

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group v The City of Edmonton, 2013 ECARB 00781**

**Assessment Roll Number:** 3595956

**Municipal Address:** 9888 Jasper Avenue NW

**Assessment Year:** 2013

**Assessment Type:** Annual New

Between:

**Altus Group**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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### **DECISION OF**

**Dean Sanduga, Presiding Officer**

**Jack Jones, Board Member**

**Robert Kallir, Board Member**

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### **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.

### **Background**

[2] The subject property is a high rise office building known as ATB Place located at 9888-Jasper Avenue in the downtown financial district and is sub classed as "AL". The property contains 160,814 square feet of office space, 5,531 square feet of CRU space and 87 underground parking stalls. The subject property has been assessed for 2013 utilizing the income approach to valuation.

### **Issues**

[3] Is the capitalization rate of 6.0% utilized to derive the 2013 assessment of the subject property correct?

[4] Is the 2013 assessment of the subject property at \$43,326,500 fair and equitable?

## **Legislation**

[5] 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 289(1) Assessments for all property in a municipality, other than linear property, must be prepared by the assessor appointed by the municipality.

(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) the valuation and other standards set out in the regulations for that property.

s 293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,

(a) apply the valuation and other standards set out in the regulations, and

(b) follow the procedures set out in the regulations.

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.

[6] The *Matters Relating to Assessment and Taxation Regulation, Alta Reg 220/2004 (MRAT)* reads:

s 2 An assessment of property based on market value

(a) must be prepared using mass appraisal,

(b) must be an estimate of the value of the fee simple estate in the property, and

(c) must reflect typical market conditions for properties similar to that property.

s 3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

### **Position of the Complainant**

[7] The Complainant presented evidence (Exhibit C-1) and argument for the Board's review and consideration.

[8] The Complainant advised that the only issue before the Board was the capitalization rate utilized in the 2013 assessment of the subject property. The Complainant argued that a rate of 6.5% should be used in lieu of a 6.0% rate applied within the 2013 assessment.

[9] In support of a requested 6.5% capitalization rate, the Complainant presented nine sales comparables (C-1, pages 24 to 32) with capitalization rates at the date of sale reported by "The Network" ranging from 5.85 to 7.0%.

[10] The Complainant also presented a Colliers International report on cap rates in the second quarter of 2012, indicating a cap rate range for "A" class downtown office buildings in Edmonton of 6.0 to 6.5% (C-1, page 34).

[11] The Complainant outlined a unique circumstance with respect to the subject property in that the sole tenant in the building announced in June, 2011 (C-1, pages 21 to 23) that they would be leaving the building beginning in late 2013 and would be completely vacated by the expiration of the current lease which is March 31, 2014. This situation would leave the subject property with a potentially vacant building or a lengthy lease up period which significantly impacts the risk associated with the property and therefore impacts the capitalization rate and market value.

[12] The Complainant also noted that of the Respondent's five comparables utilized to derive the cap rate for "AH" and "AL" buildings (R-1, page 28), the four nearest the valuation date had an average adjusted cap rate of 6.46%. Additionally the two "AL" buildings had an average adjusted cap rate of 6.2%, thus supporting the request to increase the capitalization rate above the assessed rate of 6.0%.

[13] In summary the Complainant requested that a 6.5% capitalization rate be applied to the 2013 assessment of the subject property reducing the assessment from \$43,326,500 to \$39,993,500.

### **Position of the Respondent**

[14] The Respondent presented evidence (Exhibit R-1) and argument for the Board's review and consideration.

[15] The Respondent reviewed the methodology of mass appraisal (R-1, pages 57 to 72) utilized to determine market value for the purposes of property assessment.

[16] The Respondent presented the subject property's response to the City RFI (Request for Information) dated February 23, 2012 (R-1, pages 21 to 25) as well as the Respondent's analysis of that information (R-1, pages 26 & 27) which indicate a typical actual lease rate of \$30.00 per

square foot compared to the assessed rate of \$16.50 per square foot. The City noted that this above market rate has been in place since 2009.

[17] The Respondent presented a capitalization rate analysis (Exhibit R-1, page 28) for class "A" downtown office buildings in support of the 6.0% rate used for "AH" and "AL" properties. The cap rate analysis derives adjusted cap rates by time adjusting the sales price of the property to the valuation date (July 1, 2012) as well as adjusting the net operating income to reflect typical market rates at the valuation date. The supporting sales data was included along with the associated adjustments (Exhibit R-1, pages 30 to 37). The Respondent also outlined adjustments that may be made to address non market leases in the analysis (R-1, page 39).

[18] With respect to the potential vacancy of the subject property as a result of the lease with ATB terminating in March, 2014, the Respondent noted that there may be increased risk as well as increased opportunity but either situation is an unknown as of the valuation date (July 1, 2012) and cannot be considered in the 2013 assessment. The Respondent advised that chronic vacancy is considered in assessments but only when they occur over a three year period (R-1, page 66).

[19] The Respondent noted that the Complainant's reliance on "Network" data sheets included a number of unsupported and inconsistent applications with respect to capitalization rates, income and vacancy rates and at best were a reflection of market conditions at the time of sale and not at the valuation date.

[20] In summary the Respondent requested the 2013 assessment be confirmed at \$43,326,500 and reinforced that the subject property is fully leased until March, 2014.

### **Decision**

[21] The decision of the Board is to confirm the correct capitalization rate for the derivation of the 2013 assessment of the subject property is 6.0%.

[22] The decision of the Board is to confirm the 2013 assessment of the subject property at \$43,326,500 as fair and equitable.

### **Reasons for the Decision**

[23] After review and consideration of the evidence and argument presented by both parties the Board determined that the 2013 assessment of the subject property at \$43,326,500 was appropriate.

[24] The Board placed greatest weight on the Respondent's evidence and methodology with respect to deriving an accurate cap rate for "AL" buildings as of the valuation date of July 1, 2012. The Respondent utilized a time adjusted sales price along with typical market lease rates as of the valuation date to determine a valuation date capitalization rate.

[25] The Board acknowledges the Complainant's argument with respect to a potential impact on market value of the future loss of the sole building tenant, however that potential impact was unknown as of the valuation date of July 1, 2012 and cannot be quantified.

[26] The Board noted that the subject property is being assessed at lease rates significantly below those actually achieved during 2012 and the 2013 assessment deals with the market value in 2012, not at the expiry of the present lease in March, 2014.

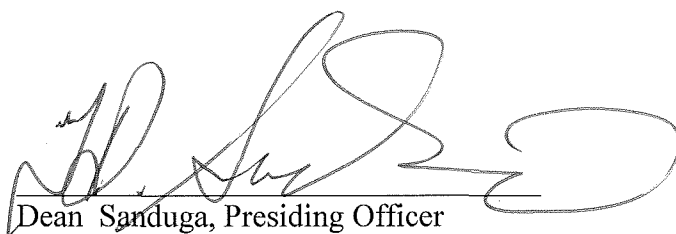
[27] The Board finds that the Respondent has properly applied the legislated mass appraisal methodology in determining the 2013 assessment of the subject property.

### **Dissenting Opinion**

[28] There was no dissenting opinion.

Heard on October 7, 2013.

Dated this 22<sup>nd</sup> day of October, 2013, at the City of Edmonton, Alberta.



Dean Sanduga, Presiding Officer

### **Appearances:**

Kerry Reimer, Altus Group  
for the Complainant

Tanya Smith, Law Branch, City of Edmonton  
Vasily Kim, Assessor, City of Edmonton  
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.*