

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 1107

Assessment Roll Number: 9541905

Municipal Address: 7220 48 Street 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

Brian Carbol, Board Member

Mary Sheldon, Board Member

Preliminary Matters

[1] The parties to the hearing had no objection to the composition of the panel. The members of the Board did not indicate any bias with respect to this matter.

Background

[2] The subject is a medium-sized warehouse constructed in 2007 and located in the Weir Industrial subdivision of the City of Edmonton. The subject has a gross building area of 15,200 square feet, all located on the main floor. The site coverage is 32%. The parties agreed that the industrial time adjustment factors used by the municipality with respect to comparable sales were appropriate. The subject has been assessed at \$2,811,000 for 2012.

Issue(s)

[3] Is the current assessment of the subject correct, fair and equitable?

Legislation

[4] 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

[5] The Complainant stated that the 2012 assessment of the subject was excessive. In support of this position, the Complainant presented an income approach market *pro forma* in respect of the subject which demonstrated, in the opinion of the Complainant, that the current value of the subject should be \$2,113,500, which is lower than the current assessment of \$2,811,000 (C-1, page 8).

[6] In producing this *pro forma*, the Complainant used a market rent of \$10.50 per square foot, a vacancy rate of 3% and a capitalization rate of 7.25%. To support this market rent, the Complainant provided a list of lease comparables which showed an average lease rate of \$10.24 and a median lease rate of \$10.50 (C-1, pages 14-15). The Complainant argued that all these comparables were located in South Edmonton, similar to the subject, and were built between 2004 and 2010.

[7] The Complainant also provided third party reports in support of the vacancy rate of 3% used in the *pro forma* (C-1, pages 16-25). The Complainant argued that these industry reports showed that a vacancy rate of 3% was in line with the market.

[8] With respect to the capitalization rate of 7.25% used in the *pro forma*, the Complainant provided a Colliers International capitalization rate report for the second quarter of 2011. In the opinion of the Complainant, this report indicated that a capitalization rate of 7.25 for the subject was in line with market trends.

[9] Upon questioning, the Complainant acknowledged that the municipality used the direct sales approach rather than the income approach in valuing the entire warehouse inventory.

[10] The Complainant reminded the Board that purchasers looking to buy a warehouse would be interested in the income stream produced. In that respect, the Complainant argued that the income approach to value for the subject was more appropriate.

[11] The Complainant also provided details of six comparable sales of similar properties and argued that these sales demonstrated that a value of \$145 per square foot for the subject would be appropriate. This would translate into a total value of \$2,204,000 for the subject (C-1, page 9).

The Complainant submitted that these six sales were similar in size, age, location and site coverage to the subject.

[12] Upon questioning, the Complainant noted that sale comparable #1 was a *post facto* sale and, as well, was located on 76 Avenue, a superior location to the subject. The Complainant also acknowledged that sale comparable #2 and sale comparable #6 were vacant at the time of sale, which could have depressed the purchase price. As well, upon questioning, the Complainant indicated that comparables #2, #3 and #5 were located in another quadrant of Edmonton, which could have had an effect on the purchase price.

[13] The Complainant requested that the Board reduce the current assessment of the subject to \$2,204,000.

Position of the Respondent

[14] The Respondent stated that the current assessment of the subject was correct, fair and equitable. The Respondent also reminded the Board that the entire warehouse inventory in Edmonton was valued using the direct sales approach since many warehouses are owner occupied and there is little income information available for these properties.

[15] The Respondent provided a chart of five sales comparables (R-1, page 19). The Respondent advised the Board that all had interior locations, similar to the subject. Except for comparable #4, all were of a similar age to the subject. The Respondent advised the Board that all the comparables had lower site overages than the subject and would thus require downward adjustments.

[16] The Respondent also advised the Board that its comparable #3 (17633 114 Avenue) was the same as the Complainant's sale comparable #3. The Respondent noted that the difference in size reported by the parties resulted from the Network including the mezzanine space as well as the main floor space. The Respondent also noted that, with respect to the Complainant's sales comparable #5, two buildings were valued at cost (less than \$10,000).

