# ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
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## NOTICE OF DECISION NO. 0098 206/10

Altus Group Ltd.
17327 106A Avenue
Edmonton, AB T5S 1M7

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 from hearings held on August 9-10, 2010 respecting 2010 assessment complaints for:

| Roll Number | Assessment Type | Municipal Address | Legal Description | | | | Assessed Value ($) |
|---|---|---|---|---|---|---|---|
| | | | Plan | Block | Lot | Unit | |
| **1087352** | **Ann. New** | **7715 159 St. NW** | **1596RS** | **6** | **1B** | | **16,833,000** |
| 9993372 | Ann. New | 115 Thorncliff Place NW | 3782RS | 5 | 46 | | 9,492,500 |
| 9993364 | Ann. New | 9633 180 St. NW | 8222460 | 42 | 5 | | 11,583,500 |
| 9993369 | Ann. Rev. | 7415 172 St. NW | 7723100 | 1 | 2 | | 10,292,500 |
| 10005401 | Ann. New | 6404 172 St. NW | 8323220 | | | 1178 | 29,362,000 |
| 9993461 | Ann. New | 100 Springfield Plaza NW | 3782RS | 5 | 43 | | 16,019,500 |
| 9993319 | Ann. New | 200 Thorncliff Place NW | 3782RS | 13 | A | | 17,085,500 |
| 9993379 | Ann. Rev. | 9223 175 St. NW | 7922118 | 27 | 54 | | 8,022,000 |
| 9993317 | Ann. Rev. | 17631 93 Ave. NW | 7922118 | 29 | 2 | | 5,992,000 |
| 9993370 | Ann. New | 3804 16A Ave. NW | 7823017 | 26 | 120 | | 9,966,500 |
| 9993752 | Ann. New | 7804 28 Ave. NW | 7723074 | 13 | 28 | | 9,168,000 |
| 4204012 | Ann. New | 3504 Mill Woods Rd. NW | 6455RS | 1 | 71 | | 8,194,000 |
| 9993465 | Ann. New | 3765 16A Ave. NW | 7823020 | 38 | 46 | | 11,567,000 |
| 9993368 | Ann. New | 3765 26 Ave. NW | 8021676 | 40 | 35 | | 7,647,000 |

**Before:**

Patricia Mowbrey, Presiding Officer
George Zaharia, Board Member
John Braim, Board Member

**Board Officer:**

J. Halicki

**Persons Appearing: Complainant**

From Altus Group Ltd. as agents:

Josh Weber, Director

**Persons Appearing: Respondent**

From the City of Edmonton:

James Cumming, Assessor

| | |
|---|---|
| Robert Brazzell, Sr. Director | Veronika Ferenc-Berry, Solicitor |
| Witnesses: | Witnesses: |
| Chris Buchanan, Sr. Consultant<br>John Maslen, Director | Abdi Abubakar, Assessor<br>Devon Chew, Assessor |
| Observers: | Observers: |
| Stephen Cook, Director | Tim Dmytruk, Assessor |

## **PROCEDURAL MATTERS**

Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board Members indicated no bias with respect to this file.

At the request of the Respondent, the Board, prior to proceeding to the merits of the hearing being heard, had both parties either sworn or affirmed.

At the commencement of the hearing, roll number 1087352 was selected as the pilot file and the arguments and evidence related thereto were carried forward to the other roll numbers/accounts before the Board as listed on pages 1 and 8 of this decision.

During the hearing, Mr. Weber, an employee of Altus Group Ltd. and representing the Complainant, introduced Mr. Maslen as an expert witness to bring testimony to exhibit C3, a will say statement and rebuttal document submitted by the Complainant. The Respondent objected to Mr. Maslen's testifying on the basis that he was not an expert witness since no disclosure of his qualifications was provided, and further he is an employee of Altus Group Ltd, and thus not independent. The Board ruled that Mr. Maslen would be allowed to testify as a witness only.

An objection was raised by the Respondent claiming that it was inappropriate for the Complainant to put forward the MGB ruling in rebuttal instead of during summary. The Board ruled that by allowing the document to be put in rebuttal, it would permit the Respondent to cross-examine and the hearing continued.

