Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01099

Assessment Roll Number:	3946118
Municipal Address:	11710 156 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
Patricia Mowbrey, Presiding Officer
Pam Gill, Board Member
John Braim, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties stated there was no objection to the Board's composition. The Board Members stated there was no bias with respect to this file.

[2] The witnesses; John Trelford, Jordan Nichol and Tracy Ryan, were sworn in.

Preliminary Matters

[3] There were no preliminary matters.

Background

[4] The subject property comprises a building materials retail/wholesale centre known as Totem Building Supplies that was constructed in 1986. There are two storage garages that were constructed in 1979 & 1980 respectively. The principal building contains 32,636 square feet (sq ft) of retail-warehouse space and there is an additional 23,579 sq ft of storage space for a total area of 52,215 sq ft feet.

[5] The subject property has been assessed as a Box Retail property with the retail-warehouse section being classified in the Junior Anchor 20K+ category. The property has been assessed utilizing the income approach to value method and the assessment of $5,751,500 was calculated using a 7.0% capitalization rate. The assessment equates to a unit rate of $176.22/ sq ft based on the size of the retail/warehouse building only.

Issue(s)

[6] Nine issues were enumerated on the complaint form, however, 3 primary issues were presented to the Board as follows:

(i) Should the subject property be given a 95% size adjustment and be assessed the same as other retail groups?

(ii) Are the rental rates applied to the retail/warehouse and the respective storage areas correct?

(iii) Is the Assessment Capitalization Rate applied too low?

(iv) Is the assessment correct?

Legislation

[7] **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

[8] The Complainant filed this complaint on the basis that the assessment of the subject property was much higher than the market value. The Complainant presented written evidence Exhibit C-1, 37 pages; Exhibit C-2, 438 pages; Exhibit C-3, 128 pages (Rebuttal); Exhibit C-4, 13 pages (Response to-Sur-rebuttal)) and oral argument for the Board's review and consideration.

Issue 1

The position of the Complainant was that the assessment of the subject was not fair and equitable and the assessment was excessive. The Complainant stated that it should not be a concern that the size of the property or which assessor has assessed the property, all retail properties should be assessed the same. If the Retail group of properties was assessed at 95%, then that standard should apply to all the retail properties. The Complainant stated that the Respondent categorizes

2 retail assessment groups, Shopping Centre and General Retail and that the Shopping Centre group uses 100% of rent roll size for assessment purposes and the General Retail group uses 95% of the leasable size for assessment purposes, (C-1, page 9). The Complainant argued that the grouping was not equitable.

[9] In support of the Complainant's position a Fairness and Equity Analysis of Rental Area was provided (C-2), which listed 92 properties and included for each property was the City of Edmonton Request For Information rent rolls and the Assessment Detail Reports.

[10] The properties listed in C-2 included the ratio of the City Assessment Proforma sizes to the City Gross sizes. This ratio had a median of 94% and an average of 92% overall. The chart also included the ratio of City Assessment Proforma sizes to Rent Roll sizes which resulted in a median of 95%, and an average of 94%. The complainant highlighted there was a close correlation between the two ratios.

[11] The Complainant pointed out that there was no evidence presented by the Respondent that 95% was applied to the gross building sizes. According to C-2, the rent roll size, was close to the gross building size. In the Complainants opinion, the rent roll size is a preferred size for the 95% application.

Issue 2

[12] The Complainant provided a chart of 8 market lease comparables, with supporting data, for the retail/warehouse space (C-1, page 18) that were in the same CRU Junior Anchor 20K+ group as the subject. The comparables were located throughout the city with 4 warehouse properties located in the north-west industrial and had effective start dates ranging from December 2009 to July 2012. The building ages ranged from 1973 to 2008 and the building sizes from 21,807 sq ft to 33, 720 sq ft. The net rental rates ranged from $5.50/ sq ft to $8.50/ sq ft with an average of $6.90/ sq ft and a median of $7.00/ sq ft which was the rate requested for the retail/warehouse portion.

[13] The Complainant also provided a chart of assessment lease rates for the retail/warehouse space in the same CRU Junior Anchor 20K+ group, comprising 4 comparables that had a median of $6.00/ sq ft (C-1, page 19). Two were food stores, one an old Safeway store and one an anchor tenant in Meadowlark Park Shopping Centre.

[14] The Complainant provide a third chart comprising 3 assessment comparables for storage space similar to the subject which were all assessed at $1.00/ sq ft and supported a reduction to the assessed storage space in the subject property. The $1.00/ sq ft was the rate requested for the storage space.

Issue 3

[15] The Complainant submitted that the 7.0% assessment capitalization rate (cap rate) was too low and stated that a capitalization rate of 7.5% was more appropriate. In support of this argument the Complainant provided an Assessment Capitalization Rate comparable chart of 15 assessments, (C-1, page 20), that were all, except one, assessed with a 7.5% cap rate. The assessments were primarily banks, 3 restaurants and 3 miscellaneous users. The median rate of 7.5% supported the requested rate.

