

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 00793

Assessment Roll Number: 9986580

Municipal Address: 10534 106 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

George Zaharia, Presiding Officer

Martha Miller, Board Member

Mary Sheldon, Board Member

Procedural Matters

[1] When asked by the Presiding Officer, the parties did not object to the composition of the Board. In addition, the Board Members indicated no bias in the matter before them.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject property, known as the Bassani Building, is a two-storey commercial/office building located at 10534 106 Street NW in the 124th Street market area. The building comprises 28,248 square feet of office space, and 7,977 of CRU-other space for a total of 36,225 square feet. The building was constructed in 1978 and is classed as a C class building.

[4] The subject property was valued on the income approach resulting in a 2013 assessment of \$3,281,000.

Issue(s)

[5] Is the assessment of the subject property too high based on using a market rent of \$9.00 square foot for Office Space and \$8.00 square foot for CRU-other space in arriving at the 2013 assessment?

Legislation

[6] 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

[7] The Complainant presented written evidence and oral argument to the Board in support of its position that the 2013 assessment of subject was incorrect (Exhibit C-1). There was no dispute concerning the 2013 assessment vacancy allowance of 11%, the assessed shortfall rate of \$10.00 square foot, nor the 2013 Capitalization Rate of 7.5% applied by the Respondent.

[8] The Complainant argued that the subject was not capable of generating neither the \$9.00 per square foot for office space, nor the \$8.00 per square foot for CRU-other space, and supported his argument with four leases from the subject property with lease start dates of January 1, 2012 to May 1, 2012, close to the valuation date. The leased areas ranged in size from 833 to 3,300 square feet for rents that ranged from \$6.25 to \$9.00 per square foot, resulting in a median of \$6.75 and a weighted mean of \$6.90 per square foot (Exhibit C-1, page 8).

[9] The Complainant noted that there was a downward trend in lease rates. Of the four leases identified in the previous paragraph, the two leases commencing May 1, 2012 at \$6.25 per square foot were less than the two leases that commenced January 1 and March 1, 2012 that were at \$7.25 and \$9.00 per square foot. The two leases commencing August 1, 2012 at \$6.00 and \$6.25 per square foot, equal to or lower than the \$6.25 per square foot leases at May 1, 2012, indicated a continuation of the downward trend.

[10] The Complainant argued for a net market rent of \$7.00 per square foot, consistent with the rent indicators for subject. This calculation produced a Net Operating Income (NOI) of \$189,390 and when capitalized at a rate of 7.5%, resulted in an estimate of Market Value of \$2,525,000 (Exhibit C-1, page 11).

[11] The Complainant stated that the Respondent had used only one subclass for class C office buildings in suburban areas, while using two subclasses for similar properties in the government and financial districts, those being CL and CH. The application of two subclasses in 124th Street District “C” class buildings may have resulted in a market net rent for class CL buildings more

consistent with what those properties are able to attract in rents. The subject is assessed at rental rates inconsistent with new leases starting around the valuation date.

[12] The Complainant requested the Board reduce the 2013 assessment from \$3,281,000 to \$2,525,000 based on using a rent of \$7.00 for all office and CRU-other space in the subject.

Position of the Respondent

[13] The Respondent presented a brief in support of the 2013 assessment for subject, including Law and Legislation (Exhibit R-1), arguing that the current assessment of \$3,281,000 was fair and equitable

[14] The Respondent gave its position on each of the twelve issues raised by the Complainant on the complaint form (Exhibit R-1, pages 47-51). However, it was agreed by the parties that the only issue before the Board was Issue #9: "The market rental rate that the municipality has applied to the office space of the subject is too high." In response, the Respondent stated "The City is legislated to utilize Mass Appraisal, which" (Exhibit R-1, page 51).

[15] The Respondent assessed the subject based on an office rental rate of \$9.00 per square foot and a CRU-other rate of \$8.00 per square foot. The resulting Potential Gross Income was reduced by vacancy rates of 11% for office and 5% for retail, a 2% structural allowance, and a vacancy shortfall of \$10.00 per square foot, resulting in a Net Operating Income (NOI) of \$246,093. The NOI was capitalized at a rate of 7.5%, to arrive at the 2013 assessed value of \$3,281,000.

[16] The Respondent stated that legislation mandates that assessments must be prepared based on mass appraisal, which is a methodology for valuing individual properties that have been stratified into groups of comparable properties with common attributes, and involves using typical values. The 2013 Suburban Valuation Rates for class C buildings located in the 124th Street District, as is the subject, included an office rate of \$9.00 per square foot and a cap rate of 7.5% (Exhibit R-1, page 56).

