

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01003

Assessment Roll Number: 6759401
Municipal Address: 9304 137 Avenue NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Harold Williams, Presiding Officer
Martha Miller, Board Member
Mary Sheldon, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer the parties before the Board indicated no objection to the Board's composition. In addition, the Board Members indicated no bias with respect to this file.

[2] The parties agreed that the evidence, argument and submissions will be carried forward where applicable to this roll number, 6759401, from roll number 4156998.

Preliminary Matters

[3] There were no preliminary matters.

Background

[4] The subject property is located in the Northmount subdivision. It is designated as a Power Centre (shopping centre) with a year built listed as 1976/2008 and is commonly known as North Town Centre.

Issue(s)

Issue # 1

[5] Is the assessment of the subject property fair and equitable when considering the application of a 95% lease area adjustment for retail property?

Issue # 2

[6] Is the assessment of the subject property correct when considering the market capitalization rate (cap rate) used in the preparation of the assessment?

Issue # 3

[7] Is the assessment of the subject property correct when considering the current lease rate for a Supermarket within the subject property?

Issue # 4

[8] Is the assessment for the subject property correct in light of an apparent error in the size of office space within the subject property?

Legislation

[9] **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

Issue # 1

[10] The Complainant argued that the assessment of the subject is not equitable and is in excess of market value in comparison with similar properties. The Complainant stated that the municipality values one group of retail properties at 95% of the Net Leasable Area (NLA) as defined by the rent roll while another group of retail properties including shopping centres is assessed at 100% of the NLA.

[11] The Complainant presented (Exhibit C-2) containing information concerning ninety-two properties which, in the opinion of the Complainant, are similar to the subject. For each of the comparable properties, an assessment record and rent roll was provided. The Complainant argued that the median assessment of these properties is 95% of leasable space defined by the rent roll. The Complainant stated further that the subject power centre is assessed at 100% of the NLA and that this is unfair and inequitable. The Complainant argued that if the City is using

95% of rent roll lease area for standard retail properties, then, for overall assessment equity, the City should use 95% of the reported lease area for the shopping center / power centre category.

Issue # 2

[12] With respect to the appropriate capitalization rate to be applied, the Complainant submitted that 7% was appropriate rather than the 6.5% applied by the Respondent.

[13] The Complainant provided a chart of sales of similar properties which showed a range of cap rates from 6.12% to 9.18% (Exhibit C-1, page 32). The cap rates were derived by using the actual net operating income (NOI) and actual sale prices as stated in Network documents.

[14] The Complainant stated further that if some properties in the cap rate chart were excluded as being outliers or part of a portfolio sale, the average cap rate would be 7.24%.

Issue # 3

[15] The Complainant stated that the rental rate used by the municipality in the valuation of the TNT food store was not correct and that a rental rate of \$12 per square foot would be appropriate. The Complainant presented a rent roll for the subject which showed that the current lease rate for TNT was \$12 per square foot (Exhibit C-1, page 28).

[16] The Complainant also produced a chart of market lease rate comparables to demonstrate that a rental rate of \$12 per square foot for TNT would be appropriate (Exhibit C-1, page 30). Four comparables were listed which showed a median lease rate of \$7.78 per square foot. The Complainant also provided a chart of seven assessment lease rate comparables which showed a median lease rate of \$11 per square foot.

[17] The Complainant argued that this evidence demonstrated that the rental rate of \$14.50 per square foot applied to TNT in the municipality's assessment was excessive and that \$12 per square foot was appropriate. The Complainant also directed the Board to an assessor's guide which demonstrated guidelines for determining market rents as of the valuation date (Exhibit C-3, page 153).

Issue #4

[18] With respect to the issue of incorrect space sizes, the Complainant advised that the parties had agreed that the office space was 19,252 square feet and that the storage space was 200 square feet.

