

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01670

Assessment Roll Number: 8482952
Municipal Address: 4604 97 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

John Noonan, Presiding Officer
Martha Miller, Board Member
Mary Sheldon, Board Member

Procedural Matters

[1] The Complainant did not appear at the hearing. The Respondent had no objection to the composition of the Board and the members of the Board reported no bias or conflict of interest with respect to this matter.

[2] This hearing was one of four held November 21, 2013 dealing with industrial properties. An earlier request by the Complainant, Altus Group, for a postponement of these hearings was denied by a separate panel of the Composite Assessment Review Board (CARB). This Board heard that the reason for the postponement request was not found to meet the exceptional circumstances required by legislation. Apparently, there was a schedule conflict due to unexpected circumstances. The Respondent's counsel later contacted the Complainant by phone, but no further information or elaboration was forthcoming, nor, in the opinion of Altus Group, should be required beyond what had already been advanced.

[3] In correspondence with CARB administration, Altus Group wanted the Board to note that the postponement request had been denied and another agent was not available to attend the hearing. As allowed by s. 16 of the *Matters Relating to Assessment Complaints Regulation*, Alta Reg 310/2009 (*MRAC*), the hearing proceeded with the Board relying on the written disclosure to understand the Complainant's case.

Background

[4] The subject is a medium warehouse located at 4604 97 Street in the Papaschase Industrial subdivision in industrial group 18. There is a single building on site constructed in 1978 and in average condition. Site coverage is 36.9%.

[5] The total main floor area is 50,908 square feet of which 24,879 square feet is main floor office. The finished mezzanine area is 2,841 square feet.

[6] The subject is assessed using the direct sales comparison methodology and the 2013 assessment is \$5,553,000.

Issue

[7] There had been a schedule of numerous issues attached to the complaint form. This schedule was reproduced in the Complainant's disclosure. Included in that schedule was an issue referencing the equitable value of the subject when compared with the assessments of similar properties and proposing an equitable value of \$4,945,000. However, there was no further mention in the Complainant's disclosure in relation to the issue of equity. The Board found that the sole issue to be decided at the merit hearing was the following:

Is the 2013 assessment of the subject appropriate when considering the sales of comparable properties?

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] The Complainant did not appear at the hearing but the Board accepted the filed disclosure as evidence and entered that disclosure as Exhibit C-1, 42 pages.

[10] In support of the position that market data from the sales of comparable properties does not support the subject's assessment, the Complainant provided a chart of the details of five

sales. In the opinion of the Complainant, these properties are comparable to the subject (Exhibit C-1, page 8).

[11] The time adjusted sale prices per square foot of leasable building area of the comparables range from \$75.90 to \$94.84. The average time adjusted price per square foot is \$84.14 and the median value is \$80.69.

[12] The Complainant submitted that this evidence demonstrates that the assessment of the subject is excessive and that a value of \$85.00 per square foot for the subject is appropriate. This would result in a total value of \$4,569,000 for the subject.

[13] The Complainant also noted that comparable #1 and comparable #4 have a 10% negative adjustment applied. The Complainant's notation on Exhibit C-1, page 8 stated that this was a result of the location of those properties on an arterial road. The Complainant provided examples of properties which had received a 10% negative adjustment to a rear building for lack of exposure/access to a major road (Exhibit C-1, pages 28-32). This point was further addressed in rebuttal disclosure.

Position of the Respondent

[14] Before commencing the presentation of its assessment brief, the Respondent advised the Board that, given the opportunity, questions would have been asked of the Complainant concerning the evidence presented.

[15] The Respondent stated that questions would have been asked concerning structural issues affecting comparable sale #1.

[16] The Respondent also noted that the subject has almost 50% main floor office space and would have questioned whether the lower percentage of office space for comparables #2 to #5 would have an effect on value.

[17] The Respondent also noted information included in the Complainant's disclosure which indicated that sales comparable #1 includes multiple buildings of which one includes some restaurant space. The Respondent queried whether that property is a good comparable for the subject.

[18] The Respondent noted that third party documentation concerning the Complainant's sales comparables #3 and #4 referenced leases with below market rates and stated that the Complainant would have been asked how that might have affected the purchase price in those cases.

[19] The Respondent submitted that he would have queried the usefulness of the evidence submitted by the Complainant concerning a 10% negative adjustment for rear buildings as the subject is a single building property.

[20] In support of the position that the 2013 assessment of the subject is fair and equitable, the Respondent presented an assessment brief, Exhibit R-1, 56 pages.

