

Edmonton Composite Assessment Review Board

Citation: Altus Group Limited v The City of Edmonton, 2014 ECARB 00556

Assessment Roll Number: 10015506
Municipal Address: 9707C 110 STREET NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: \$10,407,000

Between:

Condominium Corporation No 0420538 represented by Altus Group Limited
Complainant
and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Lynn Patrick, Presiding Officer
John Braim, Board Member
Randy Townsend, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer the parties indicated they did not object to the Board's composition. In addition, the Board members stated they had no bias with respect to this file.

Preliminary Matters

[2] The Respondent noted that following the condition date of December 31, 2013, as part of the Respondent's disclosure in respect to this complaint, the Respondent provided a revised valuation based upon an adjustment outside the valuation model under the heading of Chronic Vacancy. This adjustment recognizes a temporary loss of revenue and reflects operating costs usually collected from the tenant but which have to be absorbed by the owner. The adjustment amount is \$385,500 and results in a reduction in the assessment from \$10,407,000 to \$10,021,500. The Respondent recommended the revised assessment in respect to the subject. The Complainant requested the hearing continue with respect to another issue.

[3] The Complainant noted that an agreement had been reached between the parties respecting two matters in the Complaint. The first matter agreed upon is the rental rates for the stalls in the subject parkade and the Complainant withdraws that matter as an issue. The result is that the assessed rates of \$200.00 per month for the underground stalls and \$150.00 per month for the surface stalls are now agreed upon. The second matter agreed upon by the parties is that the "use code" for tax rate is amended. The commercial use, which is code 534, presently has 308 stalls of the 308 total. By this agreement the commercial use stalls are reduced from 100% to

69.2%. The remaining 30.8% portion of the subject is agreed to be assigned to residential use which is code 158. The Board finds that amendment acceptable and orders the revision.

Background

[4] The subject is a parkade consisting of 287 underground stalls and 21 surface stalls. The parkade is located at 9707 110 Street in the Government district of Edmonton. The site is a bare land condominium in which the parkade, described as Unit 1 underlies the land parcel. Unit 2 is the commercial tower rising above the parkade. The commercial tower is office rental space. The residential tower was Unit 3 which has been redivided and converted into residential condominium units. The Condominium Corporation thus consists of the residential units, the office tower unit and the parkade unit with the associated common property. The assessment for the parkade is \$10,407,000 and the revised recommended assessment based upon the chronic vacancy is \$10,021,500. The requested value, applying only the requested expense ratio revision from 5% to 40%, would be \$6,572,500. However, with the inclusion of the chronic vacancy adjustment of \$385,500, the requested value becomes \$6,187,000.

Issues

[5] Is the applied expense ratio correct?

Position of the Complainant

[6] With respect to the expense ratio the Complainant provided the Board with six examples of parkades which are assessed using an expense ratio of 40% of the Potential Gross Income. The Complainant contends that these parkades, described as free standing, are comparable to the subject because the subject is responsible for its own expenses and does not have lease sources enabling it to recover its operating expenses as would a parkade contained within an office property.

[7] In support of the submission of the inability of the subject to collect expenses the Complainant submitted the General By-Law of Condominium Corporation No. 0420538. In particular the Complainant quoted from the provisions of Article 7 of the By-Laws which suggests the expenses attributed to the units are allocated to those units. It is submitted that this results in the parkade being responsible for its own expenses and therefore should be given the 40% expense ratio allowance.

[8] Five of the comparables provided are the subjects of the Pro Forma Summaries which confirm that they receive the application of the 40% expense ratio and are said by the Complainant to be similar to the subject.

[9] The Complainant submitted that parking is common property and is to be assessed in conjunction with the associated properties. The assessment based on market value is mandated to use mass appraisal in preparing the assessment and must be an estimate of the value of the fee simple estate in the property. The Complainant's position is that as common property it is encumbered and cannot meet the test of the fee simple concept of being without encumbrances.

Position of the Respondent

[10] The Respondent contends that the subject is not similar to the Complainant's six comparables in that they are all free standing and not incorporated into or below an office structure. The significance of that distinction is that the free standing parkade does not have a guaranteed income stream. The Respondent notes that the office building with underground parking has guaranteed income from its tenants and the valuation rate is based on the class of the office building. The expenses are recoverable from the tenants and thus they are not expenses that must be borne by the operator which justifies the 40% allowance to compensate for that difference.

[11] The Respondent provided the Board with a chart of eight equity comparables. In each of those comparables the Respondent notes that the parkade associated with the office building is located within the building and as such are differentiated from the free standing parkade type shown in the photographs of four of the Complainant's comparables.

[12] The Respondent contends that as the subject is a unit of the bareland condominium which includes the office structure as a unit and the redivided residential apartments as units then each unit is to be assessed with a share of the common property as provided in Section 290.1 (1) of the MGA.

Decision

[13] The assessment is reduced by the amount of the Chronic Vacancy Allowance of \$385,500 and set at \$10,021,500.

Reasons for the Decision

[14] An examination of the By-Laws of the condominium corporation of which the subject is a unit confirms that not only are expenses attributed to the units proportionately but that they are levied against the units and become part of the condominium levy thus providing the guaranteed income stream in the same way that differentiates it from the free standing group of parkades.

[15] The Board accepts the classification of parkades into free standing and underground made on the basis of the difference in sources on income and that the subject is valued as an underground parkade with committed sources of revenue including the ability to recover its expenses.

[16] The equity comparables presented by the Respondent are persuasive that the recommended assessment of the subject is fair and equitable and that the Chronic Vacancy allowance is convincing to the Board that such is the case.

Heard June 11, 2014.

Dated this 2nd day of July, 2014, at the City of Edmonton, Alberta.



Lynn Patrick, Presiding Officer

Appearances:

Chris Buchanan, Altus Group Limited
for the Complainant

Amy Cheuk, Legal Counsel
Darren Davies, City of Edmonton, 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.

Appendix

Legislation

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.

Exhibits

Complainant’s Brief, C1 – 107 pages

Respondent’s Brief, R1 – 108 pages

Complainant’s Rebuttal, C2 – 16 pages

Respondent’s Surrebuttal, R2 – 5 pages