



ASSESSMENT REVIEW BOARD

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

NOTICE OF DECISION NO. 0098 928/11

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 April 24, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
10095568	12620 184 Street NW	Plan: 0726720 Block: 1 Lot: 7	\$21,792,500	Annual Revised	2011

Before:

Patricia Mowbrey, Presiding Officer
Dale Doan, Board Member
Mary Sheldon, Board Member

Board Officer: Jason Morris

Persons Appearing on behalf of Complainant:

John Trelford, Altus Group
Jordan Nichol, Altus Group

Persons Appearing on behalf of Respondent:

Bozena Andersen, Assessor, City of Edmonton
Darren Nagy, Assessor, City of Edmonton

PRELIMINARY MATTERS

[1] At the outset of the hearing the Respondent put forward a recommendation to reduce the 2011 assessment to \$16,828,000 as the 2011 assessment had included full municipal services. There was a 25% negative adjustment applied to reflect there were no storm or sanitary sewers, curb or gutters and applied for shape and size. The recommendation was not accepted by the Complainant and the merit hearing proceeded.

BACKGROUND

[2] The subject property located at 12620-184 Street NW is undeveloped land located in the Kinokamau Plains Area subdivision of the City of Edmonton. The property is a parcel of 3,124,730 square feet (71.73-acres) and is zoned IM. There is an improvement measuring 1,694 square feet constructed in 1963. The subject is zoned IM.

ISSUE(S)

- [3] Is the 2011 assessment of the subject correct?
- a. Should the subject be assessed as regulated farm land?
 - i. If the subject is found to be farmland what is the market rate per acre to be applied to the 3-acre residential parcel?

LEGISLATION

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.

s 297(4) In this section,

- (a) “farm land” means land used for farming operations as defined in the regulations;

Matters Relating to Assessment and Taxation, AR 220/2004

s 4(1) The valuation standard for a parcel of land is

- (a) market value, or
- (b) if the parcel is used for farming operations, agricultural use value.

(2) In preparing an assessment for a parcel of land based on agricultural use value, the assessor must follow the procedures set out in the Alberta Farm Land Assessment Minister’s Guidelines.

(3) Despite subsection (1)(b), the valuation standard for the following property is market value:

- (a) a parcel of land containing less than one acre;

- (b) a parcel of land containing at least one acre but not more than 3 acres that is used but not necessarily occupied for residential purposes or can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;
- (c) an area of 3 acres located within a larger parcel of land where any part of the larger parcel is used but not necessarily occupied for residential purposes;

POSITION OF THE COMPLAINANT

[4] The Complainant argued that the 2011 assessment was not correct since the subject was being farmed at the valuation date and should be assessed using the regulated farm land rate found in the Alberta Farm Land Assessment Minister's Guidelines.

[5] The Complainant advised the Board that in 2009 a portion of the subject had been stripped in preparation for development. He further advised the Board that a building permit had been taken out in May 2010 to construct an industrial general use building (C1, page 5). The Complainant advised the Board that the property owner had decided to halt any building construction, as a result of the poor economy, and instead decided to reseed the subject.

[6] In support of his position that the subject was being farmed at the valuation date, the Complainant provided to the Board photographs and stated they were taken September 2010 (C1, pages 7 through 10). The Complainant submitted to the Board that these photos indicated that while a portion of the subject had been stripped the remainder was prepared for agricultural use. The Complainant further advised the Board that the land been reseeded with a crop of alfalfa and provided a letter from an agronomist stating that a crop could be grown on marginal land or with areas of clay (C1, page 125).

[7] The Complainant also provided a lease as further evidence that the subject was being farmed at the valuation date. During the hearing, the Complainant brought to the Board's attention that the lease was not the correct one for the subject and requested that the Board not consider this lease. However, the Complainant noted that the Respondent was in possession of the correct lease.

[8] The Complainant presented to the Board that this photographic evidence showed that the subject was being farmed and accordingly the assessment should be based on the agricultural use values set in the 2010 Alberta Farm Land Ministers Guidelines (C1, pages 107 through 113). This value according to the guideline would be \$350 per acre. However, the Complainant presented 24 equity comparables which averaged \$311.06 per acre and the Complainant argued that this supported the \$315 per acre he requested for the regulated farm land portion.