## **PRELIMINARY MATTERS**

The Complainant objected to the Respondent's surrebuttal and questioned whether s.8(2) *Matters Relating to Assessment Complaints Regulation* AR310/2009 ("MRAC") provided for surrebuttal by the Respondent as part of the exchange in the disclosure process. The Complainant, while not requesting costs, noted that s.52(4) and schedule 3 of MRAC provided for the awarding of such when a party attempts to present new issues not identified on the complaint form or evidence in support of those issues.

The Respondent noted that, as a courtesy, the Complainant was provided with the surrebuttal prior to the hearing rather than at the hearing as is provided for under s. 8(2)(c) of MRAC. A distinction was drawn between rebuttal and evidence.

After hearing representation by both parties, the Board ruled that the Respondent would be able to present the surrebuttal (R3) as evidence with the proviso that it would not contain any new evidence that had not been previously disclosed to the Complainant thereby ensuring the Complainant would not be prejudiced.

## BACKGROUND

The subject property, located in the Patricia Heights subdivision, is a two-storey, average condition row housing complex consisting of 102 suites with covered parking. It has an effective age of 1971 and is in market area 6 in southwest Edmonton.

## ISSUES

1. Should the assessed value of the subject property be reduced to the lower of market value or equitable value?
2. Is the assessment of the subject property in excess of its market value for assessment purposes?
3. Is the assessment of the subject property fair and equitable considering the assessed value and assessment classification of comparable properties?
4. Is the classification of the subject property fair, equitable, and correct?
5. Should the GIM (gross income multiplier) be decreased to reflect the market conditions?
6. Has the correct valuation methodology been applied by the Respondent when determining assessed value?

## LEGISLATION

***Municipal Government Act*, R.S.A. 2000, c. M-26;**

s. 293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,
(a) apply the valuation and other standards set out in the regulations, and
(b) follow the procedures set out in the regulations.

(2) If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.
(3) An assessor appointed by a municipality must, in accordance with the regulations, provide the Minister with information that the Minister requires about property in that municipality.

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.

***Matters Relating to Assessment Complaints Regulation* AR310/2009**

s. 8(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:
(a) the complainant must, at least 42 days before the hearing date,

(i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence;

(b) the respondent must, at least 14 days before the hearing date,

(i) disclose to the complainant and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

(ii) provide to the complainant and the composite assessment review board an estimate of the amount of time necessary to present the respondent's evidence;

(c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

s. 9(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

s. 52(4) Any costs that the composite assessment review board or the Municipal Government Board award are those set out in Schedule 3.

***Matters Relating to Assessment and Taxation Regulation*AR 220/2004**

s. 2 An assessment of property based on market value

(a) must be prepared using mass appraisal,

(b) must be an estimate of the value of the fee simple estate in the property, and

(c) must reflect typical market conditions for properties similar to that property.

## POSITION OF THE COMPLAINANT

1. The position of the Complainant is that the Gross Income Multipliers (GIM) used by the Respondent in determining the 2010 property assessments are significantly higher than indicated by the market. The Complainant argued that a single GIM should be used in the assessment of similarly classified properties, in this case, row houses (C1, pg. 13).

2. The Complainant presented three walk-up apartment sales comparables dated September 29, 2009, August 19, 2009 and May 27, 2009, stating that the three sales were close to the valuation date and, therefore, did not require time adjustments. From these three sales, the Complainant selected the median GIM of 8.89153 (C1, pg. 7) The Complainant adjusted this 8.89153 to 11.11 to reflect a 25% expense ratio for row houses which is lower than the 40% expense ratio for low and high-rise properties (C1, pg. 10).

3. The Complainant also presented an equity analysis of seven properties exhibiting a range of GIM values from 10.31836 to 11.07027. Based on equity, the Complainant requested a median GIM of 10.84912 be applied to the subject. (C1, pg. 17).

4. The Complainant requested a reduced assessment based on a "Direct Sales Approach" (C1, pg. 15). In arriving at the requested assessment for the subject property of $15,966,786, the Complainant applied an expense ratio of 25% and adjustment factors of: 1.43, 1.59 and 1.67. The resulting median adjusted value per unit was multiplied by the number of units.

