

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 00909

Assessment Roll Number: 10029938
Municipal Address: 5203 75 STREET NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Robert Mowbrey, Presiding Officer
Jack Jones, Board Member
Robert Kallir, Board Member

Procedural Matters

[1] 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 on this file.

Preliminary Matters

[2] Both parties requested the Board to carry forward the oral and written evidence regarding the LRT issue, as the Board had heard the argument from the previous file, assessment role #10015908. The Presiding Officer stated the parties could abbreviate the LRT issue.

Background

[3] The subject property 325,165 square foot parcel of land with a medium manufacturing plant located at 5203 75 Street NW, in the Roper Industrial subdivision. It is zoned as IM. The 2013 assessment is \$9,978,500.

Issue

[4] What is the market value of the subject property?

Legislation

[5] *The Municipal Government Act, RSA 2000, c M-26, reads:*

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

[6] The Complainant filed this complaint on the basis that the subject property assessment of \$9,978,500 was inequitable and in excess of market value. In support of this position, the Complainant submitted a 36 page disclosure package and a 36 page rebuttal package, which were entered as evidence and marked as Exhibits C-1 and C-2, respectively.

[7] The Complainant advised the Board that the Complainant had no issue with the valuation of the improvements on the subject property and that the issue was limited to the valuation of the land.

[8] The Complainant provided the Board with four sales comparables that were approximately the same size and similar zoning to the subject property [Exhibit C-1 page 9]. The four comparables ranged in time adjustment selling price per square foot of \$11.85 to \$14.97 compared to the 2013 assessment of the subject property at \$15.05 per square foot. The Complainant used the City’s time adjustment factors [Exhibit C-1, pages 16-18]. During cross-examination, the Respondent asked which of the sales comparables was the best. The Complainant advised that comparable #2 was the best comparable.

[9] The Complainant advised the Board that the future southeast LRT expansion would have a negative influence on the subject property and this should be considered in the 2013 assessment [Exhibit C-1 pages 10-11]. The Complainant stated that the LRT would decrease the value of the property due to the noise and the negative impact on accessibility.

[10] The Complainant provided the Board with a chart detailing both the City’s sales and the Complainant’s sales [Exhibit C-2 page 8]. The Complainant advised the Board that one of the Respondent’s sale comparables was zoned commercial and one of the sales comparables was much smaller than the subject property, thus bringing their comparability into question [Exhibit C-2 page 8].

[11] The Complainant, during cross examination of the Respondent, asked why the Respondent's sales comparable #3 was not adjusted since the zoning was better than the subject property. The Respondent admitted that zoning CSC was more valuable than zoning IM.

[12] During summation and argument, the Complainant advised the Board that a 10% reduction adjustment was warranted due to the lack of access that the LRT expansion would cause to the subject property.

[13] The Complainant requested the Board to reduce the 2013 assessment of \$9,978,500 to \$9,475,000.

Position of the Respondent

[14] In defending the current year's assessment, the Respondent presented a 53 page document marked as Exhibit R-1.

[15] The Respondent provided the Board with four sales comparables to the subject property [Exhibit R-1 page 14]. Three of the four sales comparables were zoned IM, the same as the subject property and the fourth sales comparable was zoned CSC. The time adjustment selling price per square foot for the four sales comparables had a median of \$15.66 and an average of \$17.93, which support the 2013 assessment of the subject property at \$15.05 per square foot.

[16] The Respondent provided the Board with a chart detailing the Complainant's sales comparables [Exhibit R-1 page 13]. The Respondent stated that two of the Complainant's sales comparables had a vendor take back mortgage and a further sale comparable had no data sheet included.

[17] During questioning, the Respondent advised the Board that two of the Complainant's sales comparables had vendor take back mortgages. The Respondent included two CARB decisions that stated, in the opinion of the respective CARB Board, that a substantial VTB mortgage could influence the purchase price [Exhibit R-1 pages 22-32].

[18] The Respondent provided the Board with information regarding the future southeast LRT. The City did not consider the future southeast expansion in the 2013 assessment as in fact no work has been done physically to the site [Exhibit R-1 pages 20-21]. The Respondent advised the Board that the preliminary design is scheduled to be complete by the end of 2013.

[19] During argument, the Respondent advised the Board that the relevant dates are July 1st, and December 31st of the assessment year. In addition, the noise and access should not affect the value of the subject property, when the LRT is built and no one can say, with a degree of certainty, when the LRT system will be completed.

[20] The Respondent requested the Board to confirm the 2013 assessment of \$9,978,500.

Decision

[21] The decision of the Board is to confirm the 2013 assessment of \$9,978,500.

Reasons for the Decision

[22] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. The Board finds that the Complainant's evidence that the future construction of a new LRT line supports a 10% reduction in the current assessment was neither compelling nor sufficient. It is uncertain when construction of the southeast LRT will begin and when it will be completed. However, the current year's assessment is based on valuation as of July 1st 2012 and condition as of December 31st 2012. The Board suggests it would be prudent to analyze or revisit the various assessments along the LRT system, based on market value, when the future southeast LRT system has been largely finished or completed. Without the 10% reduction adjustment requested by the Complainant, the Complainant's sales comparables support the current assessment.

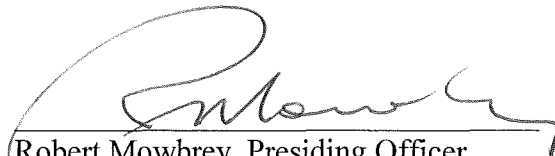
[23] The Board considered the Respondent's assertion that a VTB mortgage would have a negative influence on market value of a subject property. The Board accepts that a significant VTB mortgage could influence the market price, but when a purchaser outlays a significant amount of cash to close the transaction and the VTB mortgage terms are as set out in the comparables the VTB loses its significance. The Complainant's sales comparables respecting the VTB mortgages had significant outlays of cash and such terms that made the VTB mortgage issue not relevant.

Dissenting Opinion

[24] There was no dissenting opinion.

Heard on July 16, 2013.

Dated this 1st day of August, 2013, at the City of Edmonton, Alberta.



(Robert Mowbrey, Presiding Officer)

Appearances:

Brett Flesher, Altus Group
for the Complainant

Doug McLennan, City of Edmonton
Michael Johnson, City of Edmonton
for the Respondent

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.