

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 00795

Assessment Roll Number: 10013351
Municipal Address: 18403 104 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
Harold Williams, Presiding Officer
Martha Miller, Board Member
Mary Sheldon, Board Member

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.

Preliminary Matters

[2] There were no preliminary matters. The parties agreed that evidence, argument and submissions will be carried forward where applicable from account roll number 10177253 to this file.

Background

[3] The subject property is located in the Sunwapta Industrial subdivision. It is an industrial warehouse property containing one building constructed in 2004 with a total square footage of 76,274. It has an office area of 20,006 square feet on the main floor and an upper finished area of 3,879 square feet.

Issues

[4] Is the 2013 assessment of the subject property correct when considering the sale of the subject property?

[5] Is the 2013 assessment of the subject property correct when considering the income generated by the property?

[6] Is the 2013 assessment of the subject property fair and equitable when compared to assessments of similar properties?

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 presented the Board with a brief outlining its position that the current assessment of the subject was not correct, fair or equitable (Exhibit C-1, 53 pages).

[9] In support of its position that the assessment of the subject was excessive when compared with the sale of the subject in September, 2009, the Complainant presented evidence to the Board that the subject sold on that date for \$7,000,000 (Exhibit C-1, page 31) or a time adjusted price of \$7,562,800. The Complainant argued that the sale of a subject is good evidence and that this sale price did not support the current assessment at \$9,648,000.

[10] In addition, to support its position that the current assessment was not fair nor equitable, the Complainant presented a chart of five properties (Exhibit C-1, page 13), which, in the opinion of the Complainant were similar to the subject. The Complainant stated that the ages of these comparables ranged from 1996 to 2008 and the site coverages ranged from 33% to 42%. The Complainant stated that these factors were similar to the age (2004) and site coverage (34%) of the subject.

[11] The Complainant pointed out that the assessments per square foot of the comparables ranged from \$96.19 to \$118.81 and that the assessment of the subject at \$126.49 was out of this range.

[12] The Complainant submitted that the average assessment per square foot of the comparables was \$106.73 and that an assessment of \$115 per square foot would be equitable for the subject when adjustments were made for some differences between the subject and the comparables.

[13] The Complainant argued that when that value per square foot based on equity comparables is applied to the subject, the resulting value would be \$8,771,500.

[14] As further support for the position that the current assessment of the subject was not correct, fair and equitable, the Complainant provided a proposed *pro forma* income valuation for the subject. In the preparation of this document, the Complainant used a market rent of \$8.75. The Complainant provided a rent roll of the subject and used various third party reports to support this rental rate and the vacancy rate used in the *pro forma* document. The Complainant also used a capitalization rate of 7% based on indicators in third party reports.

[15] The Complainant argued that the value for the subject provided by this income methodology was \$8,435,000. The Complainant submitted that this was further evidence that the current assessment of \$9,648,000 was excessive.

[16] The Complainant concluded by requesting that the Board reduce the current assessment of the subject to \$7,562,800, the time adjusted sale price of the subject. In the alternative, the Complainant requested that the Board reduce the current assessment of the subject to \$8,771,500 based on the equity comparables provided.

[17] In response to the Respondent's submission, the Complainant provided a rebuttal document (Exhibit C-2, 22 pages). The Complainant submitted that the equity comparables provided by the Respondent were not similar to the subject. In particular, the Complainant noted that most of the comparables were located on the south side whereas the subject is located on the north side. In addition, there were differences in the ages and site coverage with some of the comparables. The Complainant noted that the Respondent's equity comparable #2 at 10235 184 Street was also used in the Complainant's evidence and would support a reduction in the assessment.

[18] The Complainant repeated the request that the Board reduce the assessment of the subject to \$7,562,580, the time adjusted sale price of the subject or, in the alternative, to \$8,771,500 based on equity comparables provided by the Complainant.

Position of the Respondent

[19] The Respondent presented evidence (Exhibit R-1) and argument for the Board's review and consideration, in support of the position that the current assessment of the subject property is correct, fair and equitable.

[20] The Respondent directed the Board to (Exhibit R-1, page 22) sales comparable #4 and asked that it be deleted. In addition it was requested that (Exhibit R-1, page 26) be deleted.

[21] The Respondent presented four sales comparables (Exhibit R-1, page 22) and six equity comparables (Exhibit R-1, page 29) for the subject property.

[22] In terms of the Respondent's sales comparables (Exhibit R-1, page 22, pages 23-25 and page 27-28), the Respondent demonstrated that comparable #1 has a similar year built to the subject property, comparable #2 has the same site coverage as the subject property, and comparable #5 has similar site coverage. All sales comparables were shown as average condition as was the subject property.

