

Edmonton Composite Assessment Review Board

**Citation: Damm Galvanizing Co. Ltd. (Altus Group) v The City of Edmonton, 2013
ECARB 01679**

Assessment Roll Number: 1075597
Municipal Address: 9390 48 Street NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

Damm Galvanizing Co. Ltd. (Altus Group)

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Shannon Boyer, Presiding Officer
Darryl Menzak, Board Member
Mary Sheldon, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties had no objection to the Board's composition. As well, the Board Members had no bias with regard to this file.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject is an average condition medium warehouse located at 9390 – 48 Street, which is part of Industrial Group 18, Core South. The effective year built is 1980 with site coverage of 8.96%. It has a total building area of 20,907.31 square feet.

[4] The subject is assessed using the sales comparison approach and the 2013 assessment is \$4,102,000. The Complainant is seeking a reduction of the assessment to \$3,805,000, alternatively to \$3,763,000.

Issue(s)

[5] Is the 2013 assessment acceptable based on sales comparables?

[6] Is the 2013 assessment fair and equitable?

[7] Is the Subject entitled to a lot shape and/or, limited access adjustment?

Legislation

[8] 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.

Issue 1. Is the 2013 assessment acceptable based on sales comparables?

Position of the Complainant

[9] In support of the appeal, the Complainant presented written evidence, rebuttal evidence and oral argument for the Board’s review and consideration (C-1 and C-2).

[10] The Complainant argued that a review of recent market transactions indicates that the value of the subject is \$3,805,000. In support, the Complainant produced four sales comparables which, in its opinion, are similar to the subject (C-1 page 8). Comparables 3 and 4 are located in industrial groups 20 and 22, respectively. All comparables are in average condition, like the subject. Site coverage is similar, ranging from 7% to 8% with the subject being 9%. The year built is similar, ranging from 1976 to 1979, with the subject being 1980. The total building square footage ranges from 16,160 to 18,238 of total square footage, with the subject being 20,908 square feet. The time adjusted sale price per square foot (TASP/SF), ranges from \$153 to \$184, with the subject assessed at \$196 per square foot. The median TASP/SF is \$167.23 and requested is \$182.00 per square foot.

[11] The Complainant favored comparable 4, with a TASP/SF of \$184.00, as the most similar to the subject. Under questioning, the Complainant acknowledged that sale comparable 4 is in an inferior location (unserved), but argued that it is similar to the subject in most other respects.

[12] The Complainant is requesting an assessment of \$3,805,00 based on his sales comparables.

Position of the Respondent

[13] In support of the assessment, the Respondent presented written evidence and oral argument for the Board's review and consideration (R-1).

[14] The Respondent produced four sales comparables which, in its opinion, are similar to the subject with respect to the seven factors found to affect value in the warehouse inventory (R-1 pages 19-23). Comparable 2 is located in a less desirable industrial group, comparable 3 is in a more desirable group and sales comparables 1 and 4 are in Industrial Group 18. All are in average condition. Site coverage ranges from 7% to 13%, with the subject being 9%. Comparables 3 and 4 were built in 1964 and 1958 respectively. Comparable 2 was built in 1980, like the subject. Total building square footage is smaller than the subject, ranging from 11,617 to 16,799, with the subject being 20,907 square feet. The TASP/SF of total square footage ranges from \$192 to \$230, with the subject assessed at \$196 per square foot.

[15] The Respondent noted that the parties have one comparable in common (Complainant's #2 and Respondent's #1) and argued that this sale supports the assessment.

Issue 2. Is the 2013 assessment fair and equitable?

Position of the Complainant

[16] The Complainant argued that a review of similar properties shows that an equitable assessment for the subject is \$3,763,000.

[17] The Complainant produced seven equity comparables which, in its opinion, are similar to the subject to support its position that the 2013 assessment is unfair and inequitable (R-1 page 9). Three comparables are located in Industrial Group 20 (partially serviced) and three are in Industrial Group 20 (unserved). None are in the same industrial area as the subject. All are in average condition. Site coverage is similar, ranging from 6% to 11% with the subject being 9%. Year built ranges from 1975 to 1979, with the subject being 1980. The total building area ranges widely from 11,757 to 21,453 compared to the subject at 20,908 square feet. The TASP/SF of leasable space ranges from \$123.96 to \$210.55. The median TASP/SF of the equity comparables is \$177.27, with the subject assessed at \$196 per square foot. The requested amount is \$180 per square foot.

