

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 00670

Assessment Roll Number: 7094212

Municipal Address: 10368 78 AVENUE 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] During the hearing, the Respondent objected to Exhibit C-3 pages 80-88 inclusive as they were essentially new evidence that had not been disclosed to the Respondent. The Board recessed, deliberated and rendered a decision to the parties. The decision of the Board was not to allow pages 80-88 inclusive under Exhibit C-3.

Background

[3] The subject property is a neighborhood shopping centre located at 10368 78 Avenue NW, known as the Scona Market [Save On]. The City assessed area is 36,096 square feet and the land size is 36,096 square feet. The 2013 assessment is \$6,901,500.

Issue(s)

- [4] Is the use of 95% of the gross building area appropriate for determining the net operating income for the subject property?
- [5] What is the appropriate capitalization rate for the subject property?
- [6] What is the appropriate rental rate for the food store?

Legislation

- [7] ***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

- [8] The Complainant provided the Board with a map and photographs of the subject property [Exhibit C-1 pages 5-7].

- [9] The Complainant stated the issues being addressed are as follows:

- a) the subject property is not being treated fairly as similar properties are getting preferential treatment as they are assessed at 95% of their actual value due to proforma sizes:
- b) to show that the capitalization rate applied to the subject property is too low;
- c) to show that the rental rate for the food store should be adjusted for age.

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

[11] 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.

[12] The Complainant described the application of a 6.5% 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 15). 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%.

[13] The Complainant provided the Board with a chart of capitalization rate sales. The Complainant advised the Board, that if you eliminate six capitalization rate sales from the chart, the median capitalization rate is 7.04% and the average capitalization rate is 7.15% (Exhibit C-1 page 16). Therefore, the Complainant concluded that the best estimate of a capitalization rate for the subject property is 7.00%. Details of third party analysis of the capitalization rate sales are found in Exhibit C-1 pages 25-49.

[14] 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 17 and 18) 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.

[15] The Complainant provided the Board with a food store assessment comparable chart that indicated the median assessed rental rate was \$14.50 per square foot (Exhibit C-1 page 19).

[16] 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.

[17] 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.

[18] 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.

[19] 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 7.5%. The Respondent used weak transactions to conclude the 6.5% capitalization rate. The conclusion is severely flawed as rental rates used were incorrect therefore the capitalization rate is incorrect.

[20] The Complainant requested the Board to reduce the 2013 assessment of \$6,901,500 to \$4,570,000.

Position of the Respondent

[21] 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 centers. Even within a larger group, say shopping centers, different assessment groups focused on community shopping centers, neighbourhood shopping and power shopping centers. (Exhibit R-1, pages 128 and 129).

[22] 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 43). 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.

[23] 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. However; this was not applicable to the subject property as it belonged to a different assessment category.

[24] 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).

[25] 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

47 and 51); the City had adopted an equitable capitalization rate of 6.5% for the shopping centre inventory for the 2013 assessment year. The Respondent informed the Board that all 14 of the assessment capitalization rate comparables cited by the Complainant (Exhibit C-1, page 15) 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.

[26] 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 19); the Respondent stated that the LUC's were used by the City as 'descriptors' and these were not used for valuation purposes. LUC's did not determine if a property was classified as 'retail' or a 'shopping centre'.

[27] During argument, the Respondent showed the Board a chart commenting on the Complainant's equity capitalization rate analysis (Exhibit R-1 page 45). The chart showed no shopping centres activity and all of the Complainant's comparables were in the retail inventory, not in the shopping centre inventory.

[28] 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-3), in support of the City's inclusion of such properties, as the price apportionment was available. (Exhibit R-3, page 2).

[29] 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 17) of numerous food stores detailing their age and rental rate. To maintain equality, an adjustment as a percentage of CRU rental rates was made.

[30] The rental rates of a group of older food stores, including the subject, were adjusted to \$13.00 per square foot (Exhibit C-1 page 19).

[31] The Respondent requests the Board to confirm the 2013 assessment of \$6,901,500.

Decision

[32] The decision is to confirm the 2013 assessment of \$6,901,500.

Reasons for the Decision

[33] 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 departments. One retail assessment department has a policy of assessing one group of retail properties based on 95% of the net leasable area [NLA], and another retail assessment department has a policy of assessing a group of properties based on 100% of the NLA. The Complainant stated this was neither fair nor equitable.

[34] 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.

[35] 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.

[36] 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 centre's 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.

[37] 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.


[38] 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.

Dissenting Opinion

[39] There was no dissenting opinion.

Heard commencing June 24, 2013.

Dated this 15th 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.