[17] The Respondent submitted a chart of Suburban 124 "C" Class Office Buildings, showing a \$90 per square foot assessment rate for all properties with one exception at \$42.32 because that building had been given a 30.0% Office Vacancy rate rather than the typical rate of 11.0%, due to chronic vacancy (Exhibit R-1, page 59).

[18] The Rent Roll for the subject was reconstructed by the Respondent, listing the seven leases on the main floor and the ten leases plus the one vacant space on the second floor. There were seven lease renewals within eighteen months of the valuation date ranging from \$5.50 (considered an outlier) to \$9.00 per square foot (Exhibit R-1, page 54). Further, the Respondent submitted a table of time-adjusted rental rates for Suburban 124th District Class "C" buildings that included six renewal leases from the subject property and one from a comparable property. The time-adjusted net rents ranged from \$6.31 to \$12.61 per square foot. Those from the subject ranged from \$6.31 to \$9.57 (Exhibit R-1, page 55). The time-adjusted median of \$8.80, the Respondent argued, supported the typical rate of \$9.00 for 124th District "C" Class Buildings.

[19] The Respondent directed the Board to two MGB decisions, included in its written evidence, addressing the issue of typical versus actual rents (Exhibit R-1, pages 66 and 77). In both decisions, the MGB referenced the *Matters Related to Assessment and Taxation Regulation*

that requires an assessment be based on typical market values for similar properties, not actual values.

[20] In questioning, the Complainant acknowledged that the subject property had one vacant unit of 2,450 square feet for 6.8%.

[21] In summary, the Respondent stated Suburban Office properties are assessed using the Income Approach via the Direct Capitalization method. This approach adjusts for attributes to arrive at a typical market value for properties in the inventory. The Respondent has met all governing legislation and regulations and quality standards.

[22] In conclusion, the Respondent requested that the Board confirm the 2013 assessment of the subject property at \$3,281,000.

Decision

[23] The decision of the Board is to confirm the 2013 assessment of the subject property at \$3,281,000.

Reasons for the Decision

[24] Since the Complainant agreed with all the typical values applied by the Respondent, save the rental rate, the only issue that had to be addressed was whether the \$9.00 per square foot rental rate applied to the office space, and the \$8.00 per square foot rental rate applied to the CRU-other space utilized by the Respondent were too high, and as requested by the Complainant, be reduced to a single rate of \$7.00 per square foot. The Board placed less weight on the evidence and argument put forward by the Complainant for the following reasons:

- a) In proposing his reduced rental rate of \$7.00 per square foot, the Complainant relied on the actual lease rates existing in the subject property, rather than using typical values as mandated by **The Matters Relating to Assessment and Taxation Regulation (MRAT), Alberta regulation 220/2004**.
- b) Although the Complainant accepted the Respondent's applied typical vacancy rate of 11.0%, the actual vacancy rate for the subject was 6.8%.
- c) Provincial regulations mandate properties must be assessed by the mass appraisal method. **MRAT** s. 2, reads:

An assessment of property based on market value

(a) Must be prepared using mass appraisal,

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

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

- d) The Complainant did not provide any evidence that the subclass assigned the subject property, which is located in the 124 Street District, should be changed from C to CL, relying only on the subclasses assigned to similar properties in the government and financial districts. The Board did not have sufficient evidence from the Complainant to consider if the subclass for subject was incorrect.

[25] The Board placed greater weight on the evidence and argument presented by the Respondent for the following reasons:

- a) The time-adjusted net rent for seven leases, six of which were from the subject property, resulted in a median time-adjusted net rent of \$8.80 per square foot, supporting the typical rates applied by the Respondent of \$9.00 per square foot for office space and \$8.00 per square foot for CRU-other space for Class "C" buildings in the 124th District.
- b) The Respondent provided evidence that all the properties similar to the subject were assessed in the same manner, utilizing typical values, as mandated by MRAT.

[26] Although this Board is not bound by decisions of previous MGBs, this Board concurs with the findings of previous Boards that an assessment must be based on typical market values for similar properties, not actual values.


[27] The Board was persuaded that the 2013 assessment of the subject property at \$3,281,000 was fair and equitable.

Dissenting Opinion

[28] There was no dissenting opinion.

Heard August 27, 2013.

Dated this 5th day of September, 2013, at the City of Edmonton, Alberta.


George Zaharia, Presiding Officer

Appearances:

Kerry R Reimer
for the Complainant

Don Prokuda
Mary-Alice Nagy
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.