

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 00873

Assessment Roll Number: 4204012

Municipal Address: 3504 Mill Woods Road NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Shannon Boyer, Presiding Officer

Jasbeer Singh, Board Member

Taras Luciw, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties indicated no objection to the Board's composition. As well, the Board Members indicated no bias with regard to this file.

Preliminary Matters

[2] Evidence, argument and submissions were carried forward to this file from #2950202, where relevant.

Background

[3] The subject property is a 54 unit row house complex known as Jamestown Village, (the subject) located at 3504 Mill Woods Road NW, Edmonton. It was built in 1973, with an effective year built of 1985, and comprises 12 – 2 bedroom units and 42 – 3 bedroom units. The 2013 assessment is \$7,848,000.

Issues

[4] Is the Potential Gross Income (PGI) used by the Respondent too high?

[5] What is the appropriate Gross Income Multiplier (GIM) to be applied to the subject property?

Legislation

[6] *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

[7] The Complainant filed this complaint on the basis that the subject property assessment of \$7,848,000, arrived at with a PGI of \$750,555 and a GIM of 10.78, was in excess of market value. In support of this position, the Complainant presented a 41 page brief (Exhibit C-1) and a two page document (Exhibit C-2) which was an enlarged copy of pages 18 and 19 of exhibit C-1.

[8] The Complainant advised the Board that although several issues were identified at the time of filing the complaint, the only issues outstanding before the Board were the PGI and the GIM.

Issue 1. Potential Gross Income (PGI):

[9] The Complainant stated that a review of the subject’s most recent leasing showed that the PGI of \$750,355 was too high and should be lowered to \$702,360 based on actual rents. Actual rents as at valuation date were \$1,045 for two bedroom units and \$1,095 for three bedroom units (Exhibit C-1, pages 16 – 17).

[10] In response to questioning by the Respondent as to whether the subject’s rents reflect management style, the Complainant stated that they do not.

[11] During questioning by the Respondent relative to market rents, the Complainant stated that actual rents are the market rents. In support of this position, the Complainant referred to Alberta Assessors’ Association Valuation Guide (AAAVG) section 3.0, *Determining Market Rents* (Exhibit C-1, pages 30 to 33). Page 33 contained the heading “Determining Market Rents as of the Valuation Date” which read, in part:

For most tenants the best source of market rent information is the rent roll. Using these rent rolls, the best evidence of ‘market’ rents are (in order of descending importance):

- Actual leases signed on or around the valuation date.

[12] The Complainant further supported this position by referring to a decision by a Composite Assessment Review Board (CARB) (C-1, pages 34 to 36), wherein the CARB referred to signed leases on or about the Valuation Date as compelling and noted that the AAAVG supports this as being “*the best evidence of “market rents”*” (C-1, page 36).

Issue 2. The Gross Income Multiplier (GIM)

[13] The Complainant argued that the assessed GIM of 10.78 is too high as sales of similar properties indicate a market GIM of 10.23. Following a review of investment sales of multi-residential properties larger than 40 units that occurred between July, 2009 and July, 2012, the Complainant concluded that in some cases the GIM used by the City of Edmonton is significantly higher than indicated by the market (C-1, page 10).

[14] The Complainant provided a detailed GIM analysis of 6 comparable multi-residential properties that sold between April, 2011 and April, 2012 (C-1, page 18). The analysis concluded a median GIM of 10.23 as better reflecting the market. When applied to the Effective Gross Income of the subject, it results in a value of \$6,966,500 (C-1, page 15). The information on the sales comparables was derived from The Network, a third party source for sales reports (C-1, pages 24 to 29).

[15] To further support the requested value of \$6,966,500, the Complainant included a Direct Sales Analysis (C-1, page 19) wherein an adjustment factor was calculated based on the ratio of the subject's and the comparable property's net operating income (per suite) to derive an adjusted sale price per suite for each of the comparables. This calculation provides a median adjusted value of \$129,017 per suite for a total assessment of \$6,966,899 for the subject.

[16] During questioning by the Respondent relative to the Complainant's comparable sales, the Respondent noted that two of the six properties were located in the Queen Mary Park neighborhood, a central location, not a suburban location as is the subject. The Complainant did not agree that the location was not comparable.

[17] The Respondent also noted that the Complainant's sales comparable #3 had a significantly lower adjusted GIM, 8.78 vs. the median of 10.23 (C-2, page 1) and inquired of the Complainant whether the sale price was impacted being part of a portfolio purchase (C-1, page 26). The Respondent further noted that while the sale price was shown as \$9,050,000, the purchaser received an appraisal for this property that indicated a market value of \$10,900,000 at the point of purchase with some deferred maintenance factored into the purchase price as well. The Complainant stated that each property's price was independent.

[18] The Complainant requested a reduction in the 2013 assessment from \$7,848,000 to \$6,966,500.

Position of the Respondent

[19] In support of the assessment, the Respondent presented written evidence (Exhibit R-1, containing 104 pages and Exhibit R-2, containing 85 pages) and oral argument for the Board's review and consideration.