[17] The Respondent provided a chart of seven equity comparables (R-1, page 25), and advised that all were interior lots in the southeast quadrant of Edmonton. Further, these properties were of comparable age, site coverage and size when compared to the subject. The assessments per square foot of these comparables ranged from \$181.02 to \$229.72. The Respondent argued that this evidence supported the assessment of the subject at \$184.93 per square foot.

[18] The Respondent pointed out that the municipality does not use the income approach to value for the warehouse inventory. In any case, the information provided by the Complainant with respect to the income approach for the subject was general, overall information from industrial reports and not a site specific analysis.

[19] The Respondent requested that the Board confirm the 2012 assessment of the subject at \$2,811,000.

Complainant's Rebuttal

[20] The Complainant also provided a document outlining issues with the Respondent's evidence (C-2). The Complainant pointed out that two of the Respondent's sales comparables were portions of a duplex unit and therefore not comparable to the subject. The Complainant indicated that some of the Respondent's other sales comparables had lower site coverage, had superior location, or were significantly smaller than the subject. The Complainant argued that the sales comparables offered by the Respondent were of little assistance in establishing value for the subject (C-2, page 2).

[21] The Complainant also argued the income approach to value was the most appropriate method to value warehouses. In this regard, the Complainant referred to an excerpt from the *Standard on Mass Appraisal of Real Property* (C-2, page 4-5).

[22] The Complainant repeated the request that the Board reduce the current assessment of the subject to \$2,204,000.

Respondent's Surrebuttal

[23] The Respondent provided an oral response to the Complainant's rebuttal. The Respondent replied that the remainder of the sentence from the *Standard on Mass Appraisal of Real Property* relied upon by the Complainant indicated that the direct sales approach was also an appropriate method to use when valuing industrial properties.

Decision

[24] The decision of the Board is to reduce the current assessment of the subject to \$2,204,000.

Reasons for the Decision

[25] The Board notes the Respondent submitted that all properties in the warehouse inventory are valued by the municipality using the direct sales approach. In the opinion of the Board, the value of the subject should also be estimated by that approach in order that all like properties will be assessed in a similar manner. The Board also notes that many of the factors used by the Complainant to produce an income valuation for the subject are drawn from general industry reports and are not site specific. Therefore, the Board places little weight on the income approach to value proposed by the Complainant.

[26] Upon reviewing the sales comparables submitted by the Complainant, the Board notes that comparable #1 is a *post facto* sale. The Board also notes that the Complainant's sales comparables #2, #3 and #5 are not in the same location as the subject. The Board heard evidence supporting the proposition that location is an important factor in valuing the warehouse inventory (R-1, page 7).

[27] However, the Board notes that the Complainant's sale comparable #4, although somewhat older, is very comparable to the subject in other respects. It has a time adjusted sale price per square foot of \$146.39, which is close to the Complainant's requested value for the subject at \$145.00 per square foot. The same comments apply to the Complainant's sales comparable #6.

[28] In the opinion of the Board, the evidence of these two comparables is sufficient to put the accuracy of the subject assessment into question. Therefore, the onus shifted to the Respondent to justify the assessment.

[29] In the opinion of the Board, the Respondent did not introduce compelling evidence to convince the Board that the assessment of the subject is correct. Each sale comparable presented by the Respondent is either in a different location in Edmonton, is much older or has substantially different site coverage.

[30] The equity comparables presented by the Respondent do not convince the Board that the assessment of the subject is correct, fair and equitable. Two are much older, another two are much smaller and the remaining three have substantially different site coverages and are located in different industrial parks than the subject.

[31] Therefore, the Board concludes that the Complainant has provided sufficiently compelling evidence that a value of \$145 per square foot (\$2,204,000 in total) is correct, fair and equitable for the subject. The Board further concludes that the Respondent has failed to successfully defend the current assessment of the subject.

Dissenting Opinion

[32] There was no dissenting opinion.

Heard commencing November 1, 2012.

Dated this 27 day of November, 2012, at the City of Edmonton, Alberta.

Dean Sanduga, Presiding Officer

Appearances:

Walid Melhem
for the Complainant

Joel Shmaus
Will Osborne
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.