EDMONTON
Assessment Review Board

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NOTICE OF DECISION NO. 0098 179/12

Altus Group
780-10180 101 Street 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 August 1, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
10064565	6704 50 Street NW	Plan: 0625512 Block: 12 Lot: 1	$25,990,000	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: 50th Street Equities Inc.

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 646

Assessment Roll Number:	10064565
Municipal Address:	6704 50 Street 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
Tom Eapen, Board Member

Preliminary Matters

[1] Neither party indicated any objection to the composition of the Board. No Board Member indicated any bias with respect to this matter.

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

Background

[3] The property is a 2 building site, located at 6704 50th street in the City Edmonton. The two buildings, of 103,600 and 123,100 square feet, cover 39% of the 584,588 square foot lot. Built in 2006, the property is located in the Roper Industrial subdivision, in the southeast quadrant of the City.

Issues

[4] The Complainant advised the Board that the following items were at issue (Exhibit C-1, page 3):

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 has utilized the incorrect valuation method in determining the value of the subject.

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

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

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

j. Sales of similar properties indicate a lower market value of $18,136,000.

k. Assessments of similar properties indicate a lower equitable value of $20,670,000.

l. The aggregate assessment per square foot applied is inequitable with the assessments of other similar and competing properties.

m. The aggregate assessment per square foot 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 $18,136,500. Please note: the Complaint is filed based on information contained in the Assessment Notice as well as preliminary observations and information from other sources. Therefore the requested assessment is preliminary in nature and may change. All the evidence supporting the issues/grounds will be provided in accordance with the legislation (42 days prior to the hearing) and after further investigation, or a satisfactory response from the assessment department, some of these issues may be resolved prior to a hearing.

[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 215-page brief to the Board in support of its argument that the assessment should be reduced to $18,136,000. The Complainant presented evidence in support of the contention that the current market value of the property is $18,136,000, or $80.00 per square foot, based upon recent market transactions. The Complainant also provided evidence in support of its argument that the subject property should be equitably assessed at $22,670,000, or $100.00 per square foot. The Complainant argued that the property owner was entitled to the lower of market value or equity.

[8] The Complainant further argued that the Respondent failed to make a -10% adjustment for the configuration of the subject property's rear building. When this adjustment is applied to the property, the assessment changed to $24,581,500 (Exhibit C-1, page 11).

[9] The five comparable sales provided took place between February 2009 and April 2010. They were built between 1996 and 2008, with the subject being built in 2006. They ranged in size from 118,800 square feet to 399,987 square feet. The indicated unit value for the five sales ranged from $67.66 per square foot to $125.70 per square foot with an average of $87.39 per square foot and a median of $80.43 per square foot. The subject is assessed at $114.64 per square foot. The Complainant argued that these five sales comparables (Exhibit C-1, page 8) should be considered due to the comparable characteristics of the subject such as age and size. It was concluded that the requested value of the subject property, at $80.00 per square foot, was reasonable.

[10] The Complainant argued its #3 sale was an owner occupied property and newer than the rest of the comparables. The value was closer to the average and median as provided by the range.

[11] The Complainant also argued that the sales #2 and #5 were the most comparable properties to the subject as they required the least adjustment when comparing them with the subject property. They were also nearest to the subject in terms of age and size.

[12] In conclusion to its main argument, the Complainant stated that $80.00 per square foot was the most reasonable value based on all of the above considerations. This resulted in a request to reduce the current assessment to $18,136,000.

[13] The Complainant provided four equity comparables to the Board in support of its argument that the subject property is inequitably assessed. These equity comparables were all in the southeast quadrant of the city, and ranged in site coverage from 37%-41%, compared to the subject property's 39%. The 2012 assessments ranged from $99.49 per square foot to $120.86 per square foot, with an average assessment per square foot of $106.41 and median of $102.64 per square foot. When asked by the Respondent, the Complainant stated that comparable #2 required the least amount of adjustment in order to be perfectly comparable to the subject property. Comparable #2 was the same age, and slightly smaller.

[14] In further 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 Southside and Northwest Edmonton (Exhibit C-1, pages 52 to 55.) The Complainant argued that these demonstrated that the multi-building warehouse properties did not command any higher unit value than the single building properties.

[15] The Complainant also provided the Board with several single and multi-building warehouses and corresponding sales comparables and argued that this evidence demonstrated that the multi-building or single building warehouse properties did not warrant any higher unit prices for sales or assessment (Exhibit C-1, pages 56-215). In support of this argument, the Complainant provided the Board with 2 scatter charts and 10 comparable charts, comparing various properties in both the northwest and southeast portion of the City.

[16] The Complainant also provided the Board with a 51-page rebuttal package (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.

[17] 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 long term lease, at higher than market lease rates. The Complainant questioned the validity of these sales.

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

[19] 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 foot craneway. The vendor leased back the property for 20 years with four 5 year renewal options at a fixed rate. These facts question the validity of the sale as a comparable.

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

[21] The Complainant referred to the Sale to Assessment Ratio (SAR) 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.

[22] The Complainant concluded in summary that a review of the recent market transactions indicates the value of the subject property was $18,136,000. A review of the assessment of similar properties indicates that an equitable assessment for the subject property is $22,670,000. The Complainant concluded that the assessment should be reduced to $18,136,000, as the property owner is entitled to the lower of market value or equity.

