

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 00667

Assessment Roll Number: 9940400

Municipal Address: 7915 104 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

Jasbeer Singh, Board Member

Taras Luciw, 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] At the onset of the hearing, the Respondent raised a preliminary issue regarding the percentage exemption allowed on the subject property. An exemption in the amount of 100% was inadvertently entered for this account for 2013. The City of Edmonton leases 5,184 square feet of the total leasable area of 72,506 square feet and thus is calculated to 7.15%.

[3] It is the recommendation of the City of Edmonton that the exemption percentage for the subject property be reduced from 100% to 7.15% for the space occupied by the City of Edmonton for the period of January to November 2013.

[4] The Complainant agrees with the recommendation and the Board accepts the recommendation.

[5] During the hearing, the Respondent advised the Board that the City of Edmonton was recommending the 2013 assessment of \$14,325,500 be reduced to \$13,126,000 due to revised space categories.

[6] The Complainant did not accept the recommendation and the hearing continued.

Background

[7] The subject property is a neighborhood shopping centre located at 7915-104 Street NW. The assessed leasable building area is 72,506 square feet and the land size is 121,073 square feet. The shopping centre was constructed circa 1979/1995 and is located in the Strathcona Junction subdivision of Edmonton. The 2013 assessment is \$14,325,500.

Issue(s)

[8] Is the use of 95% of the gross building area appropriate for determining the net operating income for the subject property?

[9] What is the appropriate rental rate for the food store space in the subject property?

[10] What is the appropriate capitalization rate for the subject property?

Legislation

[11] *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

[12] The Complainant stated that the issues being addressed are as follows:

a) the subject property is not treated fairly as similar properties are getting preferential treatment as they are assessed at 95% of their actual value due to proforma sizes;

b) the lease rate for the food store is excessive;

- c) the capitalization rate is too low for a property of this age and historic vacancies. The capitalization rate should reflect the risk and be corrected to 7.5 percent.

[13] The Complainant noted that the subject property's actual area per the rent roll is 72,506 square feet (Exhibit C-1, page 4) while the Respondent records the gross area as 67,766.9 square feet (Exhibit C-1, page 5).

Issue 1. The use of only 95% of the gross building area for NOI calculations:

Position of the Complainant

[14] The Complainant described the subject property's assessment as not fair and equitable with other properties as the City has two retail units. One retail unit assesses at 100% of rent roll size and the other retail unit assesses at 95% of the leasable size (Exhibit C-1, page 13).

[15] To support the position of the assessment as not being fair and equitable, the Complainant provided a 438 page "95% Rental Area Analysis", entered as Exhibit C-2. This analysis detailed 92 properties of differing sizes and space type that were assessed at between 81% and 98% of the space defined by the rent roll. The average percentage was 94% and the median was 95%. This information was supported with a copy of the Assessment Detail Report and a rent roll for each property.

Position of the Respondent

[16] In defending the current year assessment, the Respondent presented a 148 page document (Exhibit R-1) that included an assessment brief and a Law & Legislation brief to the Board. The assessment brief included a summary of corrections that showed the details of the changes leading to the recommended lower 2013 assessment of \$13,126,000. (Exhibit R-1, page 16).

[17] In response to the Complainant's contention that the City's two retail assessment groups were using different approaches to assessment valuation that had resulted in the subject being treated inequitably; the Respondent stated that the mass-appraisal methodology used by the City required grouping of similar properties with common attributes and using a uniform valuation model for each group that was based on market information that also reflected the property attributes. There were separate valuation groups for standard retail properties and shopping centres. Even within a larger group, for example shopping centres, different assessment groups focused on community shopping centres, neighbourhood shopping and power shopping centres. (Exhibit R-1, pages 21 and 47).

[18] The Respondent advised the Board that due to particular reasons, some shopping centre properties were assessed at about 95% of the rent roll size, but those reasons were not applicable to the subject property (Exhibit R-1, pages 21). The Respondent pointed out that practically all 92 of the properties included in the Complainant's analysis (Exhibit C-2) belonged to a different category of properties (retail group) that were treated differently from the subject property that belonged to the 'shopping centre' category.

[19] During argument and summation, the Respondent stated that in respect of the retail properties, a very small percentage (only 20%) of the owners responded to the City's request for information (RFI) and in many cases, the information provided was incomplete or inaccurate. As

such, the City did a study and found that the net leasable space for the retail valuation group was, typically, 95% of the gross leasable area. (Exhibit R-1, page 48). However, this was not applicable to the subject property as it belonged to a different assessment category.

Reasons for the Decision

[20] The Board was not persuaded by the in depth analysis performed by the Complainant to determine if the subject property is assessed equitably with other similar properties. The Complainant stated the City of Edmonton has two retail assessment units. One retail assessment unit has a policy of assessing one group of retail properties based on 95% of the net leasable area (NLA), and another retail assessment unit has a policy of assessing a group of properties based on 100% of the NLA. The Complainant stated this was neither fair nor equitable.