5. To support the Complainant's position of a downward trend in GIMs, a *Network* graph reflecting trend lines from August 2007 to October 2009 was presented (C1, pg. 9).

**POSITION OF THE RESPONDENT**

1. The Respondent stated that the subject's GIM is correct as it was derived from the Mass Appraisal process through Multiple Regression Analysis. The Respondent is permitted by legislation to use either stratification or MRA modeling (R2, tab 3, pgs. 159-161). The City of Edmonton has chosen to use the MRA method. This model makes more efficient use of sales data, adjusts smoothly for differences between properties, and provides a unique multiplier for each property (R2, tab 3, pg. 135).

2. The Respondent indicated all assessments must pass provincial audit as set out in *Matters Relating to Assessment and Taxation Regulation 220/2004* (R1, pg. 81).

3. The Respondent provided five sales comparables that resulted in assessment GIMs ranging from 9.93 to 11.99. The assessment GIM of the subject property at 11.71741 falls within this range (R1, pg. 30).

4. With regard to the three sales comparables presented by the Complainant, the Respondent stated that the sales occurring in August and September 2009 could not be used since the Respondent is mandated by legislation to only use sales prior to valuation date.

5. The Respondent raised concerns about two of the Complainant's sales comparables. It was noted that sale number #2 is considered to be in an inferior location due to the neighbourhood in which it is located (McDougall) and being located on 109 Street which is a major traffic artery. The chief concern about sale #1 is that it was a motivated sale. The Respondent included both *Network* and *Anderson Data Online* data sheets (R1, pgs. 50-51). Both data sheets showed the same specifics for the sale but the *Anderson* report indicated that it was a motivated sale and had the additional benefit of favourable financing.

6. The Respondent provided twenty-two equity comparables that are all two-storey row houses located in the same market area and are all in average condition as is the subject property. The assessment GIMs of the equity comparables range from 11.31934 to 12.60201. The assessment GIM of the subject property at 11.71741 falls within this range (R1, pg. 57).

**THEORETICAL CONSIDERATIONS**

The Complainant referred to exhibit C1, page 2.

From Gross Income Multipliers - *The Appraisal of Real Estate, Direct Capitalization* :

> To derive a gross income multiplier from market data, sales of properties that were rented at the time of sale or anticipated to be rented within a short time must be available. The ratio of the sale price to the annual gross income *at the time of sale* or projected over the first year or several years of ownership is the gross income multiplier.

> After the gross income multiplier is derived from comparable market data, it must be applied on the same basis it was derived. In other words, an income multiplier based on effective gross income can only be applied to the effective gross income of the subject property; an income multiplier based on potential gross income can only be applied to the potential gross income of the subject property. The timing of income must also be comparable.

The Respondent referred to exhibit R2, tab 3, pg. 159 onwards.

From the *Mass Appraisal of Real Property* (IAAO) Chapter 4 - *Mass Appraisal Model Calibration* - Gross Income Multipliers and Overall Rates:

**1. Stratification**

> In the first, stratification, sales are grouped by factors that tend to affect the relationship between income and value. From a theoretical viewpoint, four major factors affect the relationship between current net income and market value: the discount rate or required rate of return on investment…the expected rate of change in net income; and the percentage of income attributable to land…expense ratios should also be considered because properties with lower expense ratios will usually command higher *GIMs*. Differences in these four theoretical factors vary primarily with the type of property, location, and condition. The first step, then, is to stratify sales based on these criteria…*GIMs* can be computed and analyzed by strata…In practice, the median would be a good choice for the measure of central tendency because it is not overly influenced by extremes…The appraiser can, therefore, apply the results with reasonable confidence despite the small sample size within strata.
>
> The success of this technique depends on the availability of adequate sales data. Older sales can be used in the analysis by adjusting both income and sales prices to the appraisal date as necessary. However, *neither* needs to be time-adjusted if income and sales data reflect the same time, which would be the case if income data were captured or updated at the time of sale.

**2. Multiple Regression Analysis**

The mass appraisal model calibration indicates a gross income multiplier or an overall rate model can be developed in two ways: stratification or multiple regression analysis (MRA). The City of Edmonton developed a model using the MRA technique.

