EDMONTON
Assessment Review Board

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NOTICE OF DECISION NO. 0098 180/12

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:**
9994009	11204 - 184 Street NW	Plan: 0125651 Lot: 8	$14,192,500	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.

cc: Canadian Property Holdings (Alberta) Inc.

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 863

Assessment Roll Number:	9994009
Municipal Address:	11204 184 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] When asked by the Presiding Officer, the parties did not object to the composition of the Board. In addition, the Board members indicated no bias in the matter before them.

Background

[2] The subject property is a 149,626 sq ft warehouse situated on a 406,809 sq ft lot located in the White Industrial subdivision of Edmonton. It was constructed in 2001 and has site coverage of 37%.

Issues

[3] The Complainant's submissions raised the following issues:

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 classification of the subject premise is neither fair, equitable, nor correct.

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 $12,718,000.

j. 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 $12,718,000.

[4] During the hearing, the Board was presented with evidence and heard argument on only 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 assessments of similar properties?

Legislation

[5] 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

[6] The Complainant filed this complaint on the basis that the 2012 assessment of the subject property exceeded its market value. The Complainant stated that the four comparable sales provided were the best comparable properties available for comparison to the subject property (Exhibit C-1, page 8).

[7] The comparable sales took place between February 2009 and February 2010, and were built between 1996 and 2008, with the subject being built in 2001. They ranged in size from 118,800 sq ft to 261,535 sq ft. The indicated unit value for the four sales ranged from $67.66/sq ft to $125.70/sq ft with an average of $89.65/sq ft and a median of $82.62/sq ft. The subject is assessed at $94.85/sq ft.

[8] The Complainant argued that the sales #1 and #4 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 size.

[9] In conclusion to his main argument, the Complainant stated that $85.00/sq ft was the most reasonable value based on all of the above considerations. This resulted in a request to reduce the current assessment to $12,718,000.

[10] The Complainant also provided the Board with a rebuttal package with 27 pages (Exhibit C-2). The Complainant emphasized that it was important to select sales in the same size range as the subject property. Other sales may not be particularly meaningful due to the difficulty of adjusting for the size difference.

[11] The Complainant then outlined the Respondent's five sales comparables (Exhibit C-2 page 2). The first sales comparable was occupied by Public Works Canada while the Respondent's sale #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.

[12] The Complainant argued that the Respondent's sale #3 was significantly smaller than the subject property. The property had two craneways with 20 ton & 30 ton cranes. This property also had a compressor storage building. The Complainant stated this sale was not comparable to the subject property.

[13] The Complainant stated that the Respondent's 5^{th} 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. The Complainant questioned the validity of the sale as a comparable.

[14] On page 4 of Exhibit C-2, the Complainant stated the asking lease rate in the subject area was only $8.00/sq ft, which supported his case. The Complainant concluded his rebuttal by stating that the Respondent's sales comparables did not compare to the subject and also supported the Complainant's request for a reduction to $85.00/sq ft.

Position of the Respondent

[15] The Respondent submitted written evidence (Exhibit R-1) containing five sales comparables of warehouse properties (page 10). Two were located in the same northwest quadrant as the subject, while three were in the southeast. Four of the properties were newer than the subject. While all of the comparable properties were smaller than the subject, the Respondent argued that with accounting for economies of scale, the comparables supported the assessment.

[16] The comparables were built between 1995 and 2008, while the subject was built in 2001. They ranged in size from 39,663 sq ft to 141638 sq ft as compared to the subject property at 149,626 sq ft. While the subject was outside the range, it was within sufficient proximity and thus comparable.

[17] The time adjusted sale price for the comparables ranged from $111.51/sq ft to $203.16/sq ft which, while higher than the subject property assessed at $94.85/sq ft, supported the assessment.

[18] The Respondent also provided four equity comparables of similar properties, two of which were located in the southeast quadrant and two in the northwest (Exhibit R-1, page 15). The effective year built ranged from 1998 to 2005. The lot size ranged from 263,382 sq ft to 417,343 sq ft while the total building size ranged from 106,050 sq ft to 134,400 sq ft and the site coverage ranged from 31% to 39%. Their assessments ranged from $90.99/sq ft to $103.59/sq ft. The properties compared closely with the subject, which was built in 2001 with a lot size of 406,809 sq ft, a total building size of 149,626 sq ft, and site coverage of 37%.

[19] During questioning, the Respondent advised that "a lot" of weight was placed on the equity comparables when supporting the assessment.

Decision

[20] The Board confirms the assessment.

Reasons for the Decision

[21] The Board considered all of the evidence presented by the parties.

[22] The Board reviewed the Complainant's comparable sales, and found that none of them were of assistance in determining the market value of the subject property. Sale #1 was not comparable as it had an unusually large site coverage (54%) versus the subject property's 37%. Such a high site coverage would result in a lower sale price, and explain the $80.43 time adjusted sales price per sq ft compared to the subject property's assessment of $94.85/sq ft. The Complainant's comparable #2 was much newer than the subject property, and is smaller, both in site area and leasable space. The Complainant's third comparable was much larger than the subject property, which would result in a much smaller time adjusted sq ft price. Comparable #3 had a 203,601 sq ft larger site area than the subject property, and an 111,909 sq ft larger building.

[23] The Board did not find the Complainant's comparable #4 persuasive in determining the market value of the subject property. Not only was this comparable a multi-building site, it had 1 ½ acres of excess land. Further, the sales data indicated that the comparable was leased at a

below market rate. Such low leasing rates would result in a depressed purchase price that would not be comparable to the subject property.

[24] The Board reviewed and considered the Complainant's leasing information, and was not persuaded by that evidence. The leasing data provided was insufficient for the Board to make any income approach analysis of the subject property, as it was missing pertinent leasing details, and additional factors such as vacancy rate and capitalization rate, two figures essential to perform an income analysis. Moreover, the assessment was done on direct sales comparisons which the Board considered to be the correct method.

[25] The Board considered the Respondent's sales comparables and noted that they were also not comparable to the subject property. Comparables #1 and #2 had government tenants occupying significant amounts of the leasable building area, thus contributing to a higher sales price reflective of a low-risk tenant. Comparable #3, at 39,663 sq ft, was significantly smaller than the subject property, at 149,621 sq ft, thereby contributing to a higher sales price. Finally, the Respondent's fourth comparable, a three building site with two of the buildings assessed at cost, was not comparable as it contained significant valuable equipment that would reduce the reliability of the sale in supporting the subject property's assessment.

[26] The Board reviewed the Respondent's equity comparables and noted that these supported the assessment.

Dissenting Opinion

[27] There was 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