Issue 4

[16] With regard to the general issue of the assessment being in excess of market value the Complainant provided the Board with a Direct Sales Analysis (C-1, page 14) and supporting data (pages 32-37). This comprised a chart of 6 sales of warehouse properties that had main floor building areas ranging from 25,300 sq ft to 44,965 sq ft. The sales were time adjusted to valuation day and produced unit rates ranging from $43.69/ sq ft to $91.77/ sq ft with an average of $77.66/ sq ft and a median of $81.85/ sq ft. Based on this analysis the Complainant requested a rate of $80.00/ sq ft be applied to the main retail warehouse space and a rate of $13.50/ sq ft applied to the storage space for a total assessment of $2,929,000.

[17] The Complainant also provided an equity comparison approach for the Board's consideration that comprised a chart of 6 properties that had main floor areas ranging from 23,800 sq ft to 52,048 sq ft that produced a range of values from $79.64/ sq ft to $91.46/ sq ft. The average was $85.89/ sq ft and the median $85.29/ sq ft both of which supports a requested rate of $85.00/ sq ft. Using the same storage rate of $13.50/ sq ft the requested value using this approach was $3,125,000.

[18] At the conclusion of the presentation the Complainant requested the Board to reduce the assessment to $2,977,000.

__Position of the Respondent__

Issue 1

[19] The Respondent submitted that there are two separate valuation groups for retail properties. One is for standard retail and the other is for shopping centres (R-1, page 24/25). The two groups differ in their approach to size as the method of calculating the leasable areas is different. The Respondent explained that the reason for the different approaches; the standard retail group, which included owner occupied and small retail properties, historically returned minimal responses to the City's Request For Information and consequently a reliable size and other information was not readily available. Therefore the 95% of gross building area methodology was developed in an attempt to ascertain a correct net leasable area of the standard retail properties for assessment purposes.

[20] The Respondent indicated that the RFI return rate for the shopping centre group was quite high, and the actual net leasable area of properties can be ascertained for assessment purposes. The subject property is classified as a box retail facility and as such falls within the shopping centre group and was assessed using 100% of net leasable area.

[21] The Respondent provided additional details (R-1 pages 57-58) to the Complainant's Rental Area Analysis of 92 properties presented in C-2. A column was added to describe the valuation group to which each property belonged. All but 2 of the 92 properties were in the retail or retail plaza valuation group, which indicated that they were assessed in the retail group using the 95% methodology (R-1, page 59-60). The Respondent stated that the Complainant's Rental Area Analysis properties were not comparable to the subject which falls within the shopping centre group.

Issue 2

[22] The Respondent provided a "Fairness and Equity" chart (R-1, page 26) of 14 similar properties that had been assessed at $10.50/ sq ft which was the same as the subject. These properties included 6 Home Depots, 2 Costcos, 2 Revys, a Leon's, a Rona, a Totem, and a Finesse-CIBC Bank. The buildings ranged in age from1990 to 2006 and size from 41,452 sq ft to 141,967 sq ft and were in various locations throughout the city.

[23] The Respondent supplied a second chart that detailed rental rates for 28 Junior Anchor tenants in the same CRU Junior Anchor 20K+ group as the subject. The leases were effective from August 2006 to February 2012 and ranged from $7.06/ sq ft (November 2008) to $20.00/ sq ft (April 2008) with a median of $14.75/ sq ft and an average of $14.02/ sq ft.

[24] The Respondent also provided a chart of 5 warehouse rents between 1000 sq ft and 20,000 sq ft to demonstrate that the subject had been assessed equitably. The effective dates ranged from February 2009 to July 2011 and the rental rates from $4.00/ sq ft to $9.30/ sq ft with the subject falling within this range.

[25] In rebuttal to Complainant's assessment evidence (C-1, page 19) the Respondent provided the Complainant's two charts with added comments (R-1, page 30 & 31). The first chart demonstrated that all the Respondent's Junior Anchor rates were categorized in other assessment groups, not the shopping centre group. The second chart contended that the 3 storage equity comparables consisted of cold storage space, an unheated greenhouse and a loading dock, not heated storage like the subject.

Issue 3

[26] In support of the cap rate of 7.0% the Respondent provided an equity chart of 13 similar properties that were all assessed with a cap rate of 7.0% (R-1, page 26). The Board noted they comprised a variety of property types in various locations throughout the city that ranged in age from 1978 to 2004.

[27] The Respondent also submitted a second chart comprising 14 sales cap rates from the shopping centre group (R-1, page 32). The sale prices were time adjusted to valuation day and the net operating incomes were stabilized and applied to produce fee simple cap rates. The fee simple cap rates ranged from 4.65% to $7.92% with a median of 6.18% and an average of 6.19%. The Respondent contended that these rates support the 7.0% rate used in the assessment.

