EDMONTON
Assessment Review Board

10019 103 Avenue, Edmonton, AB T5J 0G9
Ph: 780-496-5026
Email: assessmentreviewboard@edmonton.ca

NOTICE OF DECISION NO. 0098 184/12

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:**
10064564	6704 59 Street NW	Plan: 0625512 Block: 11 Lot: 6	$20,154,000	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.

cc: 50th Street Equities Inc.

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 636

Assessment Roll Number:	10064564
Municipal Address:	6704 59 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
Thomas Eapen, Board Member

Preliminary Matters

[1] Both the Complainant and the Respondent indicated that they had no objection to the composition of the Board. The Board members advised the parties that they did not have any bias with respect to this matter.

[2] Upon the parties' request, evidence was carried forward from Roll 9994009, 10014321 and 10043192.

Background

[3] The property is a 2 building site, located at 6704 - 59th Street, Edmonton. The buildings are 71,398 and 73,878 sq ft in size and cover 25% of the 574,565 sq ft lot. The buildings were 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:

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 $16,270,500.

j. Assessments of similar properties indicate a lower equitable value of $14,527,000.

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 $16,270,500.

[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 208-page brief to the Board in support of its argument that the assessment should be reduced to $17,433,000. The Complainant presented evidence in support of the contention that the current market value of the property is $18,159,000, or $125.00/ sq ft, based upon recent market transactions. The Complainant also provided evidence in support of its argument that the subject property should be equitably assessed at $17,433,000, or $120.00/ sq ft. The complainant argued that the property owner was entitled to the lower of market value or equity.

[8] The three comparable sales provided took place between December 2008 and November 2009, and were built between 1996 and 2008, with the subject being built in 2006. The building size ranged from 118,800 sq ft to 168,575 sq ft. The indicated unit value for the three sales ranged from $84.81/ sq ft to $197.51/ sq ft with an average of $136.00/ sq ft and a median of $125.70/ sq ft. The subject was assessed at $138.73/ sq ft. The Complainant argued that these sales comparables (Exhibit C-1, page 8), should be considered due to the comparable characteristics shared with the subject, such as age and size. It was concluded that the requested value of $125.00/ sq ft was reasonable.

[9] The Complainant provided four equity comparables in support of its argument that the subject property was inequitably assessed. All of the equity comparables were in the southeast quadrant of the city, as was the subject. They ranged in site coverage from 21% - 34%, compared to the subject property's 25%. The 2012 assessments ranged from $95.43/ sq ft to $107.15/ sq ft, with an average assessment/ sq ft of $101.50 and median of $101.70/ sq ft.

[10] 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 south and northwest Edmonton (Exhibit C-1, pages 45 to 48). The Complainant stated that this information demonstrated that the multi-building warehouse properties did not command any higher unit value than the single building properties.

[11] 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 differential in unit prices for sales or assessment (Exhibit C-1, pages 59-208). 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.

[12] The Complainant also provided the Board with a 21-page rebuttal package (Exhibit C-2). The Complainant argued that when replacement cost is compared to 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.

[13] The Complainant refuted 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.

[14] 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 a comparable property.

[15] 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. These facts indicated the property was not comparable.

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

[17] 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.

[18] The Complainant concluded that a review of the recent market transactions indicated the value of the subject property is $18,159,000. A review of the assessment of similar properties indicates that an equitable assessment for the subject property is $17,433,000. The Complainant concluded that the assessment should be reduced to $17,433,000.

Position of the Respondent

[19] The Respondent submitted written evidence containing eight warehouse sales comparables, three of which contained multiple buildings and five of which were single building properties. Six were located in the same southeast quadrant as the subject, while two were located in the northwest (Exhibit R-1, page 13). The effective year built ranged from 1995 to 2008. 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 prices ranged from $111.51/ sq ft to $203.16/ sq ft, which supported the assessment of the subject. The properties compare with the subject, which was built in 2006, had a lot size of 574,565 sq ft, a total building size of 145,280 sq ft and site coverage of 25%. The subject was assessed at $138.73/ sq ft. The Respondent stated that, despite some similarities, the comparable properties were sufficiently dissimilar to require consideration of equity comparables to support the subject's assessment.

[20] The Respondent's evidence (Exhibit R-1) also contained four equity comparables, however, the Respondent acknowledged equity comparable #3's assessment had been reduced and was no longer usable. The remaining three comparable properties had multiple buildings located in the southeast quadrant of the City (Exhibit R-1, page 23). The effective year built ranged from 1980 to 2006. The lot size ranged from 187,298 sq ft to 737,776 sq ft. The total

building size ranged from 51,479 sq ft to 231,572 sq ft and the site coverage ranged from 22% to 31%. Their assessments ranged from $138.20/ sq ft to $159.22/ sq ft and supported the subject's assessment. The properties compared closely with the subject, which was built in 2006, had a lot size of 574,565 sq ft, a total building area of 145,280 sq ft with site coverage of 25%.

[21] 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 33).

[22] 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.

[23] The Respondent reviewed the Complainant's south and northwest sales charts (Exhibit C-1, pages 45 - 48) and found omissions of numerous sales (Exhibit R-1, pages 36 - 38). 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.

[24] 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 was incorrect.

[25] The Respondent requested that the 2012 assessment in the amount of $20,154,000 be confirmed.

Decision

[26] The decision of the Board is to confirm the 2012 assessment of $20,154,000.

Reasons for the Decision

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

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

[29] 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.

[30] 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.

[31] The two scatter charts presented by the Complainant as analysis to show that there are no sale price differences between single and multi-building sites is rejected by the Board. At the hearing, the Complainant acknowledged that the charts did not contain all of the sales that occurred in those quadrants. The Board is of the view that the omission renders the charts potentially misleading and is not reliable evidence.

[32] 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.

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

[34] 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.

[35] 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 #1 has 16.67% vacancy at the sale date and also contains .75 acres of excess land. Sale #2 has lease rates below market and contains 1.50 acres of excess land. Sale #3 is not comparable as it contains 4 self-contained explosion-proof laboratories. The building also contains five 5 ton cranes and one 15 ton crane. The site coverage is only 13%, indicating an excess land component.

[36] 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.

[37] While all of the Complainant's equity comparables are in the southeast quadrant, three of the four are single-building properties. The 4th comparable has two buildings, however one is a cost building. Accordingly, the Board does not find these properties to be comparable to the subject.

[38] The Board finds the Respondent's equity comparables persuasive as all the Respondent's equity comparables are multi-building properties located near the subject in the southeast quadrant of Edmonton.

[39] 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

[40] 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