[18] Applying the requested TASP/SF of \$180, the requested assessment is \$3,763,000.

Position of the Respondent

[19] The Respondent produced five equity comparables which, in its opinion, are similar to the subject to support its position that the 2013 assessment is fair and equitable (R-1 pages 24). Two comparables are located in Industrial group 20 (partially serviced) and one is located in Industrial Group 18. All are in average condition. Site coverage is similar ranging from 8% to 11%, with the subject being 9%. Comparable 5 has an effective age of 2006. The effective age for the other four comparables ranges from 1978 to 1991, with the subject being 1980. The total building area ranges from 13,401 to 25,078 compared to the subject at 20,907 square feet. The TASP/SF ranges from \$183 to \$266, with the subject assessed at \$196 per square foot.

[20] The Complainant and the Respondent have one equity comparable in common (Complainant's #6 and the Respondent's #4), with a TASP/SF of \$212.

Issue 3. Is the Subject entitled to a lot shape and, or, limited access adjustment?

Position of the Complainant

[21] The Complainant stated that the subject is an irregular lot. The lot is rectangular with an irregular corner at the south east. The irregular corner abuts the crescent formed by 94 Avenue and 48 Street and there are two driveways running through the irregular corner joining the subject to the crescent. In support, the Complainant produced a lot map, aerial and street level photographs (C-1 pages 5, 10 and 11).

[22] The Complainant pointed out that the subject is a corner lot with warehouse properties on either side. As such, the subject does not have access to a roadway except for the two driveways at the irregular corner. Further, it was argued that the building is barely visible from the street.

[23] The Complainant argued that the physical characteristics of the lot reduce its market value. A negative 10% adjustment should be made to the assessment pursuant to the City policy to adjust, on a site specific basis, to recognize various influences on value. The policy specifically allows adjustments for irregular lot shape and limited access. In support, the Complainant referred to the City's 2013 Industrial Warehouse Assessment Brief.

[24] The Complainant also provided the Board with examples of five properties in which the City applied a 10% reduction to the assessed value (C-1 pages 43-47). In each case, a negative 10% rear building adjustment was applied where second buildings did not have exposure to the roadway.

[25] The Complainant requested a negative 10% adjustment for irregular lot, limited exposure and/or limited access.

Position of the Respondent

[26] The Respondent referred to the City 2013 Industrial Warehouse Assessment Brief (R-1 pages 8 to 11). The Respondent explained the City policy to apply negative adjustments to warehouse inventory where warranted, including for irregular lot shape and limited access.

[27] The Respondent takes the position that a negative adjustment is not warranted for the subject. The Respondent argued that the subject is not an irregular shaped lot stating that the irregular corner does not impede on the utility of the lot and that the subject enjoys full use.

[28] The Respondent pointed out that the subject has two driveways and does not have restricted access. Pursuant to the Respondent's policy, one access point per property is considered sufficient.

[29] The Respondent advised that the subject is assessed in the warehouse inventory. As a warehouse, it is not necessary for operations to have better visibility from the roadway. The subject was also assessed as an interior lot and not on a major artery, where visibility is one of the attributes.

[30] The Respondent requested the Board to confirm the 2013 assessment of \$4,102,000.

Decision

[31] The Board confirms the 2013 assessment of \$4,102,000.

Reasons for the Decision

Issue 1. Is the 2013 assessment acceptable based on sales comparables?

[32] The Board notes that it is the responsibility of the Complainant to provide sufficient compelling evidence to allow the Board to doubt the correctness of the assessment.

[33] Complainant's sale comparable 1 was withdrawn. Complainant's sale comparable 2 is in common with the Respondent's sale comparable 1. Although its site coverage is 2% better than the subject, the properties share similar important characteristics. In the Board's opinion, the common comparable supports the assessment based on the time adjusted sale price per square foot at \$223.

[34] The Board notes that the Complainant's sales comparables 3 and 4 are located in inferior groups (partially serviced and unserviced, respectively) and should be adjusted upward, therefore, the Board does not find these comparables to be as useful as the common sales comparable.

[35] The Board reviewed the Respondent's sales comparables and determined that comparables 3 and 4 have a time adjusted sale price per square foot which supports the assessment of the subject, at \$226 and \$192 respectively, even though they are inferior to the subject in terms of site coverage and age. Comparable 3 is also in an inferior location. If an upward adjustment was made to these comparables to account for these differences, the result might well be a time adjusted sale price per square foot greater than the assessment per square foot of the subject.