Rebuttal

[19] The Complainant also provided a rebuttal package to the evidence contained in the Respondent's disclosure. In particular, the Complainant provided comment on the market lease analysis for the TNT lease rate that had been provided by the Respondent (Exhibit C-3, page 20). The Complainant charted five comparables provided by the Respondent which the Complainant deemed to be good examples and added two more comparables, one of which was the TNT lease. The Complainant argued that the median of these lease rates was \$12.24 per square foot which supported the request for \$12 per square foot value for the TNT lease.

Complainant's Conclusion

[20] The Complainant provided a revised *pro forma*. This *pro forma* incorporated the amended square footage for the office area and storage area and also incorporated square footage of 95% of the actual area of all tenant spaces. The Complainant also included a requested lease rate of \$12 per square foot for the TNT space and incorporated a 7% cap rate. This resulted in a final value of \$54,558,500 for the subject and the Complainant requested that the Board reduce the assessment to this amount.

Position of the Respondent

[21] The Respondent provided to the Board its submission (Exhibit R-1, 183 pages) and noted the City's evidence on the Equity Response (R-1, pages 77-78) and Cap Rate argument (R-1, pages 35-74) would carry forward from Assessment Roll Number 4156998 heard by this Board July 22, 2013.

Issue #1

[22] The Respondent explained that the City sends out requests for information each year asking commercial property owners to report the leasable areas and lease rates for their properties. The Respondent further explained that the information received about standard retail properties is often incomplete and therefore it is reasonable to use 95% of gross building area as an adjustment to approximate 100% net leasable area. The Respondent also explained that such adjustment was not used in the case of power shopping centers because the information the City receives from these property owners is reliably reported as 100% of the net leasable area.

Issue # 2

[23] The Respondent reproduced the equity comparables of the Complainant (R-1, page 75) and commented on the category and neighborhood and noted that none were similar to subject property as the comparables were in the standard retail category and the subject is within the shopping center category. The Respondent argued that the cap rate of the Complainant's comparables of 7.5% was therefore not comparable to subject.

[24] The Respondent provided equity comparables for the subject property (R-1, page 76) that were all power centers and nine of the twelve are located in north Edmonton, as is the subject property. The cap rate for all the Respondent's comparables is 6.5%, the same as the subject.

Issue # 3

[25] The Respondent's evidence on the food store tenant in the subject property showed a 2013 assessment lease rate of \$14.50 per square foot and an actual lease rate of \$12.00 per square foot (Exhibit R-1, page 13). The Respondent's position was that the food store lease rate was below market. The evidence to support this position included comparables (Exhibit R-1, page 13) and actual food store rents from 1991-2007 (Exhibit R-1, page 14).

[26] The Respondent's submission also evaluated the comparables provided by the Complainant (Exhibit R-1, page 13). The Respondent noted that none of the comparables were in the same category as the subject property for the purposes of calculating the assessment. The law brief (R-1, page 181) defines Actual or Typical Rental Income and was noted in summary by the Respondent as supporting its position that the food store rental is below market. In other words,

typical rent rate evidence is stronger evidence and therefore the Respondent's evidence (Exhibit R-1, pages 13 & 14) of \$14.50 is correct and supports the 2013 assessment rent for the subject property.

Issue # 4

[27] The Respondent stated that the 2013 assessment contained an error in calculation. After correction of the error, the Respondent stated the 2013 revised assessment for the subject property should be reduced from \$75,996,000 to \$70,893,000. A revised pro forma (R-1, page 10) was included in the Respondent's submission. That size is similar to the size presented by the Complainant (C-1, page 16).

[28] The Respondent asked the Board to revise the assessment for the subject property to \$70,893,000.

Decision

[29] The decision of the Board is to revise the 2013 assessment of the subject property from \$75,996,000 to \$70,893,000.

Reasons for the Decision

Issue # 1

[30] After deliberation the Board was not persuaded that there is a need to apply a 95% adjustment to reported net leasable area for power shopping centres in order to provide overall assessment equity. The information in (Exhibit C-2) showed a somewhat varied range in its percentage comparisons of rent roll areas and gross building area. Furthermore the Board was not convinced that standard retail properties and power shopping centre properties are comparable when considering attributes such as tenant type, location, size, and value. The Board considered that the City's approach, using 95% of gross building area to approximate 100% net leasable area for standard retail properties, is reasonable when considering the incomplete owner reported information on these properties and further, since the 100% net leasable area for power shopping center category is known through accurate owner reporting there does not appear to be an overall assessment equity issue.

