

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group v The City of Edmonton, 2013 ECARB 01434**

**Assessment Roll Number:** 10010540

**Municipal Address:** 2103 101 Street NW

**Assessment Year:** 2013

**Assessment Type:** Annual New

Between:

**Altus Group**

Complainant

and

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

Respondent

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### **DECISION OF**

**Lynn Patrick, 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. The Board Members indicated they have no bias in the matter before them.

### **Background**

[2] The subject property is a neighborhood shopping center located at 2103 101 St. NW in South Edmonton Common. The subject parcel consists of a 1.497 acre site which contains 17,169 square feet of net leasable area broken down into 5,485 sq. ft. of CRUs of 1,001 to 3,000 sq. ft., 3,027 of CRUs of 3,001 to 5,000 sq. ft., 5,577 sq. ft. of Restaurant Good, 1,540 sq. ft. of Retail Pad and Other. South Edmonton Common is a large unique collection of retail stores and restaurants, including a movie theatre complex, that exhibit a considerable range of sizes. It forms part of the City of Edmonton shopping center inventory. The subject is assessed at \$7,186,000 using the income approach.

### **Issue(s)**

[3] Issue 1: Is the subject property equitably assessed with similar properties?

Issue 2: What is the appropriate capitalization rate to value the subject property for assessment purposes?

Issue 3: Is the market rental rate applied to the CRUs of 3,001 to 5,000 sq. ft. of \$25.00 per sq. ft. too high?

[4] Is the market rental rate applied to the Retail Pad of \$33.00 per sq. ft. 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.

### **Position of the Complainant**

[6] The Complainant filed this complaint on the basis that the subject property assessment is inequitable and incorrect.

[7] The Complainant argued that the subject property is not assessed equitably with similar retail properties. Similar retail properties are assessed at 95% of the leasable area, 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.

[8] The Complainant submitted that the rental rate of \$25.00 per square foot for the 3,027 square feet of CRUs in the 3,001 to 5,000 square foot size range is too high and that the rate of \$24.00 per square foot is more appropriate. In support of this request, the Complainant submitted a chart of Market Lease Rate Comparables (Exhibit C-1, p.18) containing 4 properties. The rental rates shown in the chart provide an average of \$24.15 per square foot and a median of \$24.30 per square foot. All four properties are located in South Edmonton Common as is the subject.

[9] The Complainant also submitted that the rental rate of \$33.00 per square foot for the 1,540 square foot CRU-Retail Pad occupied by Lubex/Jiffy in the subject is too high and that a rate of \$23.00 per square foot is more appropriate. In support of this request, the Complainant submitted a chart of twelve assessment comparables being retail pads in a size range of 2,336 to 26,405 square feet. They are located in the south side of Edmonton, none, however in South Edmonton Common. The rental rate range is from \$20.00 to \$23.00 with the median being \$23.00.

[10] The Complainant also argued that the 6.0% capitalization rate used to prepare the assessment is too low and should be increased to 6.5%. Sales of recent retail properties indicate that the market capitalization rate is approximately 7%, and in recognition of the South Edmonton location, a negative adjustment of 0.5% was applied.

[11] 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 20). 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%.

[12] The capitalization rates in the Capitalization Rate Sales chart are the rates 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 make any adjustments.

### **Rebuttal**

[13] The Complainant presented a rebuttal document (Exhibit C-3) and highlighted some of the Respondent's sales. The Complainant commented as follows (Exhibit C-3, page 2):

- the sale located at 10503 51 Avenue NW is a multiple parcel sale.
- the sale located at 100 Manning Crossing is part of a portfolio sale that included eight properties. Seven of the eight properties are located in Ontario.
- the sale located at 11219 Jasper Avenue was not adjusted for below market rents. The upside potential has the effect of reducing the capitalization rate.
- the sale located at 16504 95 Street & 9501 167 Avenue has not been adjusted for below market rents, and
- the sale located at 14103 23 Avenue was not listed on the open market.

[14] In summary, the Complainant requested the Board to reduce the assessment to \$6,044,500 based on the Complainant's Market Value Proforma (Exhibit C-1 page 12).

### **Position of the Respondent**

[15] The Respondent submitted that the subject property assessment of \$7,186,000 is equitable and correct.

[16] 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 net leasable area directly from the rent roll.

[17] 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 net leasable area for most properties, the City developed a study which showed that the net leasable area is typically 95% of the gross building area.

[18] 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 net leasable area. In both the shopping centre valuation group and the retail valuation group, the final size is an attempt to accurately reflect the net leasable area for the property.

[19] For any individual property, if the property owner can show that the net 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

[20] The Respondent acknowledged that the four rental rate comparables used by the Complainant were from the rent roll of the Complainant's properties in South Edmonton common that appears in the Respondent's evidence (Exhibit R-1). The Respondent further acknowledged that when the rest of the CRUs of this size appearing in the rent roll were put together with the 4 comparables, the average rental rate is \$23.06 per square foot.

[21] The Respondent took issue with the selection of retail pad comparables submitted by the Complainant noting that there are none of comparative size, none that are used for automotive service purposes and none located in South Edmonton Common.

[22] Using a Shopping Centre Capitalization Rate Analysis (Exhibit R-1, page 42), the Respondent defended the 6.0% 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 6.20%.

[23] The Respondent also submitted several decisions in support of its position. The Respondent highlighted two 2013 decisions, ECARB 00971 and ECARB 0112, which confirmed the assessments. These decisions involved the same parties who presented the same evidence and argument as in the subject complaint.

[24] In summary, the Respondent requested that the Board confirm the assessment at \$7,186,000.

### **Decision**

[25] The property assessment is confirmed at \$7,186,000.

### **Reasons for the Decision**

[26] The Board finds that with respect to the rental rate for the CRUs of 3,001 to 5,000 square feet, the four comparables in the Complainant's chart (Exhibit C-1, p.18) support the reduction. When combined with the rest of the properties of that class shown in the rent roll contained in the Respondent's brief, they further support reduction of the requested rental rate to \$24.00 per square foot in the case of this group.

[27] With respect to the rental rate issue for the retail pad, the Board finds that the twelve equity comparables provided by the Complainant are all not comparable to the subject in terms of size. Additionally, they lack comparability of use of the property not being for automotive

service purposes but rather for such uses as a bank. There is therefore no basis to reduce the assessed rate of \$33.00 per square foot.

[28] The resulting reduction due only to the change of the rental rate in one group of CRUs would be less than 5%. The matter of a request for a change which is within the 5% range of the assessment has received much interpretation at both the Assessment Review Board and Municipal Government Board levels and it is well established in the jurisprudence that a request that is within that range will be denied.

[29] The main issues of this complaint are related to whether the subject property is equitably assessed with similar properties, and what capitalization rate should be used to value the subject property.

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

[31] Respecting the capitalization rate issue, the Board finds that 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.


[32] 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.

[33] The Board finds that the 6% capitalization rate used to prepare the assessment is supported by the Respondent's Shopping Centre Capitalization Rate Analysis, and is appropriate for valuing the subject property for assessment purposes.

[34] Accordingly, the assessment is confirmed.

Heard on October 28, 2013.

Dated this 27<sup>th</sup> day of November, 2013, at the City of Edmonton, Alberta.

  
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Lynn Patrick, Presiding Officer

**Appearances:**

Jordan Nichol  
for the Complainant

Amy Cheuk  
John Ball  
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.*