[36] The Board concludes that the Complainant did not discharge its responsibility of providing sufficient compelling evidence to allow the Board to change the assessment of the subject based on sales comparables.

Issue 2. Is the 2013 assessment fair and equitable?

[37] The Board examined the parties' equity comparables. Six of seven of the Complaint's equity comparables are located in inferior industrial groups (partially serviced and unserviced) and would require an upward adjustment to make them comparable to the subject in terms of this characteristic. Complainant's comparable 2 is eleven years newer and this is reflected in its greater time adjusted sale price per square foot of \$259.

[38] The Board examined the common equity comparable, Complainant's #6 and Respondent's #4. The common equity comparable is in a superior industrial group, which is reflected in its greater time adjusted sale price per square foot of \$212.

[39] The Board reviewed the Respondent's comparables and noted that two of five are in the subject's industrial group. Of those, comparable 5 is substantially newer than the subject which is reflected in its greater time adjusted sale price per square foot of \$266. In the Board's opinion, comparable 3 is very helpful as it is similar in its characteristics of location, age, site coverage and square footage and it has a time adjusted sale price per square foot of \$185, slightly lower than the subject at \$196 per square foot.

[40] Respondent's equity comparables 1 and 2 have a time adjusted sale price per square foot which, in the Board's opinion, supports the assessment of the subject, at \$183 and \$201, even though they are inferior to the subject in terms of location. If an upward adjustment was made to these comparables to account for these differences, the result might be a time adjusted sale price per square foot greater than the assessment per square foot of the subject.

[41] Other than the Respondent's comparable 5, the Board preferred the Respondent's equity comparables, finding them more helpful in determining equity. In the Boards' view, the Respondent's comparables support the assessment as being close in amount, while being inferior to the subject in characteristics.

[42] The Board concludes that the Complainant did not discharge its responsibility of providing sufficient compelling evidence to allow the Board to change the assessment of the subject based on fairness and equity.

Issue 3. Is the Subject entitled to a lot shape and, or, limited access adjustment?

[43] The 2013 Industrial Warehouse Assessment Brief listed the factors which are shown to affect the value of the warehouse inventory. There is a mechanism for adjusting the assessment where other factors are shown to affect value such as limited access, exposure to roadway, lot shape, contamination, and easements and caveats.

[44] The Board examined all the evidence provided by the Complainant with respect to its argument regarding irregular lot shape and limited access. On examination of the maps, aerial and street photographs, the Board made the following observations. The subject is a rectangular shaped lot and the southeast corner is indented. Access to the subject is gained via two driveways running parallel through the south east corner.

[45] In the Board's opinion, both driveways are direct and unobstructed allowing for the free flow of trucks and other traffic from the subject to the street and visa versa.

[46] Additionally, the warehouse and yard operations are visible from both driveways, but are partially obscured by vegetation along the driveways. The Board further notes that the subject is assessed as an internal lot. No evidence was submitted in support of the Complainant's argument that higher visibility from the street is integral to the subject's market value.

[47] The Board is in agreement with the Respondent that the subject enjoys full use. The Board did not find that lot shape dictates or limits function, the location of buildings or the work areas.

[48] There was no persuasive evidence raised in support of the claim that the irregular shape affected the subject's market value. The Board concluded that a negative adjustment for irregular lot shape, limited access or limited visibility is not warranted.

Conclusion

[49] The Board confirms the 2013 assessment of \$4,102,000.

[50] In the alternative, if the evidence provided by the Complainant was sufficient to raise a doubt as to the correctness of the assessment and shift the burden of proof to the Respondent, it

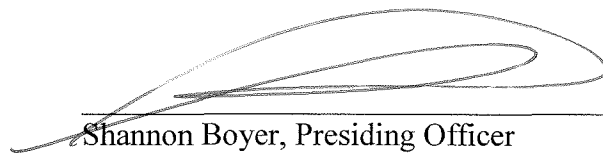
is the opinion of the Board that the Respondent successfully defended the 2013 assessment of the subject.

Dissenting Opinion

[51] There was no dissenting opinion.

Heard commencing October 9, 2013.

Dated this 29th day of October, 2013, at the City of Edmonton, Alberta.



Shannon Boyer, Presiding Officer

Appearances:

Adam Greenough
for the Complainant

Suzanne Magdiak
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.