th Avenue, Edmonton. The buildings are 63,589 sq ft, 48,902 sq ft, 120,470sq ft, 208,841 sq ft, 62,235 sq ft, 67,200 sq ft and 47,780 sq ft in size and cover 33% of the 1,697,565 sq ft lot. The buildings were built between 1976 and 2010. The property is located in the Pylypow Industrial subdivision, in the southeast quadrant of the City.

Issues

[4] The Complainant advised the Board that the following items were at issue:

a. The subject property is assessed in contravention of Section 293 of the Municipal Government Act and Alberta Regulation 220/2004.

b. The use, quality, and physical condition attributed by the municipality to the subject property are incorrect, inequitable and do not satisfy the requirement of Section 289 (2) of the Municipal Government Act.

c. The assessed value should be reduced to the lower of market value or equitable value based on numerous decisions of Canadian Courts.

d. The assessment of the subject property is in excess of its market value for assessment purposes.

e. The assessment of the subject property is not fair and equitable considering the assessed value and assessment classification of comparable properties.

f. The municipality's method of assessment for the subject property is inappropriate given the characteristics and physical condition of the subject property.

g. The assessment regression model method used is incorrect and does not accurately reflect the market value for assessment purposes of the subject property.

h. The municipality has inappropriately adjusted the sales used in the multiple regression approach.

i. Sales of similar properties indicate a lower market value of $46,426,000.

j. Assessments of similar properties indicate a lower equitable value of $46,426,000.

k. The aggregate assessment / sq ft applied is inequitable with the assessments of other similar and competing properties.

l. The aggregate assessment / sq ft applied to the subject property does not reflect market value for assessment purposes; when using the direct sales comparison approach the indicated market value is $46,426,000.

[5] During the hearing, the Board was presented with evidence and heard argument on the following issues:

a. Is the subject property assessed in excess of its market value when compared to sales of similar properties?

b. Has the subject property been equitably assessed when compared to similar properties?

Legislation

[6] The Municipal Government Act reads:

***Municipal Government Act*, RSA 2000, c M-26**

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

[7] The Complainant provided a 212 page brief to the Board in support of its argument that the assessment should be reduced to $46,426,000. The Complainant presented evidence in support of the contention that the current market value of the property is $46,426,000, or $75.00/ sq ft, based upon recent market transactions. The Complainant also provided evidence in support of his argument that the subject property should be equitably assessed at $46,426,000, or $75.00/ sq ft. The complainant argued that the property owner was entitled to the lower of market value or equity.

[8] The five comparable sales provided took place between February 2009 and March 2011, and were built between 1977 and 2007, with the subject being built in different years between 1976 and 2010. They ranged in size from 296,258 sq ft to 1,017,311 sq ft. The indicated unit value for the five sales ranged from $67.66/ sq ft to $84.81/ sq ft with an average of $78.78/ sq ft and a median of $80.43/ sq ft. The subject was assessed at $92.52/ sq ft. The Complainant argued that these five sales comparables (Exhibit C-1, page 8), should be considered due to their comparability with the subject in size and age. The Complainant concluded that the requested value of $75.00/ sq ft was reasonable.

[9] The Complainant stated that sales #2 and #4 were also included with the equity comparables as #3 and #5.

[10] In conclusion to his main argument the Complainant stated that $75.00/sq ft was the most reasonable value. This resulted in a request to reduce the current assessment to $46,426,000.

[11] The Complainant provided five equity comparables to the Board in support of his argument that the subject property was inequitably assessed. Two of the equity comparables were in the southeast quadrant of the city, as was the subject, while three were in the northwest. They ranged in site coverage from 36% - 41%, compared to the subject property's 36%. The 2012 assessments ranged from $63.39/ sq ft to $94.83/ sq ft, with an average assessment/ sq ft of $76.21 and median of $73.25/ sq ft.

[12] The Complainant provided a Multi-Building Analysis in support of its argument that the number of buildings on site should make no difference to the assessment of a property. The Complainant provided scatter charts of the warehouse sales in south and northwest Edmonton (Exhibit C-1, pages 49 - 52) to demonstrate that the multi-building warehouse properties did not command any higher unit value than the single building properties.

[13] The Complainant also provided the Board with numerous single and multi-building warehouses and corresponding sales comparables and argued that this evidence demonstrated that multi-building or single building warehouse properties did not warrant any differential in unit prices for sales or assessment (Exhibit C-1, pages 53-212). In support of this argument, the Complainant provided the Board with 10 comparable charts, comparing various properties in both the northwest and southeast quadrant of the City.