[21] However, the Board notes that all properties within the shopping centre inventory are valued using the same assessment methodology and assessed using 100% of the NLA. The subject property falls within the shopping centre inventory.

[22] The Complainant utilized properties from the retail valuation group, which utilizes 95% of the gross footprint area. The properties that the Complainant referenced are not within the shopping centre inventory. The properties referenced are not similar and therefore are not considered comparable to the subject property.

[23] The Board notes that the Complainant's comparables are stratified in the retail plaza group and the subject property is stratified within the shopping centre group of properties. Equity means that similar types of properties must be assessed in the same way. The evidence of the City shows that shopping centres and properties in the retail valuation group are not being assessed in the same way, because they are not similar properties, and the information that is provided to the City for these two separate groups of properties is different.

[24] By having properties that are not comparable to the subject property, the Board finds that the Complainant's evidence and argument does not establish that the subject property is inequitably assessed with other similar properties.

Issue 2. The rental rate for the food store space:

Position of the Complainant

[25] The Complainant argued that the lease rate applied to the food store was excessive. The City applied \$15.50 per square foot to the food store space while the Complainant concluded that \$13.00 per square foot was appropriate. The Complainant provided an assessment comparables chart (Exhibit C-1, pages 28 and 29) of numerous food stores detailing their age and rental rate. To maintain equality, an adjustment as a percentage of CRU rental rates was made. The rental rates of a group of older food stores, including the subject, were adjusted to \$13.00 per square foot.

Position of the Respondent

[26] In response to the Complainant's contention that the rate of rent applied to the food store space was excessive and inequitable; the Respondent stated that the municipality's mass-

appraisal methodology was based on typical market rents for various groups of properties and the same approach had been adopted for the food store space in question. The Respondent provided a list of 18 food stores, located in different parts of the city, that differed in age and size attributes, but were all assessed at the same rate of \$15.50 /ft². This, in the Respondent's opinion, showed that the subject property was not treated inequitably by the City's assessment branch. (Exhibit R-1, pages 49-50).

[27] The Complainant's analysis of the lease rates and the correlation of food space rental rates with CRU space rental rates (Exhibit R-1, pages 28-29) was deemed irrelevant by the Respondent who stated that the City's mass appraisals were based on the typical rates that better reflected the market conditions on the valuation date.

Reasons for the Decision

[28] The Board was not persuaded to reduce the food store's typical rental rate of \$15.50 per square foot to \$13.00 per square foot. The Board notes the actual rental rate for the food store is \$15.75 per square foot, which is extremely close to the typical assessment of \$15.50 per square foot.

[29] In addition, while the Complainant's lease rate comparables for end units shows a median of \$15.50 per square foot and an average of \$14.78 per square foot, the NLA for the comparables is substantially less than the NLA of the food store. In most cases, the NLA of the comparables is 90% less than the NLA of the food store (22,221 square feet of NLA). Considering the economies of scale, the Board determines there is no evidence of an inequity regarding the food store assessment.

Issue 3. The capitalization rate:

Position of the Complainant

[30] The Complainant described the application of a 7.00% capitalization rate as inequitable and that a rate of 7.5% should be applied. To support this, a chart with assessment capitalization rate comparables of 14 properties was provided (Exhibit C-1, page 27). One property had a capitalization rate of 7% while 13 had a capitalization rate of 7.5% for a median capitalization rate of 7.5%.

[31] The Complainant submitted evidence in rebuttal to the Respondent's submission (Exhibit C-3, 133 pages) to demonstrate that the submission presented by the Respondent does not support a decision to confirm the current assessment.

[32] The Complainant provided third party information (Exhibit C-3) relative to the Respondent's *Shopping Centre Capitalization Rate Analysis* and questioned the validity of the sales presented by the Respondent. Specifically, some sales included additional land; some had errors in size; some had errors in rental income; some had a high office component and some were part of a portfolio purchase. During questioning by the Respondent about the capitalization rate analysis, the Complainant stated that if incorrect information is used, the results are skewed.

[33] The Complainant also submitted Sur-surrebuttal (Exhibit C-4, 6 pages) to the Respondent's rebuttal. Included was information from *Standard on Verification and Adjustment*

of Sales from International Association of Assessing Officers with specific reference to two headings. Paragraph 5.5, Acquisitions or Divestments by Large Property Owners, reads “Acquisitions or divestments by large corporations, pension funds’ or real estate investment trust (REITs) that involve multiple parcels typically should not be considered for analysis”. Paragraph 5.6, Multiple-Parcel Sales, reads, in part, “Regardless of whether the parcels are contiguous, any multiple-parcel sale that involves multiple economic units generally should not be used in valuation or ratio studies”. Additionally, the Complainant stated that the Respondent’s surrebuttal included properties located in different municipalities.

