

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, ECARB 2012-001041

Assessment Roll Number: 3124898

Municipal Address: 10147 JASPER AVENUE NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Dean Sanduga, Presiding Officer

George Zaharia, Board Member

Howard Worrell, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties before the Board indicated no objection to the Board's composition. In addition, the Board Members indicated no bias with respect to this file.

[2] File number 3041233 was an initial roll number heard by the Board on September 4, 2012 and evidence, argument and submissions were to be carried forward where applicable to the subsequent four roll numbers. This roll number along with roll numbers 3124906 and 3124914 are adjoining properties and the complainants were heard concurrently.

[3] Improvement assessments were not at issue

Preliminary Matters

[4] There were no Preliminary matters.

Background

[5] The subject property is undeveloped land with no improvements and is a corner lot located on Jasper Avenue in the Core Commercial Arts Zone (CCA) in Downtown Edmonton. The subject is a corner lot of 8,023 square feet with CCA zoning and an effective zoning of CB2.

[6] The subject property has been assessed using the cost approach to value resulting in a 2012 assessment of \$1,392,000.

Issue(s)

[7] Is the 2012 assessment of the subject property too high based on the sales of similar properties in the downtown area?

[8] Is the 2012 assessment of the subject property fair and equitable considering the assessed value and assessment classification of comparable properties?

Legislation

[9] The Municipal Government Act reads:

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

[10] The Complainant provided a 45-page brief (C-1) to show that the subject property’s 2012 assessment of \$1,392,000 is in excess of market value and a 43-page document rebutting the Respondent’s evidence to the Board (Exhibit C-2).

[11] The Complainant argued that a review of market sales of similar properties indicated a value of \$116.50 per square foot that would be more appropriate for the subject property. In support of this argument, the Complainant submitted eight sales comparables dated from March 2006 to July 2011 that showed a median time-adjusted sale price per square foot of \$116.62 per square foot (C-1, page 8).

[12] In order to establish a representative value of the eight sales comparables, the Complainant argued that the appropriate and correct value is the median. In support of this position, the Complainant provided several quotations describing the advantage of the “median”. On page 12 of C-1, the following quote in part was highlighted: *“The median has the advantage of discounting the effects of extreme values, thus better capturing typical price trends”*.

[13] The Complainant determined that the median of the eight sales comparables was \$116.62 per square foot. Based on the median, the Complainant stated the following: *“Due to the attributes of the subject such as age, size, location, and site coverage of the subject property, it is*

determined that the indicated value for the subject property is \$116.50 per square foot” (Exhibit C-1, page 8).

[14] To further support his request for a reduced value of \$116.50 per square foot, the Complainant provided a December 20th, 2011 decision of the Composite Assessment Review Board (CARB) (Exhibit C-1, pages 39 – 45). Of the eleven sales comparables provided in the December 20th decision, seven were used in the current complaint. In the December 20th decision, the Board reduced the assessment, a result that the Complainant was seeking in the current file.

[15] Six of the comparables submitted by the Complainant were zoned UW (Urban Warehouse), one was zoned JAMSC (Jasper Avenue Main Street Commercial), and one was zoned HA (Heritage Area). The subject is zoned CCA (Core Commercial Arts) (Exhibit C-1, page 8). The position of the Complainant was that zoning did not significantly impact the value of the property.

[16] The Complainant referred the Board to a chart of time adjustments for commercial land (C-1, page 17) used to determine the TASP of the comparable properties. These adjustments showed a downward trend in property values for 2012.

[17] The Complainant confirms that the highest and best use of the subject property is its current configuration as undeveloped land.

[18] Based on the Direct Sales (C-1, page 8) approach to median value of \$116.50 per square foot, the Complainant requests the 2012 assessment for the subject property be reduced from \$1,392,000 to \$934,500.

Position of the Respondent

[19] The Respondent presented a 129 page assessment brief (Exhibit R-1) and a 44 page Law and Legislation document (Exhibit R-2) arguing the current assessment of \$1,392,000 is fair and equitable when compared to sales and equity of similar properties.

[20] Five comparables sales submitted by the Respondent that showed a TASP range of \$176.95 to \$116.57 for an average of \$136.13 (R-1, page 9). These 5 sales are the same sales comparables that the Complainant used in his Comparable Sales Chart (C-1, page 8).

[21] The Respondent requests the Board to not consider the 3 sales at 10204- 105 Street, 10160- 106 Street and 10120 108 Street in the Complainant sales chart (C-1, page 8). These sales included a City of Edmonton purchase, a sale that was not listed on the open market and a motivated sale consolidating property for an office building.

[22] In support of his position that zoning impacted land value, the Respondent addressed six zones showing the maximum “floor area ratio” (FAR) applicable to each zone. The floor area ratio ranged from a low of 6.0 in the land zoned EZ to a high of 13.1 in the land zoned CCA (Exhibit R-1, page 70). The subject is zoned CCA and has the highest FAR of the comparables.

[23] The Respondent provided an Equity Comparables Chart (R-1, page 24) that showed 4 comparable properties with MSC zoning and CB2 effective zoning. This chart showed a corner lot assessed at \$ 173.56 per square foot and interior lots assessed at \$154.54 per square foot, the Respondent advised the Board that the equity comparables are located on Jasper Avenue.

[24] Based on the Equity Comparables provided, the Respondent requests confirmation of the 2012 assessment of \$173.51 per square foot or \$1,329,000.

Rebuttal

[25] By way of Rebuttal(C-2), the Complainant responded to the Respondents brief (R-1, page 9) where the Respondent asked that the three sales of the Complainant, 10204- 105 street, 10160- 106 Street and 10120 108 Street, be discounted from the sale comparables.

