

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01111

Assessment Roll Number: 9943061

Municipal Address: 3903 34 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

Patricia Mowbrey, Presiding Officer

Lillian Lundgren, Board Member

Darryl Menzak, 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 is a neighborhood shopping centre located at 3903 - 34 Street in the Larkspur neighborhood. The building was constructed in 1998 and has a total area of 28,247 square feet (sf). It comprises a Shoppers Drug Mart and several Commercial Retail Units (CRUs). The property assessment is \$9,449,500.

Issue(s)

1. Is the subject property assessed equitably with similar properties?

2. Is the subject property assessed correctly?

(a) Is the capitalization rate used to prepare the assessment correct?

Legislation

[4] **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

[5] The basis of this complaint is that the subject property assessment is inequitable and incorrect.

[6] The Complainant argued that the subject property is not assessed equitably with similar retail properties: similar properties are assessed at 95% of the leased area based on the rent roll, but the subject property is assessed at 100% of its leasable area. In support of this position, the Complainant presented a Rental Area Analysis of 92 retail properties (Exhibit C-2). According to the Complainant, the properties listed on pages 1 and 2 of Exhibit C-2 are assessed based on 95% of the leased area stated on the Commercial Tenant Roll. As a result of the analysis, the requested value of \$8,501,500 reflects a 5% downward adjustment to the subject property's area.

[7] The Complainant also argued that the 6.5% capitalization rate used to prepare the assessment is too low and should be increased to 7%. Sales of recent retail properties indicate that the market capitalization rate is approximately 7%. The Complainant presented a Capitalization Rate Sales chart of twenty-four sales comparables that have a median capitalization rate of 7.04% (Exhibit C-1, page 17). When the Complainant removed six of the sales comparables which are less comparable, the remaining eighteen comparables have a median capitalization rate of 7.15%.

[8] The capitalization rates in the Capitalization Rate Sales Chart are published by The Network. These rates are based on the actual net operating income and the actual sale price on the sale date. The Complainant did not time adjust any of the sale prices because they are recent

sales that transacted in the last two years. During questioning, the Complainant agreed that the capitalization rates published by The Network are “leased fee” capitalization rates.

Rebuttal

[9] The Complainant disagreed with the time adjustment factors applied by the Respondent to the sale prices of those properties with a substantial office component because the Respondent did not apply a separate time adjustment factor to the office portion.

[10] The Complainant presented a chart of eight sale comparables, seven of which were used by both parties (Exhibit C-3, page 2). The capitalization rates were taken from The Network, and have a median rate of 7.14%, which supports the requested 7% capitalization rate.

[11] In summary, the Complainant requested that the Board reduce the assessment to \$8,501,500.

Position of the Respondent

[12] The Respondent submitted that the subject property assessment of \$9,449,500 is equitable and correct.

[13] The Respondent explained that the subject property is valued within the Shopping Centre group of properties and all properties within the shopping centre inventory are valued using the same methodology which obtains a gross leasable area directly from the rent roll.

[14] For other types of retail properties within the standard retail inventory, the information that is provided to the City from property owners is usually either incomplete, provides a gross area, or the properties are owner occupied. Due to not having a gross leasable area for most properties, the City developed a study which showed that the gross leasable area is typically 95% of the gross building area.

[15] In response to the Complainant’s concern that the properties in Exhibit C-2 are assessed using 95% of the leased area on rent rolls, the Respondent stated that this is not the case. Regardless of whether the property is a shopping centre or a retail plaza, the property is assessed based on its gross leasable area. In both the shopping centre valuation group and the retail valuation group, the final size is an attempt to accurately reflect the gross leasable area for the property.

[16] For any individual property, if the property owner can show that the gross leasable area that the City has actually used to assess the property is inaccurate (either too high or too low) the owner may file an appeal to correct the size.

[17] The Respondent pointed out that, except for two properties, the Complainant’s equity comparables are not similar to the subject property because they are from the retail group of properties. Although the retail group of properties is valued on the gross leasable area, different capitalization rates are used.

[18] Using a Shopping Centre Capitalization Rate Analysis (Exhibit R-1, page 16), the Respondent defended the 6.5% capitalization rate applied to the subject. The analysis is based on

fourteen sales of shopping centres that transacted from August 2010 to April 2012. The Respondent used the stabilized net operating income and time adjusted sale prices when deriving the capitalization rates. The results of the capitalization rate study are a median capitalization rate of 6.18% and an average capitalization rate of 6.34%.

[19] In summary, the Respondent requested that the Board confirm the assessment at \$9,449,500.

Decision

[20] The property assessment is confirmed at \$9,449,500.

Reasons for the Decision

[21] The Complainant did not provide sufficient evidence to demonstrate that the 6.5% capitalization rate used to prepare the subject assessment is incorrect or inequitable.

[22] The Complainant's requested 7.0% capitalization rate, derived from the Complainant's Capitalization Rate Sales analysis, is unreliable because the sale comparables have not been time adjusted. Further, the capitalization rates are leased fee rates based on the actual net operating income rather than the stabilized net operating income. There can be significant differences which will result in inconsistent capitalization rates.

[23] For assessment purposes, the Board accepts the Respondent's method of calculating a capitalization rate because it meets the legislative requirement for determining a fee simple capitalization rate. The Respondent derives the rate using typical market conditions, and applies this fee simple capitalization rate to a typical net operating income. In other words, the capitalization rate is applied in the same manner as it was derived.

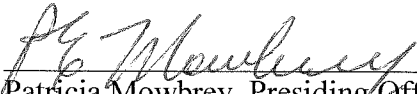
[24] The Board finds that the Respondent's 6.5% capitalization rate is supported by the Respondent's Shopping Centre Capitalization Rate Analysis, and is appropriate for valuing the subject property for assessment purposes.

[25] With respect to the equity matter, the Board finds no evidence of an inequity. The subject property is assessed in the same manner as all other properties in this group, using 100% of the gross leasable area. Furthermore, properties in the retail group are also assessed using 100% of the gross leasable area.

[26] For the above reasons, the assessment is confirmed.

Heard August 7th, 2013.

Dated this 22nd day of August, 2013, at the City of Edmonton, Alberta.


Patricia Mowbrey, Presiding Officer

Appearances:

Jordan Nichol
For the Complainant

Ryan Heit
Steve Lutes

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.