[21] The Respondent advised the Board of the factors that affect value in the warehouse inventory (Exhibit R-1, page 8). Those factors include total main floor area, site coverage, effective age, condition, location, main floor finished area as well as upper finished area.

[22] The Respondent provided a chart of the details of the sales of six properties which, in the opinion of the Respondent, are similar to the subject (Exhibit R-1, page 23). The Respondent stated that the comparables are all single buildings, similar to the subject.

[23] The time adjusted sale prices per square foot of the comparables range from \$106.47 to \$158.18. The Respondent argued that this evidence supported the assessment of the subject at \$103.31 per square foot.

[24] Although equity was not an issue in this merit hearing, the Respondent provided a chart of the assessments of four properties which, in the opinion of the Respondent, are similar to the subject (Exhibit R-1, page 30).

[25] The assessments per square foot of these comparables range from \$103.28 to \$108.43. The Respondent argued that this evidence demonstrated that the assessment per square foot of the subject at \$103.31 is fair and equitable.

The Respondent requested that the Board confirm the 2013 assessment of the subject at \$5,553,000.

Complainant's Rebuttal

[26] The Board accepted the Complainant's rebuttal disclosure as Exhibit C-2, 29 pages.

[27] The Complainant produced documentation from the *IAAO Verification of Sales* document which referenced assumed long-term leases (Nonmarket Rates). The Complainant submitted that adjustments should be made for below market leases only in the situation where the long term lease is for at least three years. The Complainant provided some comment in the rebuttal document that there need not be an adjustment for the leases in the Complainant's sales comparable #4 since the income analysis assumed that the vacant space is leased at a market rate.

[28] The Complainant's rebuttal noted difficulties with the Respondent's sales comparables. Only five of the Respondent's sales comparables are situated in the southeast quadrant of Edmonton, similar to the subject, and all of those five, in the opinion of the Complainant, have superior characteristics to the subject.

[29] The Complainant also noted that the Complainant's sales comparable #1, which is a multiple building property including some restaurant space, trades as an industrial property.

[30] The Complainant noted that it has taken the theory of giving a 10% negative adjustment to rear buildings that are not located on an arterial road and applied it to the sales comparables that are located on arterial roads since the subject is not located on an arterial road. In the opinion of the Complainant, this makes these sales comparables of more assistance in establishing value for the subject.

[31] The Respondent advised there would have been questions concerning a lack of evidence to show the length of the lease terms for the Complainant's sales comparables #3 and #4.

Decision

[32] The Board confirms the 2013 assessment of the subject at \$5,553,000.

Reasons for the Decision

[33] The Board notes that the subject possesses an unusually large amount of office space – almost 50% of the main floor space is office. Even though the amount of main floor finished area is low on the list of factors affecting value in the warehouse inventory, this characteristic sets the subject apart from most of the other sales comparables presented by the Complainant. In particular, comparables #2 and #5 have a low amount of main floor office space.

[34] As well, the Board notes that the Complainant's sales comparable #1 is a four building property, one of which includes some restaurant space. One of the buildings had structural issues and at the time of sale was considered to be in "fair" condition, while the subject is "average". The Board finds this is not a good comparable for the subject.

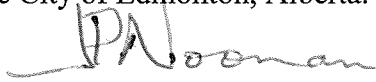
[35] With respect to the Complainant's sales comparables #3 and #4, the Board notes the below market leases at the time of sale which may have impacted the sale price. Despite the submissions regarding below market leases in the Complainant's rebuttal, the Board notes a lack of evidence concerning the length of these leases. Given the lack of particulars, the Board could not accept that the sales prices of these two properties should be relied upon to determine value for the subject.

[36] The Board places little weight on the argument advanced by the Complainant that comparables located on an arterial roadway (sales comparables #1 and #4) should be given a 10% negative adjustment to make them comparable to the subject, which is not on an arterial roadway (Exhibit C-2, page 9). The evidence provided in support of this argument (Exhibit C-1, pages 28-32) involves the practice by the municipality of granting a 10% negative adjustment to properties with rear buildings which do not have exposure to a roadway. This is a situation different from the case at hand in that rear buildings are not involved.

[37] It is the responsibility of the Complainant to provide sufficient compelling evidence to allow the Board to doubt the correctness of an assessment. Given the range of values seen in the comparables presented by both parties, the Board is persuaded that the assessment is a reasonable estimate of the market value of the subject.

Heard November 21, 2013.

Dated this 5th day of December, 2013, at the City of Edmonton, Alberta.


John Noonan, Presiding Officer

Appearances:

No one appeared for the Complainant

Cam Ashmore, City of Edmonton Law Branch

Marty Carpentier

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.