[26] Following are the three properties and the Complainant response to each of the Respondents concerns(C-2, page 6):

i The assessor has asked the Board to discount the sale at 10204 105 Street because it was purchased by the City of Edmonton. This is not the first time the assessors have asked the Board to do this and in each instance, the Board has rejected the assessor's assertion that the sale was invalid. In city emails sent from the assessment branch to an assessor, it was stated that property would be purchased at "market value" (Exhibit C-2, page 41).

ii The assessor has asked the Board to discount the sale at 10160 106 Street however, in numerous other briefs, the assessment department has brought this sale forward as a valid sale in support of their assessments. In numerous decisions of the Board from 2011 and 2012, the Board has deemed this transaction valid. This position was supported by a June 28, 2012 CARB hearing where the City assessor used this sale, identifying it as a "good sale" (Exhibit C-2, page 38).

iii The assessor has asked the Board to discount the sale at 10120 108 Street however, in numerous other briefs, the assessment department has brought this sale forward as a valid sale in support of their assessments. In numerous decisions of the Board from 2011 and 2012, the Board has deemed this transaction valid. This position was supported by a 2011 CARB hearing where the City assessor used this sale to support an assessment (Exhibit C-2, page 40).

[27] The Complainant stated that numerous decisions(C-2, pages 10-40) from the CARB in 2011 and 2012 have deemed these same sales transactions as valid.

[28] The Complainant stated that the Respondent provided an Equity Comparable chart (R-1, page 24) that shows actual zoning and effective zoning of four different equity comparables. In response to this the Complainant has provided an Assessment by Zoning Chart (C-2, page 9) for 32 equity comparable properties in the Downtown district. These showed comparable equity properties that had various zonings including CMU, EZ (formerly UW), HA, and RMU and each property were assessed at exactly the same rate of \$124.26 per square foot.

[29] Based on the Direct Sales (C-1, page 8) approach to value of \$116.50 per square foot, the Complainant requests the 2012 assessment for the subject property be reduced from \$1,392,000 to \$934,500.

Decision

[30] The decision of the Board is to confirm the 2012 assessment at \$1,392,000.

Reasons for the Decision

[31] The Board placed less weight on the Complainant's request to reduce the assessment of the subject property to the rate of \$116.50 per square foot for the following reasons:

- i. The Board acknowledges the sales comparables are located in the downtown district and notes that the subject property is located in the core financial area, all the other sales comparables, except the property at 10174 103 Street, are located either in the urban warehouse area from four to five blocks west of the subject, or in the JAMSC zoned area located seven blocks west of the subject. The Board determined that the sales comparables lacked zoning comparability which is one of the attributes in valuing commercial vacant land.
- ii. Although the Complainant's request an assessment of \$116.50 per square foot came from determining the median of the eight sales comparables submitted, the Board was not persuaded by the Complainant's argument that the "median" is a better indication of value than the "average". The Board offers two reasons, both based on material provided by the Complainant in C-1. In discussing the advantages of a median on page 12 of C-1, the comment includes a further explanation shown in brackets that states "*a trimmed mean could be used to the same advantage*". The Board interprets this comment as eliminating outliers as is the procedure in determining the median. The Alberta Assessors' Association Valuation Guide states: "*The tabulation process may uncover certain properties that do not seem to fit in with other properties. These properties may be mis-classified or they may simply be somewhat unusual. In such cases the tabulation and analysis done to determine the valuation parameters should exclude the unusual property, establishing a more homogeneous group*".

[32] The Board placed considerable weight on the one common sale comparable used by both the Respondent and Complainant located at 10174 103 street because of its location (nearest to the subject and just off Jasper Avenue), and it's zoning (HA) which has a floor area ratio of 10 compared to the 13.1 for the subject). The time-adjusted sale price of this property at \$176.95 per square foot more than supported the assessment of the subject at \$173.56 per square foot, and seriously challenged the Complainant's position that the subject property should be assessed at \$116.50 per square foot.

[33] Since the Board is restricting the sales comparable to the one sale at 10174 103 Street, it won't comment on the Complainant's three comparable properties that the Respondent suggested should not be used.

[34] The Complainant provided an Assessment by Zoning Chart for 32 properties that showed these properties to be all equitably assessed at \$124.26 per square foot. Only three of the thirty-two properties had zoning similar (HA) and in the same area as the subject. The Board accepts the Respondent advice that these properties had been mistakenly under assessed. The Board placed little weight on this Assessment Chart.

[35] The Board reviewed the specific details of each zone as outlined in the Floor Area Ratio chart and Edmonton Zoning Bylaw 12800 provided by the Respondent that showed that zoning had an impact on value. The Floor Area Ratios varied from 6 to 13 for the six zoning types provided by the Respondent, with the subject property having a CCA zone and it having the highest Floor Area Ratio at 13. The Board placed weight on this zoning chart as it showed the subject property having the highest Floor Area Ratio of all the comparable properties.

[36] The Board placed the greatest weight on the Equity Comparables provided by the Respondent that showed similar corner lots assessed at \$173.56 per square foot and similar interior lots assessed at \$154.54 per square foot.

[37] This subject being a corner lot, the Board confirms the assessment of \$173.51 per square foot or \$1,329,000 as being fair and equitable.

Dissenting Opinion

[38] There was no dissenting opinion.

Heard commencing September 4, 2012.

Dated this __27____ day of __September____, 2012, at the City of Edmonton, Alberta.

Dean Sanduga, Presiding Officer

Appearances:

Chris Buchanan
for the Complainant

Keivan Navidikasmaei
for the Respondent