[9] The Complainant argued that since the subject was farmland there should be an appropriate market rate for the 3-acre residential parcel. In support of the request that a 3-acre parcel should be assessed at \$217,800 per acre the Complainant provided details of the sales of nine comparable parcels of land. These parcels sold for values per acre ranging from \$145,000 to \$262,888.

[10] The Board noted that the Complainant was in agreement with the assessment of \$99,279 applied to the improvements.

[11] The Complainant also provided a rebuttal document C2 contained the same photographs submitted in C1 pages 7 through 10.

[12] The Complainant concluded that the 3-acre residential parcel be assessed for \$653,400 and that the remainder of the land be assessed for \$21,651 pursuant to the suggested agricultural use values of \$315 per acre. Therefore the Complainant submitted that the assessment be reduced to \$774,000 which would include the market value of the residential 3-acre site at \$653,400 plus the value of the regulated portion of the land at \$21,651 plus the value of the improvement at \$99,279.

POSITION OF THE RESPONDENT

[13] The Respondent argued that the 2011 assessment of the subject was correct.

[14] The Respondent presented a series of photographs to support the position that the subject was not being farmed at the valuation date. The Respondent indicated to the Board that these photographs were taken in May and June of 2011. The photographs showed that there was considerable development and construction as at May and June, 2011. The Respondent submitted that one of the photographs (R1 page 2) showed the subject as fully stripped with no perennial crop evident in June 2011. With the level of development evident in June 2011 it was the Respondent's position that there had been no land seeded the previous year.

[15] The Respondent argued that in his opinion the subject was not farmland and that it should be assessed at a value per acre according to industrial market value. In support of this position the Respondent provided a chart of four vacant land sales (R1, page 32) and third party documentation (R1, pages 33 through 36) concerning these sales. The Respondent pointed out to the Board that these comparables are zoned AGI ranged in size from 25.77 acres to 119.20 acres. The Respondent indicated that the time adjusted sale prices per acre of the comparables ranged from \$194,328.47 to \$232,558.52 . The Respondent argued that the average time adjusted sale price per acre of these comparables at \$218,188.62 supported the recommended assessment of the subject.

[16] In conclusion the Respondent requested that the Board accept the recommendation and reduce the assessment of the subject from \$21,792,500 to \$16,828,000.

DECISION

[17] The Board decision is to accept the recommendation and reduce the 2011 assessment of the subject property from \$21,792,500 to \$16,828,000.

REASONS FOR THE DECISION

[18] The Board is of the opinion that photographs of the subject showing a crop in place as at the valuation date of July 1, 2010 would be the most convincing evidence to support a claim that the land was being farmed.

[19] The Board is unconvinced that the photographs presented by the Complainant provide sufficient evidence to demonstrate that there was a crop seeded on the subject in 2010.

[20] The Board notes that the photographs of the Complainant are dated September, 2010 and in the opinion of the Board there is in those photographs no evidence of a crop in place nor any evidence of remnants of a crop.

[21] It was presented to the Board by the Complainant that there was a farm lease in place at the valuation date of July 1, 2010. That documentary evidence was not before the Board.

[22] However the Board was of the opinion that the provision of that correct lease would not be conclusive proof that the subject was being farmed as of the valuation date.

[23] Since the Board had concluded that the subject was not being farmed as of the valuation date and therefore was not subject to the regulated farm land rate, the Board did not make a decision on the per acre market value of a 3-acre residential parcel as this was not applicable in this situation.

[24] Although the Complainant presented sales comparables for the suggested 3 acre residential site and equity comparables for a suggested regulated rate for the balance of the subject, there was no evidence presented by the Complainant to challenge the Respondent's 2011 values per acre for industrial zoned land.

DISSENTING OPINION AND REASONS

[25] There was no dissenting opinion.

Dated this 21st day of May, 2012, at the City of Edmonton, in the Province of Alberta.

Patricia Mowbrey, 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: HORIZON BUSINESS PARK GP CORP