[14] The Complainant also provided the Board with a rebuttal package containing 52 pages (Exhibit C-2). The Complainant argued that when the replacement cost is compared to the market value, the two concepts are entirely different and produce different values. Essentially it does not matter if it costs more to build multiple-buildings on one site if no one is willing to pay more for them.

[15] The Complainant outlined the Respondent's eight sales comparables (Exhibit C-2 page 2). The first sales comparable was occupied by Public Works Canada while sale comparable #2 was anchored by the Federal Government under a long term lease, at a higher than market lease rate. The Complainant questioned the validity of these sales.

[16] The Complainant argued that the Respondent's sale #3 was significantly smaller then the subject property. The property had two craneways with 20 ton & 30 ton cranes. This property also had a compressor storage building, and therefore should not be considered as a comparable property. The Complainant indicated that the Respondent's 4th sale comparable was significantly newer and smaller.

[17] The Complainant stated that the Respondent's 5th sale comparable had nine jib cranes, five - 2 ton cranes, five - 5 ton cranes and 34 hoists. This property also had a 480 V, 1600 amp power supply with a 400 ft craneway. The vendor leased back the property for 20 years with four 5 year renewal options at a fixed rate. Based upon these facts, the Complainant questioned the validity of the sale as a comparable.

[18] The Complainant challenged sales comparables #6, #7, and #8 on the basis that they were office or mixed use properties.

[19] The Complainant referred to the SAR (Sale to Assessment Ratio) and questioned the validity of the sales as comparables because of the substantial disparity in the ratios. All but one of the ratios were outside the acceptable range for SAR.

[20] The Complainant concluded that a review of the recent market transactions indicated that the value of the subject property was $46,426,000. A review of the assessment of similar properties indicated that an equitable assessment for the subject property was also $46,426,000. The Complainant concluded that the assessment should be reduced to $46,426,000.

Position of the Respondent

[21] The Respondent submitted written evidence containing eight sales comparables of warehouse properties, three of which contained multiple buildings and five of which were single building properties. Two were located in the northwest quadrant and six were in the southeast quadrant, as is the subject (Exhibit R-1, page 13). The effective year built ranged from 1995 to 2008 and the lot size ranged from 134,249 sq ft to 862,603 sq ft. The total building size ranged from 39,663 sq ft to 291,285 sq ft and the site coverage ranged from 14% to 39%. Their time adjusted sales price ranged from $111.51/ sq ft to $203.16/ sq ft, which supported the assessment of the subject. The properties compared with the subject, which was built in different years between 1976 and 2010, had a lot size of 1,697,565 sq ft, a total building size of 619,017 sq ft with site coverage of 36%, and was assessed at $92.52/ sq ft. The Respondent stated that, despite some similarities, the comparable properties were sufficiently dissimilar to require consideration of equity comparables to fully support the assessment.

[22] The Respondent's evidence (Exhibit R-1) also contained eight equity comparables of multiple buildings, with two comparables located in the northwest quadrant and six located in the southeast (Exhibit R-1, page 22). The effective year built ranged from 1967 to 2007. The lot size ranged from 330,527 sq ft to 1,530,425 sq ft and the total building size ranged from 123,520 sq ft to 562,620 sq ft. The site coverage ranged from 34% to 37%. Their assessments ranged from $87.50/ sq ft to $109.29/ sq ft and supported the assessment of the subject. The properties compare closely with the subject, which was built between 1976 and 2010, had a lot size of 1,697,565 sq ft and a total building area of 619,017 sq ft with site coverage of 36%. The subject was assessed at $92.52/ sq ft.

[23] The Respondent addressed the Complainant's Multi-Building Analysis by explaining that multi-building industrial properties have been valued according to the same mass appraisal model as single building properties. In doing this, each building has been analyzed for its contributory value to the property. A single assessment has been produced that represents the aggregate market value of that particular property. A number of reasons for this approach were detailed, founded in both appraisal theory and market analysis, and include the cost of construction, differences in size and interior finish, decreased investment risks by leasing to multiple tenants. Further, site configuration may be improved, and a potential for subdivision can increase sale and rental options. Finally, analyzing each building allows the Respondent to make precise adjustments when necessary (Exhibit R-1, page 32).

[24] The Respondent summarized its response to the Complainant's Multi-Building Analysis by stating that multiple errors and omissions were detected which, when corrected, failed to support the Complainant's position. For instance, market value for multi-building sales had not been established, as typically only one multi-building sale was provided per comparison chart. Further, the multi-building sales provided by the Respondent indicated a higher value for multi-building properties.

