

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01128

Assessment Roll Number: 10003519

Municipal Address: 9910 69 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
Patricia Mowbrey, Presiding Officer
Brian Hetherington, Board Member
Dale Doan, Board Member

Procedural Matters

- [1] When asked by the Presiding Officer, the parties did not object to the composition of the Board. The Board Members indicated there was no bias in the matter before them.
- [2] At the request of the Respondent's lawyer, both parties were sworn in.

Background

- [3] The subject property is a 116,018 sq ft grocery store on a 296,438 sq ft lot owned by Loblaws and operating as a Great Canadian Wholesale store, and located in the CPR Irvine subdivision at 9910 - 69 Avenue, Edmonton. It was built in 1973 and has been assessed by the City at \$7,565,000.

Issue(s)

- [4] Is the subject assessment equitable with assessments of similar properties?
1. Should the subject be given the 95% size adjustment?
 2. Is the allocation of building space correct?
 3. Is the lease rate applied to the rear warehouse too high?

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 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*, AR 220/2004** 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.

Position of the Complainant

[7] The Complainant presented written evidence, Exhibit C-1, Disclosure, 55 pages, C-2, 95% Rental Area Analysis, 438 pages and oral argument for the Board’s review and consideration.

Issue 1: Should the subject be given the 95% size adjustment?

[8] The position of the Complainant was that the assessment of the subject was not fair and equitable and the assessment was excessive. The Complainant argued that all retail properties should be assessed using the same method, and that the size of the property or the specific assessor should not affect the assessment method.

[9] The Complainant provided a Fairness and Equity Analysis of Rental Area (C-2), which listed 92 properties and included the City of Edmonton Request For Information rent rolls and Assessment Detail Reports on each property.

[10] The Complainant stated that the Respondent categorized retail assessment in two groups, one used 100% of rent roll size for assessment purposes, and the other group used 95% of

the leasable size. The Complainant argued that the subject property was assessed inequitably because it was assessed using 100% of the rent roll.

- [11] The properties listed in C-2 specified the ratio of the City Assessment Proforma sizes to the City Gross sizes and indicated the ratios had a median of 94% and an average of 92% overall. The chart also provided a ratio of the City Assessment Proforma sizes to Rent Roll sizes which resulted in a median of 95%, and an average of 94%. The Complainant pointed out there was a close correlation between the two ratios to support a 95% adjustment.
- [12] The Complainant provided the City's Assessment Record Valuation Summary and the Assessment Proforma for the subject, (C-1, p 13 and 14), indicating a total area of 116,018 sq ft. Applying a 95% adjustment, the subject area would total 110,217 sq ft, with a corresponding requested assessment of \$6,765,000.

Issue 2: Is the allocation of the building space correct?

- [13] The Complainant stated that the allocation of space in the assessment was incorrect as a head lease was put in place in May 2012 for 56,341 sq ft for the rear area of the warehouse. The food store occupies 56,078 sq ft, CRU other 3,220 sq ft and office 379 sq ft for the total area of 116,018 sq ft.
- [14] The Complainant provided a rent roll (C-1, p 18 and 19), dated July 2012, detailing the Northwest Foods lease beginning May 18, 2012.
- [15] The Complainant provided the Board with a copy of a Collier Market Report for Q2 2012 (C-1, p 20) which identified a head lease of 56,720 sq ft of the subject property to Northwest Food Service Company.
- [16] The Complainant provided the Board with a copy of the 2012 Withdrawal and Agreement to Correction of Assessment, for the subject property, indicating a reduction last year from \$8,334,000 to \$6,578,000, (C-1, p 21 and 22).

Issue 3: Is the lease rate applied to the rear warehouse too high?

- [17] The Complainant stated that the assessment rate for the rear warehouse was too high and requested that it be reduced to \$3.75 per sq ft, which is the same rate as the head lease, detailed in the rent roll, (C-1, p 18 and 19).
- [18] The Complainant requested the assessment be reduced to \$6,746,500 based on a 95% adjustment of building area to 110,217 sq ft, the allocation of space for the rear warehouse lease area of 56,341 sq ft at a lease rate of \$3.75.

Position of the Respondent

- [19] The Respondent presented written evidence (R-1, 159 pages) and oral argument for the Board's review and consideration.

Issue 1: Should the subject be given the 95% size adjustment?

