

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 00953

Assessment Roll Number: 9955574

Municipal Address: 17635 Stony Plain 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

Jerry Krysa, Presiding Officer

Brian Carbol, Board Member

Brian Frost, Board Member

Procedural Matters

[1] When asked by the Presiding Officer, the parties advised that there were no concerns respecting the composition of the Board, and the Board members advised that they had no bias in respect of the matter before them.

Preliminary Matters

[2] The Respondent questioned the admissibility of the Complainant's rebuttal evidence. This matter was heard immediately after both parties had presented their disclosure evidence.

Respondent's Position on the Preliminary Matter

[3] The Respondent objects to the Complainant's rebuttal evidence (Exhibit C-2) on the basis that it contains new evidence; that is, information on the assessment of high rise office towers which is not related to the Respondent's evidence, and therefore is not admissible. The Respondent asks that the Board disallow the Complainant's rebuttal evidence.

Complainant's Position on the Preliminary Matter

[4] The Complainant argues that the evidence in the rebuttal document is presented in response to the assessment proformas presented by the Respondent showing capitalization rates

used for specific property classifications (Exhibit R-1, p.79-80). The Complainant argues that the rebuttal evidence illustrates that various assessed restaurant market rent rates are applied by the Respondent apart from of the capitalization rate.

Decision

[5] The Board allows the rebuttal evidence submitted by the Complainant

Reasons

[6] The Board finds that the Complainant's rebuttal evidence directly relates to the evidence and argument of the Respondent as to the impact of capitalization rates on the assessed unit rate.

Background

[7] The subject property is a 192,028 square foot parcel of land, improved with a full service hotel known as the Sandman Inn. The hotel was originally constructed in 1967 and is comprised of 149 guestrooms and two large restaurant areas. As the restaurant areas are operated under lease by third parties, the hotel has been assessed as a limited-service hotel by means of the income approach.

Issue(s)

[8] Has the telephone expense used in the assessment been correctly applied?

[9] Is the rental rate applied to the assessment of the restaurant spaces in the hotel correct?

Legislation

[10] **The *Municipal Government Act*, RSA 2000, c M-26, reads:**

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

Issue 1: Telephone Expense

[11] The Complainant argued that there is an error in the City's weighted income for "Other Income" in that the City has erroneously included a telephone expense amount as revenue. Correcting this error will reduce the other income amount on the assessment to \$92,540.

Issue 2: Lease Rate of Restaurant Spaces

[12] The Complainant argued that the restaurant leases within the subject property are gross leases; and when compared to similar spaces, the market rent rate of \$30.00 per square foot applied to the leasable area of restaurant spaces within subject property is excessive.

[13] In support of a reduced lease rate for the restaurant spaces, the Complainant provided a summary of 21 restaurant leases, exhibiting triple net rent rates ranging from \$16.00 to \$31.00 per square foot, with average and median rent rates of \$24.76 and \$25.89 per square foot, respectively. The Complainant noted that the subject's restaurant spaces leased for \$24.11 and \$26.00 on a triple net basis. (Exhibit C-1, p. 23).

[14] The Complainant also provided the subject property's rent roll to illustrate that the subject's restaurant leases equate to triple net contract rent rates of \$28.56 and \$23.00, after deducting a \$7.00 per square foot operating cost adjustment (Exhibit C-1, p.22).

[15] The Complainant also argued that the subject's restaurant areas are inequitably assessed in relation to other similar restaurants. In support of the argument, the Complainant provided a summary of 36 restaurant properties all assessed with a \$26.00 per square foot lease rate. (Exhibit C-1, p.24)

[16] In rebuttal, the Complainant provided the assessment calculations for two office towers to demonstrate that the Respondent applies various lease rates to properties with differing capitalization rates.

[17] In summary, the Complainant requested that the assessment of the subject property be reduced to \$12,341,500.

Position of the Respondent

Issue 1 : Telephone Expense

[18] The Respondent concedes that the telephone expense has been erroneously included as revenue in the income approach valuation, and recommends that the Board revise the assessment to \$12,796,000.

Issue 2: Lease Rate of Restaurant Spaces

[19] The Respondent argues that the \$30.00 market rent rate applied to the subject's restaurant spaces is correct and equitable.

[20] In response to the Complainant's evidence, the Respondent maintains that the Complainant's lease rate comparables are dissimilar to the subject property as they are all located in predominantly retail properties. The Respondent submits that whereas the net operating income of the subject property is capitalized at a 9.5% capitalization rate, (a rate reflecting the risk associated with hotel properties), the net operating income of (lower risk) retail properties is capitalized at a rate of 6.5%. The Respondent argues that notwithstanding the higher market rent rates assigned to the subject's restaurant areas, the subject's restaurant areas are assessed at lower unit rates than the Complainant's comparables, due to the higher capitalization rate applied to hotel properties.

[21] In support of this argument, the Respondent provided two assessment calculation summaries for restaurants located within shopping centres to demonstrate that the assessed market rent rates of \$26.00 per square foot, capitalized at 6.5%, result in assessed unit rates of \$379 per square foot (Exhibit R-1, p.79-80) in contrast to the subject's restaurants which are currently assessed at unit rates of \$294 per square foot.

[22] The Respondent further included a chart of limited service hotels to demonstrate that all are assessed with a 9.5% capitalization rate. (Exhibit R-1, p. 78)

Decision

[23] The assessment of the subject property is reduced from \$12,891,000 to \$12,796,000.

Reasons for the Decision

Issue 1 : Telephone Expense

[24] The Board accepts the Respondent's recommendation to revise the assessment to \$12,796,000, to reflect the corrected telephone expense in the income approach calculation, as requested by the Complainant.

Issue 2: Lease Rate of Restaurant Spaces

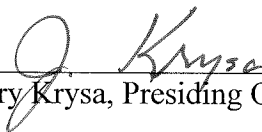
[25] The Board finds that there is insufficient evidence before it to disturb the assessed market rent applied to the subject's restaurant spaces.

[26] The Board gives little weight to the Complainant's evidence of restaurant lease rates (Exhibit C-1, p.23) and restaurant assessed rent rates (Exhibit C-1, p.24). As none of the restaurants are located within a hotel property, the Board finds that they are dissimilar to the restaurants located within the subject property. The Board also gives little weight to the Respondent's restaurant lease examples (exhibit R1, p.84), as there were insufficient details to allow the Board, and the Complainant, to determine comparability.

[27] The Board further gives little weight to the Complainant's evidence of the subject's contract rents, as there was no documentary evidence (eg. lease agreements) provided to substantiate the subject's current lease rates, nor any evidence to substantiate the Complainant's operating cost adjustment. The Board notes that the Complainant concluded two different net lease rates for the subject's leases in his evidence at pages 22 and 23 of exhibit C1, without explanation.

Heard July 23, 2013.

Dated this 22nd day of August, 2013, at the City of Edmonton, Alberta.


Jerry Krysa, Presiding Officer

Appearances:

John Trelford
for the Complainant

Abdi Abubakar
Amy Cheuk
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.