> MRA…can be developed [using] the same variables used in stratification: type of property, location, effective age or condition, size, and so forth….the models can be used to estimate income multipliers…for unsold properties, so that a unique figure is developed for each property based on its specific characteristics. Where properties are heterogeneous, this can produce a more supportable result than use of a single figure for an entire stratum of properties….In addition, MRA makes more efficient use of sales data… This permits the appraiser to test more variables in the models, which is particularly helpful when *GIMs* are being developed.
>
> …*GIMs* have the practical advantage of not requiring expense data as does the overall rate of return, which are often difficult to collect and analyze.
>
> (*Mass Appraisal of Real Property* – R2, tab 3, pg. 161-162)

From C1, pg. 54 the *Alberta Assessors' Association Multi-Residential Valuation Guide – September 1998:*

> The methods presented in this valuation guide are aimed at deriving values for different classes of multi-residential facilities.

**<u>Market Sales Comparison</u>**

> Where the sales information is present and applicable, the *market sales comparison approach* may be considered. If sales information is not sufficient then other approaches to value should be considered.

**<u>Income Approach</u>**

> …Rental information is generally available for all types of apartment properties, however, and especially for smaller properties, Income and Expense Statements and other financial information may be more difficult to obtain. The rental information that is typically available for other less complex and smaller types of apartment buildings indicates that a gross income multiplier should generally be used.
>
> Gross Income Multiplier (GIM) formula
>
> Market Value = Gross Annual Income x Gross Income Multiplier
>
> A GIM is developed through the analysis of sales of similar properties and relates market value evidence to the gross income produced by those properties.
>
> As a general rule the higher the similarity and the more robust the sales data, the more accurate the result of a GIM valuation procedure.

GIM = Sale Price/EGI

**<u>Estimate Typical Gross Income</u>**

> Along with the actual gross income, it will be necessary for the assessor to determine typical gross income…for that class of multi-residential property. Typical rents are established through the analysis of all the information collected on the properties contained within a class.

**<u>Estimate Effective Gross Income</u>**

> Applying the long-term vacancy and collection loss allowance to the expected gross income produces the normalized effective gross income for the subject property. The long-term vacancy rate should be established by analysis of actual reported vacancy rates or rates as tabulated by various government bodies such as CMHC.

**DECISION**

The decision of the Board is to confirm the 2010 assessment for the subject property and for the properties with the following roll numbers:

| | | | | | | |
|---|---|---|---|---|---|---|
| **1087352** | 9993364 | 10005401 | 9993319 | 9993317 | 9993752 | 9993465 |
| 9993372 | 9993369 | 9993461 | 9993379 | 9993370 | 4204012 | 9993368 |

**REASONS FOR THE DECISION**

1. The Board is aware the Respondent uses the multiple regression analysis (MRA) model for mass appraisal purposes within its municipal boundaries and it accepts this model for establishing value. In reaching this decision the Board carefully reviewed the theory and text references in both the Respondent's and Complainant's evidence and noted the excerpts were from *The Appraisal of Real Estate* (Appraisal Institute of Canada) (C1, pgs. 2-3) and (R2, tab 1); *The Alberta Assessors' Association Multi-Residential Valuation Guide* (September 1998) (C1, pgs. 50-91); and, *Mass Appraisal of Real Property* (IAAO) (R2, tab. 3).

2. More specifically, the Board considered chapter 4 - *The Mass Appraisal Model Calibration* to understand the mass appraisal models available to a municipality. There are the stratification model and the MRA model. The stratification model is the selection of data in a narrow range of compatibility to the subject property, a median value is selected, and the result is a single figure for an entire stratum of properties. The MRA makes use of the same data specifications and variables as the stratification, but these are analyzed within the MRA and the result is "…a unique figure is developed for each property based on its specific characteristics." (R2, tab 3, pg. 161).