- [20] The Respondent submitted that there were two separate valuation groups for retail, (R-1, p 15 and 16); one is for standard retail/retail plazas and the other is for shopping centres. The two groups are different as they each use a different approach to calculate size. The Respondent explained the reason for the different approaches is that the standard retail group, which included owner occupied and small retail properties, historically returned minimal responses to the City's Request For Information and consequently reliable size and other information was not available. Therefore the 95% of gross building area methodology was developed in an attempt to ascertain a correct and equitable gross leasable area of the standard retail properties for assessment purposes.
- [21] The Respondent indicated that the RFI return rate for the shopping centre group was quite high, and the actual gross leasable area of properties can be ascertained for assessment purposes from the rent roll. The subject property is categorized as a shopping centre and was assessed using 100% of gross leasable area.
- [22] The Respondent provided additional details (R-1, p17 and 18), in response to the Complainant's Rental Area Analysis of the 92 properties listed in Exhibit C-2. The Respondent reproduced the listed properties and added a column for the analysis of Exhibit C-2, which detailed the valuation grouping for the properties listed. The result was that all but two of the 92 properties were in the retail or retail plaza valuation group, which identified that they were assessed in the retail group using the 95% methodology. The Respondent stated that as such, the properties in the Complainant's Rental Area Analysis, Exhibit C-2, were not comparable with the subject which is a neighbourhood shopping centre.

Recommendation

- [23] The Respondent presented a recommendation in the form of a Correction Summary, (R-1, p 8). The correction summary reallocated the building space and lease rates as follows:
- food store, 56,078 sq ft at \$6.50/ sq ft,
 - rear warehouse , 56,341 sq ft at \$3.75/sq ft,
 - CRU other, 3,220 sq ft at \$1.00/sq ft, and
 - office, 379 sq ft at \$3.50/sq ft.

The vacancy rate was changed from 10% to 2.5% as the building had 100% occupancy.

The recommended 2013 assessment for the subject is \$7,121,000.

Decision

- [24] The decision of the Board is to accept the recommended 2013 assessment for the subject of \$7,121,000 and revise the assessment as such.

Reasons for the Decision

[25] The Board referred to s2 *MRAT*, that states, Mass Appraisal is the legislated methodology for assessment and that the Income Approach to value is the appropriate valuation method.

Issue 1: Should the subject be given the 95% size adjustment?

[26] The Board accepted the premise of property stratification for the 2013 assessment (R-1, p 129-133), and that each property is further stratified showing similarities within the group. The subject is in the Neighborhood Shopping Centre group.

[27] The Board accepted the Respondent's explanation and reasons for the use of different approaches to determining the GLA of the two retail groups (i.e. retail and shopping centre). The Board is satisfied that there is ample information returned to the City in response to the annual RFI for the shopping centre group and that the gross leasable area can be determined for assessment purposes from the rent roll. The Board accepted that there are minimal responses to the annual RFI for the retail group and that the 95% of gross building area was developed in an attempt to ascertain correct and equitable gross leasable area for assessment purposes.

[28] The Board accepted the Respondent's grouping of retail and shopping centre for assessment purposes, and therefore finds the comparables, (C 2), inappropriate as they are retail and a dissimilar group to the subject, a neighborhood shopping centre

[29] The Board reviewed the extensive list of 92 comparable properties presented by the Complainant in the Fairness and Equity Analysis of Rental Area (C 2). The Board was not persuaded by the Complainant's argument and submission that the shopping centre group of properties was treated unfairly and inequitably. The Board finds that the 95% method of calculating size is correctly applied in the retail group but is not appropriate for the shopping centre group.

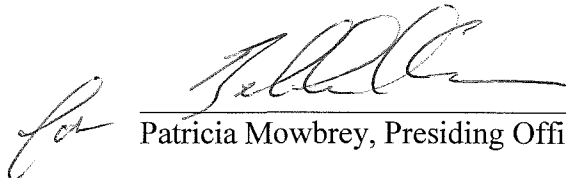
Recommendation

[30] The Board finds the Respondent's recommendation fair and reasonable as it satisfies the Complainant's request for the reallocation of space between the food store and the rear warehouse space at the requested warehouse lease rate of \$3.75/sq ft. The vacancy rate change from 10% to 2.5% is fair and reasonable, as the building was 100% occupied with the rear warehouse lease.

[31] The Board finds the recommended 2013 assessment for the subject of \$7,121,000, correct, fair and reasonable.

Heard commencing September 3, 2013.

Dated this 3rd day of October, 2013, at the City of Edmonton, Alberta.


Patricia Mowbrey, Presiding Officer

Appearances:

Jordan Nichol
for the Complainant

Cam Ashmore, Legal Counsel
Chris Rumsey, Assessor
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.