[34] During argument and summation, the Complainant described the analysis of rental rates for food stores as based on economies of scale wherein rates decline on older properties such as the subject. While the Respondent used higher rates, the same rates do not apply to all properties. The Complainant stated that the capitalization rates on comparable properties provided support at 7.50%. The Respondent used weak transactions to conclude the 6.50% capitalization rate. The conclusion is severely flawed as rental rates used were incorrect therefore the capitalization rate is incorrect.

Position of the Respondent

[35] Responding to the Complainant’s contention that the 7% capitalization rate used by the City was too low for a property of this age and historic vacancies (Exhibit C-1, page 3), the Respondent stated that the capitalization rates were based on an analysis of three years’ of sales, time adjustment of sale prices and stabilized net operating incomes. An analysis of 14 shopping centre sales showed a median value of 6.32% and an average of 6.34% for the 2013 capitalization rates (Exhibit R-1, page 30).

[36] The Respondent further advised the Board that in view of the industry trends and the ranges of capitalization rates published by the independent business entities (Exhibit R-1, pages 54 and 58); the City had adopted an equitable capitalization rate of 6.5% for the shopping centre inventory for the 2013 assessment year. However, acknowledging some access issues in respect of some spaces of the subject property, a capitalization rate of 7% had been used for its 2013 assessment valuation (Exhibit R-1, pages 15 and 16).

[37] The Respondent informed the Board that all 14 of the assessment capitalization rate comparables cited by the Complainant (Exhibit C-1, page 27) in support of a request for a 7.5% capitalization rate were in the City’s retail inventory and not relevant to the subject property, that was classified as a shopping centre.

[38] In Response to the Complainant’s contention that the subject property with a land use code (LUC) of 240, should be assessed equitably with a 7.5% capitalization rate, as other properties with such LUC were (Exhibit C-1, page 26); the Respondent stated that the LUCs were used by the City as ‘descriptors’ and these were not used for valuation purposes. LUCs did not determine if a property was classified as ‘retail’ or a ‘shopping centre’.

[39] The Respondent countered the Complainant’s assertions that the City’s capitalization rate study was riddled with errors in terms of space measurements, use of old lease rates and inclusion of buildings with large office spaces (Exhibit C-1, pages 4-5, C-1, pages 41 and 44, C-3, pages 47 and 53); by stating that the City relied on validated sales and ascertained the facts for determination of the typical rates applicable at the valuation date. In the Respondent’s opinion, the Complainant’s use of unverified and inconsistent third-party information was more troublesome.

[40] In a rebuttal of the Complainant's assertion that a property that formed one part of an eight property portfolio, had been inappropriately included in the City's 'Shopping Centre Capitalization Rate Analysis' (Exhibit C-1, page 14); the Respondent presented a five page surrebuttal document (Exhibit R-2), in support of the City's inclusion of such properties, as the price apportionment was available. (Exhibit R-2, page 2).

Reasons for the Decision

[41] The Board was persuaded by the Respondent's capitalization rate analysis that included 14 shopping centre property sales over the preceding three years and showed a median capitalization rate of 6.32% and an average capitalization rate of 6.34 %. The Respondent then utilized the analysis to establish a 6.5% capitalization rate for the shopping centre inventory.

[42] The Board was not persuaded by the Complainant's capitalization rate analysis. The Complainant's comparables were generally not shopping centre's and belonged to a different assessment group.

[43] While the Complainant is correct in stating that third party documentation should not be used to establish a capitalization rate, the Respondent advised the Board that the third party documentation was used to verify the Respondent's own evidence and or, establish a trend. Independent third-party documentation stated that the capitalization rate for Edmonton's neighborhood shopping centre was 6.00 to 6.50%. Additional published third-party documentation stated the capitalization rate for Edmonton's community shopping centre was 6.25 to 6.75%. Independent industry sources support the Respondent's assessed capitalization rate of 6.5% and a further 0.5% for access problems to some spaces.

Conclusion

Position of the Complainant

[44] In conclusion, the Complainant requested the Board to reduce the 2013 assessment to \$10,420,000.

Position of the Respondent

[45] The Respondent requested the Board to confirm the recommended revised 2013 assessment of \$13,126,000.

Decision

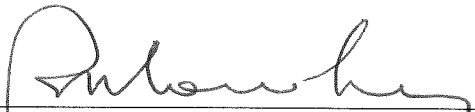
[46] The Board accepts the Respondent's recommendation to reduce the 2013 assessment of \$14,325,500 to \$13,126,000.

Dissenting Opinion

[47] There was no dissenting opinion.

Heard commencing June 24, 2013.

Dated this 8th day of July, 2013, at the City of Edmonton, Alberta.


Robert Mowbrey, Presiding Officer

Appearances:

John Trelford
for the Complainant

Chris Rumsey, Assessor
Steve Lutes, Legal Counsel
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.