3. Both the Complainant and the Respondent selected the Income Approach as the most appropriate method of valuation and specifically selected the GIM to measure comparability. The Board agreed with the parties. The GIM is developed through the analysis of sale of similar properties and relates market value to gross income produced by those properties. Typical rents and typical vacancies are established through the analysis of information collected in a class of properties and are applied to reach an effective gross income in the formula as follows: Typical gross income minus long-term vacancy rate equals effective gross income (EGI). The Respondent established an effective gross income using typical rent and typical vacancy factors which the Complainant accepted.

4. The Board placed less weight on the sales comparables provided by the Complainant. Two of the three sales were post-facto. The Board concurred with the Respondent's concerns regarding sales #1 & #2. In regards to sale #2, this comparable located in the McDougall neighbourhood and on 109 Street, which is also a major traffic artery, is in an inferior location compared to the subject property. In reference to sale #1, the data sheets produced by the *Network* and *Anderson Data Online* showed the same specifics for the sale but the *Anderson* report also indicated that it was a motivated sale and favorable financing which included a vendor-take back of $500,000 with interest only until 2014. The Board questions whether enough due diligence was completed by the Complainant to have selected and relied on this sale as their basis for a requested reduction in assessment.

5. The Board was not persuaded by the Complainant's GIM analysis as sale #1 was a motivated sale with preferential financing. Sale # 2, in a lower income district, is a four-storey, walk-up apartment building with an elevator. This left sale #3, a common sale utilized by both parties; however, it was a sale to a public housing corporation and the Board considers this might not be a

typical buyer and may not represent true market value. In conclusion, the Board does not accept the median GIM of 8.89153, adjusted to 11.11 to reflect row house properties, that was derived from one questionable sale.

6. The Board considered the Complainant's Direct Sales Approach request analysis spreadsheet (C1, pg. 15) and found it confusing. The Board was provided with no evidence to indicate where in appraisal theory or text there was support for this procedure of using Net Operating Income (NOI) ratios to determine value. The Board noted that the Complainant's evidence to support the validity of this theory comprised six pages from an incomplete appraisal by an unidentified author. This did not explain the validity nor the weight that was given to this theory in the appraisal report (C1, pg. 112-117). It was also noted by the Board that one page from another incomplete appraisal report stated that this theory was "a check against the Income Approach value estimate conclusion" (C1, pg. 118). However, the Board did not consider these appraisal reports as they were incomplete.

   The Board concluded that the Complainant's use of the three sales comparables (C1, pg. 7) to generate a GIM and to develop a ratio, represents a mixing of the income and the direct sales comparison approaches. This ratio is given no weight by the Board in establishing assessed value of the subject property.

7. The Board also noted all the theory and text quotes provided in the evidence by both parties indicate that a large number of similar sales are required to collect data for the Income Approach and GIM. The Board accepts the median value, in principle, but notes the requested GIM is taken from only a small sample of three sales which the Board considers to be inadequate. The Board, therefore, cannot accept this one sale as the basis for a reduction in the assessment.

8. The Board was persuaded by the Respondent's exhibit (R1, pg. 57) that included a chart of 22 equity comparables all of which were two-storey row houses in similar condition to the subject and located in the same market area. The Board noted the assessment GIM of the subject at 11.71741 falls within the range of 11.31934 to 12.60201 which supports the subject GIM.

9. The Board placed less weight on the Complainant's equity comparables (C1, pg. 17) as none of them were located in the same market area as the subject. Moreover, the Board noted that the EGI per suite of the subject was higher than the EGI per suite of all of the Complainant's comparables. The Complainant had argued that all relevant factors of an investment property are reflected in its capability of generating income (C1, pg. 113).

10. The Board finds the 2010 assessment of the subject property at $16,833,000 is fair and equitable.

**DISSENTING DECISION AND REASONS**

There were no dissenting decisions.

Dated this ninth day of September, 2010 A.D., at the City of Edmonton, in the Province of Alberta.

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Presiding Officer

*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, R.S.A. 2000, c.M-26.*

CC: Municipal Government Board
City of Edmonton, Assessment and Taxation Branch
City of Edmonton, Law Branch
BPCL Holdings Inc.
Boardwalk REIT Properties Holdings (Alberta) Ltd.
Boardwalk REIT Properties Holdings Ltd.
Murray Hill Developments Ltd.