



ASSESSMENT REVIEW BOARD

Churchill Building
10019 103 Avenue
Edmonton AB T5J 0G9
Phone: (780) 496-5026

NOTICE OF DECISION NO. 0098 529/11

ALTUS GROUP
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 on November 22, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
10127345	12464-153 STREET NW	Plan: 0823418 Block: A Lot: 30	\$14,569,000	Annual New	2011

Before:

Warren Garten, Presiding Officer
Brian Carbol, Board Member
Mary Sheldon, Board Member

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

Walid Melhem, Altus Group

Persons Appearing on behalf of Respondent:

Doug McLennan, Assessor, City of Edmonton
Shelly Milligan, Assessor, City of Edmonton

PRELIMINARY 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 this file.

No other preliminary matters were brought forward before the Board

BACKGROUND

The subject property is a “casino” located in the Gagnon Estate industrial subdivision of the City of Edmonton with a municipal address at 12464 153 Street. The property has a building area of 74,305 square feet on a site area of 267,995 square feet. The land is currently zoned DC2(511) and has full municipal servicing.

ISSUE(S)

The main merit issue before the Board is the effective zoning applied by the city assessor for the purposes of the current assessment.

The secondary merit issue before the Board is market value of the land (only) using the Direct Sales Comparison Approach to Value of the subject parcel totaling 267,995 Square Feet.

LEGISLATION

Municipal Government Act, RSA 2000, c M-26

s. 1(1)(n) ‘market value’ means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer.

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, using the Land Value Direct Sales Comparison Approach, presented 10 sales of industrial zoned properties in northwest Edmonton in the same area as the subject property (C-1, p.10).

- The Complainant argued that the subject property had been zoned IB and should remain IB for assessment purposes.
- The Complainant maintained that the neighbouring properties are zoned industrial and that it is reasonable that the subject property be considered industrial for comparison and assessment purposes.
- The Complainant's sales comparables resulted in an average sale price of \$12.54 per square foot and a median sale price of \$12.53 per square foot.
- The Complainant maintained that the 10 sales of similar properties used as comparables indicated a value lower than the current assessment, and requested a revised assessment for the land of \$12.50 per square foot for a total requested assessment of \$12,822,000 (C-1, p. 11).

COMPLAINANT'S REBUTTAL

- The Complainant further argued that the 6 comparable properties presented by the Respondent are commercial zoned lots.
- The Complainant emphasized that the correct zoning for assessment purposes should be industrial
- The Complainant noted that only one of the Respondent's sales is located in the same area as the subject property and that due to economies of scale, this property would sell for a significantly higher value than the subject.

POSITION OF THE RESPONDENT

- With respect to the issue of the appropriate effective zoning for the subject, the Respondent argued that the appropriate effective zoning was CB2 rather than industrial. The Respondent argued that this was supported by the inclusion of CB2 definition of the permitted use of major amusement establishments and for the discretionary use of bars and pubs over 200 people (evidence supplied by the Complainant, C-1, pages 22-23). In the opinion of the Respondent, this was most similar to the subject use of a casino and the effective zoning of the subject should be based on like properties.
- The Respondent noted for the Board that the Complainant had not provided any evidence of the effective zoning of other casinos.
- The Respondent also provided a chart of 6 sales of land comparable to the subject (R-1, page 27). The time adjusted sale price per square foot of these comparables ranged from \$19.14 to \$23.38. The Respondent submitted that this supported the assessment of the subject at \$19.02 per square foot.
- The Respondent requested that the Board confirm the assessment of the subject at \$14,569,000.

DECISION

It is the Board's decision to confirm the current assessment at \$14,569,000

REASONS FOR THE DECISION

In reaching its decision, the Board considered all argument and evidence.

The Board found that the applied assessment based on zoning of CB2 was fair and equitable. The argument by the Complainant that the subject property had been zoned IB and should remain IB for assessment purposes could not be considered. The Board found that when both CB2 and IB zoning were compared, the current use reflected closer to CB2 compared to IB.

IB – Discretionary Use 400.3

- 5. Bars and Neighbourhood Pubs – for less than 200 occupants and 240 square meters of public space if adjacent to or across a lane from a site zoned residential
- 18. Minor Amusement Establishments
- 29. Restaurants - for less than 200 occupants and 240 square meters of public space if adjacent to or across a lane from a site zoned residential

CB2 - Permitted Use 340.2

- 3. Bars and Neighbourhood Pubs – for less than 200 occupants and 240 square meters of public space.
- 18. Major Amusement Establishments and Minor Amusement Establishments.
- 23. Restaurants - for less than 200 occupants and 240 square meters of public space.

Discretionary Use 340.3

- 6. Bars and Neighbourhood Pubs – for more than 200 occupants and 240 square meters of public space if adjacent to or across a lane from a site zoned residential.
- 31. Restaurants - for more than 200 occupants and 240 square meters of public space if adjacent to or across a lane from a site zoned residential

The Board found that under IB the “Casino” would have to be considered as a Minor Amusement Establishment under the Discretionary Use. The Board agreed that the classification of a “Casino” would likely fall under Major Amusement Establishment which is a permitted use under CB2. Further the implied application of the change in zoning from IB to DC2 for the purposes of a “Casino” use suggests that this special zoning is an enhancement to the site and an upgrade to the original IB Zoning. As a result the issue of a reduced assessment due to zoning could not be considered.

Based on the Zoning argument, the Complainant provided to the Board 10 time adjusted sales comparables for consideration. The Board found that all but 1 comparable were zoned industrial and could not be considered. The Board applied the most weight to sale number 6 along with the Respondent’s evidence.

The Respondent presented a total of 6 commercial comparables all of which were considered by the board. These comparables along with 1 from the Complainant fully supported the current assessment.

The Board found that there was not enough convincing evidence to support a reduction of the assessment of the land from the existing \$19.02 per square foot.

DISSENTING OPINION AND REASONS

There were no dissenting opinions regarding this decision.

Dated this 14th day of December, 2011, at the City of Edmonton, in the Province of Alberta.

Warren Garten, 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, RSA 2000, c M-26.

cc: SUNALTA BINGO LTD