Issue #2

[31] The Board reviewed information provided by the Complainant (Exhibit C-1 page 32) carried forward from roll # 4156998 and the Respondent (Exhibit R-1 page 36) regarding property sales comparisons to indicate a market capitalization rate for the subject property. The Board noted that the parties agreed upon several of the sales that they used in their individual analysis. When these sales were time adjusted, the market capitalization rate appeared as 6.47% which supported the City's use of a 6.5% capitalization for the 2013 assessment of the subject property

Issue # 3

[32] The Board reviewed information provided by the Complainant (Exhibit C-1, page 30) that was described as market lease rate comparables for a CRU Food Store. The Board noted that although each comparable was listed as an anchor tenant, none of the comparables were food

stores. The Board reviewed information provided by the Respondent (Exhibit R-1, page 14) that was described as Actual Foodstore Rents. Of the 18 rent examples provided, the Respondent explained that five were unaffected (arms length) and current. The 5 examples showed a rent amount ranging from \$12.00 per square foot to \$18.00 per square foot. This information is also displayed within the Complainant's rebuttal evidence (Exhibit C-3, page 20).

[33] The Board also reviewed information provided by the Complainant (Exhibit C-1, page 31) described as Assessment Lease Rate Comparables. Of the 7 comparables provided, 4 were food stores all showing an assessment lease rate of \$11.00 per square foot. Of these 4 comparables 3 were described in the Respondent's information (Exhibit R-1, page 13) as mostly being within a different category of retail properties. The Board also reviewed information provided by the Respondent (Exhibit R-1, page 13) that was described as City Assessment Comparables. This information showed 5 comparables all listed as power shopping centre properties and all showing an assessment lease rate of \$14.50 per square foot. After considering the above information the Board was satisfied that \$14.50 per square foot represents an appropriate market lease rate for food stores within the shopping center category. Specific reference was made by both parties to the lease rate for the T&T Supermarket within the subject property. Although the lease rate for the T&T Supermarket is shown as \$12.00 per square foot, the Board finds that for purposes of mass appraisal and assessment equity, a market lease rate of \$14.50 per square foot is appropriate.

[34] Issue # 4

[35] The Board reviewed information provided by the Complainant (Exhibit C-1, page 16) that showed actual office area within the subject property at 19,252 square feet versus the City's listing of the office space at 43,842. The Board also reviewed information from the Respondent (Exhibit R-1, pages 10, 11) where the Respondent requested the Board to accept the Complainant's information regarding office space size and where the Respondent also provided a revised 2013 assessment for the subject property incorporating the change in office space size. The Board accepted the Respondent's request which is reflected in the Board's decision on the 2013 assessment for the subject property.

[36] Information regarding property sales and cap rates from a real estate survey was provided by the Respondent (Exhibit R-1, pages 56 to 74). The Respondent stated that the City did not rely on such information to set assessment values but used the information as general guidance. The Board reviewed the information but gave it no weight since it is clearly third party information.

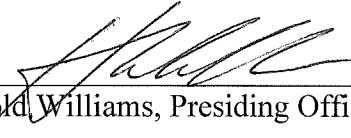
[37] The Board was also provided with three previous Edmonton Composite Assessment Review Board decisions that the Respondent stated were related to the matters of this complaint. Although the Board reviewed these decisions, the Board notes that previous decisions are not binding on matters before this Board and that each complaint must be dealt with on its own merit.

Dissenting Opinion

[38] There was no dissenting opinion.

Heard on July 23, 2013.

Dated this 15th day of August, 2013, at the City of Edmonton, Alberta.



Harold Williams, Presiding Officer

Appearances:

Jordan Nichol
for the Complainant

Frank Wong
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.