Issue 1. Potential Gross Income (PGI):

[20] The Respondent stated that the City was legislated to use typical rents in the assessment Mass Appraisal process as this more accurately reflects the "typical market conditions" and does not vary based upon the individual management style. To use actual rents as the Complainant

prefers, violates the principal of consistency and would not produce equitable assessments (R-1, page 31).

[21] The Respondent provided advertised comparable rental rates from Boardwalk Rental Communities and Midwest Property Management that ranged from \$1,054 to \$1,249 for two bedroom units and from \$1,249 to \$1,429 for a three bedroom unit (R-1, pages 38 to 42), well above the subject's rents of \$1,045 (two bedroom) and \$1,095 (three bedroom).

[22] The Respondent also provided two pages from the Canada Mortgage and Housing Corporation Rental Market Report for the Edmonton Metropolitan Area from fall of 2012, listing average rents in October, 2011 and October 2012. The average rents for row/townhouses in the subject's market area in October 2011 were \$1,064 for two bedroom units and \$1,159 for three bedroom units (R-1, pages 43 and 44). These average rents were also above the subject's rents.

[23] The Respondent's evidence included a CARB decision which stated, in part, "The Board agrees with the Respondent's use of 'typical' rather than 'actual' income, as actual income may be distorted by rather large expenditures, below market rents, or poor management and therefore does not reflect typical market conditions" (R-1, page 64).

[24] The evidence also included a second CARB decision which stated, in part, "The Board accepted the Respondent's explanation that the assessment was prepared using the Mass Appraisal methodology, which is regulated by the *Municipal Government Act*, and *Matters Relating to Assessment and Taxation Regulation*, AR220/2004 (MRAT), which states that "the valuation must reflect typical market conditions" (s.2(c)). The typical rental income and typical vacancies are collected annually by means of the RFI from individual property owners (R-1, page 80).

[25] The Respondent described the subject as having been upgraded with a new roof, new windows and doors and new furnaces.

Issue 2. The Gross Income Multiplier (GIM)

[26] The Respondent submitted five sales comparables of low rise properties whose GIMs ranged from 10.33 to 14.80 with a median of 11.72 (R-1, page 45). The GIM of the subject is in the low end of this range at 10.78.

[27] The Respondent also submitted three row house sales (mainly three bedroom) whose GIMs ranged from 11.33 to 12.77, also above the subject's 10.78 (R-1, page 51).

[28] Additionally, the Respondent provided equity comparables of 32 row houses located in market area 9, the subject's location. The per suite assessments ranged from \$129,275 to \$160,420, while the subject, at \$145,333, was in the middle of the range (R-1, page 55). These comparables support the subject's assessment as being fair and equitable.

[29] The Respondent's Exhibit R-2, Law and Assessment Brief, addressed errors inherent in mixing and matching City GIMs/Incomes with third party incomes (pages 3 to 11). The Respondent submits that mixing and matching of rents or GIMs is not only contrary to the existing case law, it is contrary to both assessment and appraisal principles.

[30] The Respondent stated that the Complainant had not selected the most comparable sales to the subject while the Respondent's sales are more comparable. Through comparison the subject's assessed GIM is shown to accurately reflect its market value.

[31] During questioning, the Respondent was asked by the Complainant whether the three row house sales (R-1, page 51) were condominiums. The Respondent stated that while they are titled as condominiums, they operated as rental properties.

[32] The Respondent requested that the 2013 assessment in the amount of \$7,848,000 be confirmed.

Decision

[33] The Board confirms the 2013 assessment in the amount of \$7,848,000.

Reasons for the Decision

[34] The Board considered the evidence and arguments as presented by the parties and accepts the Respondent's position that it is legislated to use typical rents as this more accurately reflects "typical market conditions".

[35] The Board finds the Respondent's comparable asking rental rates from Boardwalk Rental Communities and Midwest Property Management together with the Canada Mortgage and Housing Corporation Rental Market Report persuasive as they reflect typical market rental rates.

[36] The Board accepts the Respondent's 32 row house equity comparables, all located in the same market area as the subject, whose per suite assessments range from \$129,275 to \$160,420. These support the subject property's assessment at \$145,333 per suite.

[37] The Board also accepts the Respondent's sales comparables with the median GIM of 11.72, which supports the subject's GIM of 10.78. The Board notes that three of the sales comparables are common to both parties.

[38] The Board places less weight on the Complainant's adjusted GIM analysis and adjusted Direct Sales Analysis (C-2). The methodology of calculating the adjustment factor was not supported by any evidence of its acceptance and use in industry or for mass appraisal by a municipality.

[39] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. The Complainant did not provide sufficient and compelling evidence for the Board to conclude that the assessment was incorrect. Accordingly, the Board accepts the recommendation of the Respondent and confirms the 2013 assessment of the subject at \$7,848,000.

Dissenting Opinion

[40] There was no dissenting opinion.

Heard July 9, 2013.

Dated this 25th day of July, 2013, at the City of Edmonton, Alberta.



Shannon Boyer, Presiding Officer

Appearances:

Brett Flesher

Chris Buchanan

for the Complainant

Devon Chew

Steve Lutes

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.