Position of the Respondent

[23] 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 1981 to 2008; the lot sizes ranged from 134,249 to 862,603 square feet; the total building size ranged from 39,663 to 291,285 square feet and the site coverage ranged from 14% to 39%. Their time adjusted sales prices ranged from $111.51 to $203.16 per square foot which supports the assessment of the subject. The properties compare with the subject, which was built in 2006, has a lot size of 584,590 square feet, a total building size of 226,700 square feet, a site coverage of 39% and is assessed at $114.64 per square foot. Despite some similarities, the comparable properties were sufficiently dissimilar, requiring consideration of equity comparables of more similar properties to support of the subject's assessment.

[24] The Respondent's evidence (Exhibit R-1) also contained four equity comparables of similar properties, all with multiple buildings and all located in the southeast quadrant (Exhibit R-1, page 23). The effective year built ranged from 2005 to 2008; the lot size ranged from 257,158 to 725,307 square feet; the total building size ranged from 102,950 to 249,600 square feet and the site coverage ranged from 34% to 39%. Their assessments ranged from $120.86 to $130.05 per square foot and support the assessment of the subject. The properties compare closely with the subject which was built in 2006, has a lot size of 584,590 square feet, a total building size of 226,700 square feet with site coverage of 39% and is assessed at $114.64 per square foot.

[25] The Respondent also provided a copy of a Composite Assessment Review Board decision wherein that Board discounted the Complainant's argument that the Respondent's method of assessing multi-building properties was unfair.

[26] 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 buildings. 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 cost of construction, differences in size and interior finish, and 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 34).

[27] 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 multiple building sales had not been established, as typically only one multiple building sale was provided per comparison chart. Further, the multiple building sales provided by the Respondent indicated a higher value for multiple building properties.

[28] The Respondent reviewed the Complainant's Southside and Northwest sales charts (Exhibit C-1, pages 52 - 55) 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.

[29] In reviewing 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.

[30] The Respondent refuted the Complainant's allegation that a 10% adjustment for configuration of the rear building had not been applied and stated that the adjustment had been made.

[31] The Respondent requested that the 2012 assessment in the amount of $25,990,000 be confirmed.

Decision

[32] The decision of the Board is to confirm the 2012 assessment of $25,990,000.

Reasons for the Decision

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

[34] The Complainant questioned the methodology of the assessment of the subject. The Board accepts that the direct sales comparison approach was used in the model with a manual adjustment for a rear building, which is an acceptable approach in mass appraisal. The approach was audited and approved by the Province, as required by the assessment legislation.

[35] The Board does not accept the Complainant's position 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.

[36] The Board notes that the lease rate comparables are not supported by any documentation and thus are not verified. The charts contain only southeast quadrant properties, which further reduces any value this evidence may have in supporting the proposition that building numbers have no affect on rates.

[37] The Board rejects the Complainant's 2 scatter charts illustrating that there are no sale price differences between single and multi-building sites on admission by the Complainant that the charts do not contain all of the single and multi sales that occurred in those quadrants. The Board is of the view that the omission renders the charts potentially misleading and are not reliable evidence.

[38] The 10 sales comparable charts are not given much weight as supportive of the Complainant's submission 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. The charts appear to have been prepared with randomly selected comparables.

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

[40] 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 Respondent's position.

[41] The Board reviewed the Complainant's comparable sales and finds that none of them are of assistance in determining the market value of the subject property. Sale #2 is not comparable as it has unusually large site coverage (54%) versus the subject property's 39%. Such high site coverage results in a lower sale price, and explains the $80.43 time adjusted sales price per square foot compared to the subject property's assessment of $120.86 per square foot. Comparable #1 has a substantially larger site area and building. The Complainant's comparable #3 is newer than the subject property and is smaller in both site area and leasable space. While comparable #4 is older and has higher site coverage, it is also notable that it has a very small main office and a larger upper office. The Board does not find the Complainant's comparable #5 persuasive in determining the market value of the subject property. Though the comparable is a multi-building site, it has 1 ½ acres of excess land. Further, the sales data indicates that the comparable was leased at a below market rate. Such low leasing rates result in a depressed purchase price that is not comparable to the subject property.

[42] The Respondent's sales comparables are lacking in similarities, as admitted by the Respondent. Accordingly, the Board places greater weight on the equity comparables.

[43] The Board finds the Respondent's equity comparables persuasive. The Respondent's equity comparables are more similar than the Complainant's. All of the Respondent's equity comparables are multi-building properties located in the southeast, two of which have major road exposure, as does the subject.

[44] The Board notes that the Final Assessment as contained in the Account Detail Summary is much higher than the actual assessment for the subject property. After analyzing the difference, the Board accepts the Respondent's argument that the -10% manual adjustment has already been applied to the subject property.

[45] The onus lies with the Complainant to show that the assessment is incorrect. The Board finds that the Complainant has not provided sufficient or compelling evidence to establish the conclusion that the assessment is incorrect and thus, the onus has not been met. The assessment is therefore correct, fair and equitable.

Dissenting Opinion

[46] There is no dissenting opinion.

Heard commencing July 30, 2012.
Dated this 28 day of August, 2012, at the City of Edmonton, Alberta.

Lynn Patrick, Presiding Officer

Appearances:

Walid Melhem, Altus Group
for the Complainant

Joel Schmaus
for the Respondent