[23] The Respondent's equity comparables (Exhibit R-1, page 29) showed all comparables as average condition as was the subject property. Site coverage's were shown ranging from 25-44% with equity comparable #2 & #6 being close to the subject property at 34%. Industrial Group #2 wherein the subject property is located is shown the same as the same industrial group as equity comparable #2. Equity comparable #6 was shown as closest to the subject property in terms of year built. Total building size of the subject property was shown as 76,275 square feet. Equity comparables #1, #2 & #6 were shown as having a building size ranging from 73,518 square feet (comparable #1) to 75,368 square feet (comparable #2).

[24] The Respondent provided information on the sale of the subject property (Exhibit R-1, page 40 & 41) which took place in September 2009. The Respondent noted that (Exhibit R-1, page 40) "73% of the space is leased at below market rates suggesting an upside". The Respondent's position was that the sale price may need adjustment to reflect an appropriate amount for a fee simple sale. Stated differently, the Respondent contended that the sale price of the subject property is reflective of the leased fee estate.

[25] The Respondent re-charted the Complainant's five equity comparables (Exhibit R-1, page 46) and evaluated the comparables consistent with the standards of the Respondent. There were deficiencies noted for each of the comparables including Complainant equity comparables #1 & #2 having inferior location and site coverage, Complainant equity comparable #3 having inferior location, Complainant equity comparable #4 having inferior location & site coverage, and Complainant equity comparable #5 as being older.

[26] The Respondent provided Sur-rebuttal (Exhibit R-2) for the Board's review and consideration. This one page document contained two photographs, one of the subject property together with the 184th Street roadway and one of the City's sales comparable #3 together with the 17th Street roadway.

[27] In summary, the Respondent requested that the Board confirm the 2013 assessment of subject property at \$9,648,000.

Decision

[28] The decision of the Board is to confirm the 2013 assessment of the subject property at \$9,648,000.

Reasons for the Decision

[29] The Board reviewed the information on the sale of the subject property, commonly known as the Lee Valley Tools Building. The information was provided by both the Complainant and the Respondent. The sale date was September 17, 2009 and the indicated sale price was \$7,000,000 with a time adjusted price of \$7,562,800.

[30] In the sales documentation it is stated that the leases in place carry to May 2011 and February 2015 and that 73% of the space is leased at below market rates. In most cases a sale of the subject property within a current time frame is a strong indicator for resulting assessment value. However in this case the Board heard verbal evidence that below market lease rates could tend to move the purchase price down. Neither the Complainant nor the Respondent provided written evidence of any possible effect on the sale price. As a result the Board was not able to put great weight on the adjusted sale price of the property for purposes of indicating an assessment value.

[31] The Board reviewed the income approach information provided by the Complainant. The information consisted of lease information within the subject property and third party real estate industry published information as to lease rates and income capitalization rates. The Complainant indicated that this information would provide an assessment of \$8,435,000. The Complainant did not provide first hand information as to market lease rates for similar properties or demonstrate a calculation of an income capitalization rate from such market lease rates. In these circumstances the Board was not able to rely on this income approach to indicate whether or not the assessment for the subject property was correct.

[32] The Board reviewed 5 assessment comparables provided by the Complainant. These comparables were shown to be generally in a similar geographic area of the City. The comparables were similar in age of construction and industrial grouping. There was some variance in site coverage and building size. The Board considered assessment comparable #5 (roll number 3941457) as most comparable, because of location within the City, industrial grouping, number of buildings, site coverage, and building size. A significant difference between comparable #5 and the subject property is age. This comparable is 8 years older than the subject property. This age difference may explain some of the difference in assessed value per square foot between comparable #5 and the subject property. This comparable was also included in the Respondent's information on assessment comparables.

[33] The Board reviewed 6 assessment comparables provided by the Respondent. These comparables were shown to be in various areas of the City. The Board considered comparable #2 (roll number 3941457) as most comparable to the subject property in terms of location within the City, industrial grouping, number of buildings, site coverage, and building size. The comparable was also included in the Complainant's information as to assessment comparables. There is a difference in year of construction but the effect of the age difference was not quantified by either party.

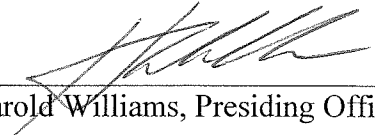
[34] In the Board's view, responsibility rests with the Complainant to provide sufficiently compelling evidence that would indicate an error in the assessment of the subject property. It is the Board's opinion that such evidence was not provided in this case.

Dissenting Opinion

[35] There was no dissenting opinion.

Heard June 26, 2013.

Dated this 10th day of July, 2013, at the City of Edmonton, Alberta.



Harold Williams, Presiding Officer

Appearances:

Adam Greenough

Kerry Reimner

for the Complainant

Cam Ashmore

Suzanne Magdiak

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.