

## **Edmonton Composite Assessment Review Board**

**Citation: AWLS Holdings (1995) Ltd v The City of Edmonton, 2013 ECARB 01169**

**Assessment Roll Number:** 7097132

**Municipal Address:** 8116 Gateway Boulevard NW

**Assessment Year:** 2013

**Assessment Type:** Annual New

Between:

**AWLS Holdings (1995) Ltd**

Complainant

and

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

Respondent

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**DECISION OF**  
**George Zaharia, Presiding Officer**  
**Lillian Lundgren, Board Member**  
**Darryl Menzak, Board Member**

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### **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] The Respondent noted that the Complainant included in his disclosure a July 6, 2009 letter regarding capitalization rates signed by Mr. Dale Doan, who is currently a member of the Edmonton Assessment Review Board. In response, the Complainant informed the Board that he did not believe that Mr. Doan was a board member at the time that the letter was issued. With no further argument by the Respondent, the letter was left in the Exhibit.

### **Background**

[3] The subject property is a two-storey retail/upper office space building located at 8116 Gateway Boulevard NW in the Strathcona Junction neighbourhood of south Edmonton. The building comprises 4,444 square feet of main floor retail space, 3,173 square feet of second floor office space, and 1,893 square feet of basement storage space for a total area of 9,510 square feet. The building was constructed in 1942 with an effective age of 1951, and is situated on a 9,917 square foot lot.

[4] The subject property was valued on the income approach resulting in a 2013 assessment of \$1,919,500.

### **Issue(s)**

- [5] Is the 4,444 square footage assigned to the main floor correct?
- [6] Is the assessed rental rate of \$22.50 per square foot for main floor space, and the \$11 per square foot for second floor space excessive for specific areas of the building?
- [7] Is the 6.5% capitalization rate applied to the subject property too low?

### **Legislation**

- [8] **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**

[9] In support of its position that the 2013 assessment of the subject was excessive, the Complainant presented a 40-page brief to the Board (Exhibit C-1). In addition to the six pictures included in Exhibit C-1, the Complainant showed the Board a poster board with 23 pictures that was not retained as an exhibit. The Complainant also submitted portions of two appraisals, a commercial tenant rent roll as at June 30<sup>th</sup>, 2012, a letter from an appraiser regarding capitalization rates, and a revised pro forma.

[10] The Complainant submitted selected pages from a 1983 appraisal completed by John Hertay showing the main floor leasable space as 4,163 square feet, and the second floor space as 3,292 square feet (Exhibit C-1, page 14).

[11] The Complainant submitted selected pages from a 2009 appraisal completed by Cameron Walker showing the main floor leasable space as 4,283 square feet, and the second floor space as 2,855 square feet (Exhibit C-1, page 20). The appraisal concluded that the subject leasing appeared to be well within range of the surveyed market data showing main floor retail bays renting between \$20 and \$28 per square foot net, with operating expenses being \$8 per square foot (rounded). The Appraiser commented on the owner occupied retail space at the back of the building, and suggested a discounted rate of \$5 per square foot net. The appraisal also addressed the second floor office space by describing the architect’s front space as being more desirable at

\$7 per square foot net, suggesting that the rent for the vacant space would be something less than the Architect's space, in the area of \$5 per square foot net (Exhibit C-1, page 28).

[12] In support of his position that the capitalization rate of 6.5% applied to the subject property was too low, the Complainant submitted a letter from an appraiser suggesting that the higher end of a range of 6.5% to 7.0% be applied to the subject property (Exhibit C-1, page 10).

[13] In a rebuttal document marked as Exhibit C-2, the Complainant argued the comparability of the Respondent's three equity comparables (Exhibit R-1) based on location, age, condition, and attractiveness to institutional investors. As well, the Complainant pointed out inconsistencies in the Respondent's disclosure as to the subject's net versus gross rents, median rents, and years built, and argues non arm's length rental rates, traffic counts, and that the rental rate applied to the retail space at the rear of the building should be a more realistic amount than the current \$22.50 per square foot.

[14] The Complainant requested the Board reduce the 2013 assessment of the subject property from \$1,919,500 to \$1,489,000.

### **Position of the Respondent**

[15] The Respondent stated that the 2013 assessment of the subject was fair and equitable. To support its position, the Respondent presented to the Board a 52-page assessment brief (Exhibit R-1) that included the law and legislation brief.

[16] In the assessment brief, the Respondent provided responses to the Complainant's concerns regarding correct area, rental rates and capitalization rates.