[25] The Respondent reviewed the Complainant's south and northwest sales charts (Exhibit C-1, pages 49 - 52) and found omissions of numerous sales (Exhibit R-1, pages 37 - 39). The Respondent also reviewed each of the Complainant's 10 Direct Sales Analysis Charts and found that numerous sales were not included, non-arms length sales were included, properties were dissimilar and properties that did not sell were included.

[26] In reviewing the 164 pages in Appendix B of the Complainant's submission, the Respondent explained that it was impossible, with any degree of certainty, to determine the purpose of the material or how it proves the assessment of the property is incorrect.

[27] The Respondent requested that the 2012 assessment in the amount of $57,273,500 be confirmed.

Decision

[28] The decision of the Board is to confirm the 2012 assessment of $57,273,500.

Reasons for the Decision

[29] The Board considered all the evidence of the parties to reach its decision.

[30] The Complainant questioned the methodology of the assessment of the subject. The Board accepted that the direct sales comparison approach was used in the model with manual

adjustments as required, which is an acceptable approach in mass appraisal. The approach was audited and approved by the Province, as required by the assessment legislation.

[31] The Board does not accept the position of the Complainant that the assessment of multi-building properties, such as the subject, ought to be done on the basis that all the buildings are treated as one building and assessed as if one building.

[32] The Board notes that the lease rate comparables are not supported by any documentation and thus are not verified. The charts only contain southeast quadrant properties, which further reduces any probative value the evidence has to support of the proposition that building numbers have no affect on rates.

[33] The 2 scatter charts presented by the Complainant to show that there were no sale price differences between single and multi-building sites is rejected by the Board. The Complainant admitted that the charts did not contain all of the single and multi-building sales that occurred in those quadrants. The Board is of the view that the omission renders the charts potentially misleading and not reliable evidence.

[34] The 10 sales comparable charts are not given much weight as supportive of the Complainant's submissions for several reasons. The charts contained no headings thus it is not possible to determine what to conclude from the information. Additionally, the comparables are of mixed characteristics such as location, age and number of buildings. There is repetition of some of the comparables in different charts without explanation. The potential for selection of the group of single building sales left the question about the unselected sales and what they might disclose. It appears to have been prepared with randomly selected comparables. Furthermore, the Board finds that the numerous errors and omissions in the 10 sales comparable charts put the Complainant's evidence into question.

[35] The Board finds that the numerous errors and omissions in the 10 sales comparable charts put the Complainant's evidence into question.

[36] The position of the Respondent is that because of differences in sizes, age, condition, location, roadway exposure and finish, it is thus appropriate to assess the individual buildings on a multi-building site and then combine the individual assessments to reach the total annual assessment for each subject roll number. The Board accepts the position of the Respondent.

[37] The Board finds that none of the Complainant's sales comparables are of assistance in determining the market value of the subject property. Sale #1 is totally vacant at sale date and sale #2 is 20 years newer, containing 7.43 acres of excess land. Sale #3 is not comparable as it has an unusually large site coverage (54%) versus the subject property's 36%. Such high site coverage results in a lower sale price, and explains the $80.43 time adjusted sales price/ sq ft compared to the subject property's assessment of $92.52/ sq ft. The Complainant's comparable #4 is newer than the subject property, and is smaller, both in site area and leasable space. The Board does not find the Complainant's comparable #5 persuasive. Though the comparable is a multi-building site, it also has 1 ½ acres of excess land. Further, the sales data indicates that the comparable is leased at a below market rate. Such low leasing rates result in a depressed purchase price that is not be comparable to the subject property. The Board notes that sales comparables #2 and #4 are the same as the Complainant's equity comparables #3 and #5.

[38] Although the Respondent's sales comparables lack some similarities, the Board finds them more reliable than the Complainant's comparables which have inferior locations and an outlier aspect.

[39] The Board found the Respondent's equity comparables persuasive. The Respondent's equity comparables were closer in similarity than the Complainant's. All of the Respondent's equity comparables were multi-building properties, six of which were located in the southeast, as is the subject.

[40] The onus lies with the Complainant to show the assessment is incorrect. It is the Board's decision that there is not sufficient or compelling evidence for the establishment of a conclusion that the assessment is incorrect and the onus has not been met. The assessment is therefore correct, fair and equitable.

Dissenting Opinion

[41] There is no dissenting opinion.

Heard commencing July 30, 2012.
Dated this 30 day of August, 2012, at the City of Edmonton, Alberta.

Taras Luciw
For: Lynn Patrick, Presiding Officer

Appearances:

Walid Melhem, Altus Group
for the Complainant

Joel Schmaus
for the Respondent