



## **ASSESSMENT REVIEW BOARD**

MAIN FLOOR CITY HALL  
1 SIR WINSTON CHURCHILL SQUARE  
EDMONTON AB T5J 2R7  
(780) 496-5026 FAX (780) 496-8199

### **NOTICE OF DECISION NO. 0098 441/10**

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 (CARB) from a hearing held between August 23 and October 21, 2010 respecting a complaint for:

<b>Roll Number</b> 4028445	<b>Municipal Address</b> 11228 163 Street NW	<b>Legal Description</b> Plan: 8821409 Block: 1 Lot: 2
<b>Assessed Value</b> \$5,786,000	<b>Assessment Type</b> Annual – New	<b>Assessment Notice for:</b> 2010

#### **Before:**

Tom Robert, Presiding Officer  
Dale Doan, Board Member  
Mary Sheldon, Board Member

#### **Board Officer:**

Segun Kaffo

#### **Persons Appearing: Complainant**

Walid Melhem

#### **Persons Appearing: Respondent**

Mary-Alice Lesyk, Assessor  
Steve Lutes, Law Branch

### **PROCEDURAL MATTERS**

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

All parties giving evidence during the proceedings were sworn by the Board Officer.

## **PRELIMINARY MATTERS**

The parties agreed that all evidence, submissions and argument on Roll # 8480097 and 4028460 would be carried forward to this file to the extent that matters were relevant to this file. In particular, the Complainant chose not to pursue arguments with respect to the evidence he had provided regarding the income approach to value.

The Complainant and the Respondent presented to the Board differing time adjustment figures for industrial warehouses based on the Complainant's submission that some data used in the preparation of the Respondent's time adjustment model was faulty. The Board reviewed the data from the Complainant used in the preparation of his time adjustment figures and was of the opinion that the data used was somewhat questionable (Exhibit C-2). In any event, the differences between the time adjustment charts used by the parties for industrial warehouses were small and in many cases of little significance. Therefore, the Board has accepted the time adjustment figures used by the Respondent.

## **BACKGROUND**

The subject property is a medium warehouse built in 1978 and located in the West Sheffield Industrial subdivision of the City of Edmonton. The property has a total building area of 72,497 square feet with site coverage of 36%.

## **ISSUES**

The Complainant had attached a schedule listing numerous issues to the complaint form. However, most of those issues had been abandoned and the issue left to be decided was as follows:

- What is the typical market value of the subject property?

## **LEGISLATION**

***The Municipal Government Act, R.S.A. 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**

The Complainant argued that the subject is part of a complex which sold on August 10, 2009 for \$15,850,000. The combined assessments of the four roll numbers in the complex amount to \$18,560,000. The Complainant argued that this represents an A.S.R (Assessment Sales Ratio) of 117.1%. Therefore the current assessment of this account (property) should reflect the sale price of the total sale and be reduced by 17.1% for a requested amount of \$4,941,000.

Further, the Complainant argued that post facto sales (after July 1, 2009) may be used where there is conflicting opinion as to value of the property at the valuation date. Thus it can be used to test the reasonableness of the valuation where there is a conflicting opinion. The Complainant referred to *Diligentia v. Operation Kelowna et al #2* (1977 B.C.L.R. 134) in support of this argument.

The Complainant also presented five sales comparables ranging in value from \$67.82 to \$78.30 per sq. ft. with an average of \$72.69 per sq. ft. The Complainant argued that based on the sales comparables presented, the indicated value of the subject is \$5,270,000 or \$72.69 per sq. ft.

However, the Complainant placed the most emphasis on the argument regarding the sale of the subject relative to the assessment and requested a reduction to \$4,941,000.

### **POSITION OF THE RESPONDENT**

The Respondent put forward four direct sales comparables ranging in value from \$74.48 to \$97.22 per sq. ft.

The Respondent further provided four equity comparables ranging in value from \$76 to \$80 per sq. ft.

The respondent argued that the Complainant's evidence based on the total post facto sale of the subject indicates value of \$89.49 per sq. ft. higher than the current assessed value of \$79.81 per sq. ft.

Further the Respondent argued that the sale of the complex wherein the subject is part of is post facto and cannot be used to establish typical market value for the subject.

The Respondent also argued that no evidence has been presented as to the validity of the sale, and that arbitrarily applying an overall discount based on the total post facto sale is not a correct method in establishing the proportionate amount of the sale to the subject.

Further, the Respondent referred to *Stringham Denecky v. Lethbridge (City)* MGB 213/98:

*34 Even though limited use of post facto evidence can be made, these exceptions do not appear to permit post facto evidence to be used to solely establish value. Post facto evidence can be used to establish market trends.*

### **DECISION**

The decision of the Board is to confirm the current assessment at \$5,786,000.

### **REASONS FOR THE DECISION**

The Board is of the opinion that the sale of the subject is post facto and further that no supporting evidence had been presented as to the details or validity of the sale.

The method of applying an overall reduction based on the sale of the entire complex does not establish the prorated value to the subject from the sale. As stated in the third party network documents, the complex is made up of three buildings of various ages, some excess land, and

some description of required maintenance. The Board is not satisfied that there is sufficient evidence to determine the value of the subject.

The Board is of the opinion that the sales comparables as well as the equity comparables support the current assessment.

### **DISSENTING OPINION AND REASONS**

There was no dissenting opinion.

Dated this 4th day of November, 2010, 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.*

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CC: Municipal Government Board  
GPM (11) GP Inc.