- a) Regarding the Complainant's concern about the square footage assigned to the subject property for assessment purposes, the Respondent advised the Board that where the Complainant considers the net leasable area, the Respondent uses the gross area less 5%, a formula used for all retail properties (Exhibit R-1, page 20).
- b) In response to the Complainant's request that the main floor space accessible off the laneway, and the second floor space at the back of the building should be assessed at \$5 per square foot, the Respondent advised that the subject property was assessed under the "income approach" utilizing typical market rents for the building as a whole. The actual gross median rental rate from the Commercial Tenant Roll provided by the Complainant for the main floor space is \$34.17 per square foot, while the Respondent assesses the main floor space at \$22.50 per square foot. The gross median second floor rent from the Commercial Tenant Roll is \$15 per square foot while the Respondent assesses this space at \$11 per square foot (Exhibit R-1, pages 20 and 25).
- c) Regarding the Complainant's concern about the capitalization rate, the Respondent provided a map showing properties on, and within a block of, Whyte Avenue that were assessed utilizing a 6.5% capitalization rate (Exhibit R-1, page 14).

[17] The Respondent submitted a chart showing "Assessment Equity Comparable Rents for Retail Properties" that included the subject property and three comparables (Exhibit R-1, page 15). The comparables were from six to twenty-nine years newer than the subject, with the age differential being captured in the assessed rental rates that ranged from \$26.25 per square foot for the oldest property to \$27.50 per square foot for the newest property. These properties were

compared to the assessment rate of the subject property at \$22.50 per square foot for main floor space. Second floor assessed rents in the same properties ranged from \$13 to \$18 per square foot, while the subject property was assessed at \$11 per square foot. Main floor vacancy for all properties was assessed at 5% while second floor vacancy in the comparables was assessed at 5%, with the subject being assessed at 10%. The capitalization rate for all the properties was 6.5%.

[18] The Respondent requested that the Board confirm the 2013 assessment of the subject property at \$1,919,500.

### **Decision**

[19] The decision of the Board is to confirm the 2013 assessment of the subject property at \$1,919,500.

### **Reasons for the Decision**

[20] The Board placed less weight on the appraisal reports submitted by the Complainant for the following reasons:

- 1) The Appraisers were not present to answer questions about the appraisal reports,
- 2) The appraisal reports were not complete, and
- 3) The age of the appraisal reports, one being completed in 1983 and the other in 2009.

[21] Although the Complainant questioned the correctness of the square footage applied to the main floor space of the subject property, there were inconsistencies in the information provided by the Complainant to support a change in the assessed square footage. The 1983 appraisal report showed the leasable space for the first and second floors as 7,455 square feet, the 2009 appraisal report showed the leasable space as 7,138 square feet, while the Complainant suggested that the space should be 7,533 square feet. The Board placed greater weight on the Respondent's explanation that for equity purposes, all space for retail properties is calculated on gross space less 5%.

[22] The Board placed less weight on the opinion letter signed by Dale Doan. The letter presented no sales to support the claim that the capitalization rate for the subject property should be the higher of the range of 6.5% to 7%.

[23] The Board placed greater weight on the Respondent's position of a 6.5% capitalization rate since that rate was applied to the majority of properties along Whyte Avenue between Gateway Boulevard and 106 Street, as well as properties both south and north of Whyte Avenue along Gateway Boulevard.

[24] The Board placed greater weight on the rental rates used by the Respondent.

- a) By the Complainant's own evidence, which was provided in response to the Respondent's Request for Information (RFI), the gross rental rates for the main floor retail spaces facing Gateway Boulevard were at \$32.34, \$38.30 and \$36.00 per square foot. This is well in excess of the \$22.50 per square foot net applied by the Respondent for that space. The Board noted that the Complainant accepted this rate for the retail

spaces facing Gateway Boulevard, requesting only a reduction to the retail space at the rear of the building, off the laneway. The Complainant acknowledged that the space is occupied by a minority owner, but regardless of the occupant, because the space is above-grade "with no exposure to street vehicular or pedestrian traffic", a more realistic assessment rate should be applied. No evidence was provided to indicate what a more realistic assessment rate should be, and no evidence was provided that the space had been offered on the open market.

- b) The Complainant did not object to the \$11 per square foot assessment rate applied to the 2,115 square feet of second floor office space facing Gateway Boulevard, which is being rented at \$18.00 per square foot gross. Since this space constitutes 88% of the second floor rented area, the Board accepted the \$11 per square foot assessed rental rate applied by the Respondent.

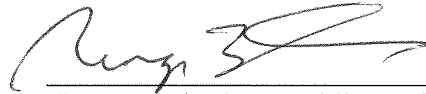
[25] The Board is persuaded that the 2013 assessment of the subject property at \$1,919,500 is fair and equitable.

**Dissenting Opinion**

[26] There was no dissenting opinion.

Heard July 11, 2013.

Dated this 31<sup>st</sup> day of July, 2013, at the City of Edmonton, Alberta.



George Zaharia, Presiding Officer

**Appearances:**

Rick James  
for the Complainant

Alana Hempel  
Gail Rookes  
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.*