Issue 4

[28] In defence of the overall assessment the Respondent contended that the subject property is a box retail store that falls within the shopping centre category and as such is assessed on the income approach to value which is the approach of choice (R—1, page 19). Reference was made to the fairness and equity charts (R-1, page 26) to demonstrate that the prime rental rate and the cap rate are equitable. Implicit in this contention is the fact that shopping centres are not assessed on a price per sq ft basis, but on the income approach to value.

Complainant's Rebuttal

[29] The Respondent objected to C-3, pages 79 and 80, of the Complainant's rebuttal on the basis of "what were the materials rebutting". The Board noted the objection and allowed the pages to remain in evidence.

[30] The Respondent objected to C-3 pages 93 –102 on the basis that the rebuttal information referenced 2012 and not the current 2013 assessment year and is therefore new evidence.

[31] The Board adjourned to review the evidence, C-3, pages 93 to102. The decision of the Board was to disallow and strike out pages 93 to 102. The reasons for the decision are: 1) The Board agreed that the information provided by the Complainant was based on the 2012 year Valuation Summaries and 2012 Assessment Detail Reports and was therefore considered new evidence, and 2) The Board noted that the sizes differed in each of the 2012 reports and recognized that different methodologies may be the reason for the varying results.

[32] The Complainant proceeded to present the remaining evidence in rebuttal, C-3, 127 pages, to question the validity of the Respondents submission and the strength of support for the subject assessment, particularly the Respondents Shopping Centre Capitalization Rate Analysis comparables and the use of an eight property portfolio sale. The Complainant provided Network Data sheets, Assessment Detail Reports, City of Edmonton valuation summaries and rent rolls to bring to the Board's attention the inconsistencies and errors in the Respondent's capitalization rate analysis evidence. The Complainant submitted that the analysis was flawed, therefore, the onus had been shifted to the Respondent.

Respondent's Sur-Rebuttal

[33] The Respondent submitted sur-rebuttal evidence, R-2, 13 pages. The Complainant objected to R-1, pages 2 and 3 on the basis of new evidence. The Respondent agreed to strike out the pages and remove them from evidence. The Respondent replied in sur-rebuttal to the Complainant's argument that a sale of an eight property portfolio sale was invalid, C-3 page 71, because only one of the eight properties was in Edmonton and was included in the Respondent's Shopping Centre Capitalization Rate analysis. The Respondent argued that the sale price was apportioned to the one Edmonton sale and was available to the Respondent, R-2 pages 4-6, which the Respondent argued supported the inclusion of the sale in the Shopping Centre Capitalization Rate analysis.

Complainant's Response to Sur-rebuttal

[34] The Complainant entered into evidence the "Appellant's Response to City Sur-Rebuttal". The Complainant argued that the sale of any one property, in a multiple property portfolio sale, should not be considered for analysis or in valuation or ratio studies. An excerpt from the Standard on Verification and Adjustment of Sales – 2010, International Association of Assessing Officers, (C-4, page 3) was provided in support of this argument.

[35] The Complainant also submitted evidence (C-4, pages 2-12), to clarify that sale #6, (C-1, page 24), is an arms-length transaction and provided documentation to support the validity of the sale.

Decision

[36] The decision of the Board is to confirm the 2013 assessment of the subject property at $5,751,000.

Reasons for the Decision

Issue 1

[37] The Board is aware that Mass Appraisal is the legislated methodology for assessment and that the Income Approach to value is the appropriate valuation method and refers to MRAT s. (2), Mass Appraisal, "An assessment of property based on market value (a) must be prepared using mass appraisal, (b) must be an estimate of the value of the fee simple estate in the property, and (c) must reflect typical market conditions for properties similar to that property.

[38] The Board accepted the premise of stratification of properties for the 2013 assessment, (R-1, pages 58/59 and pages 110-112), that each property type is stratified into space types showing similarities within their group and that the subject is stratified into the Neighborhood Centre group.

[39] The Board finds the Respondent's explanation and reasons for the use of different approaches to calculating the size of the two retail groups; general retail and shopping centres is both practical and logical. The Board is persuaded that there is ample information returned to the City in response to the annual RFI for the shopping centre group and that the actual net leasable area can be ascertained for assessment purposes in most cases. The Board is persuaded that there are limited responses to the annual RFI for the standard retail group and that the 95% of gross building area was developed in an attempt to ascertain correct and equitably consistent/consistently equitable net leasable area for assessment purposes.

[40] The Board reviewed the extensive list of 92 comparable properties presented by the Complainant in the Fairness and Equity Analysis of Rental Area, C-2. However, the Board was not persuaded by the Complainant's argument and submission; that retail properties were not treated fairly and equitably and that the 95% method of calculating size would more appropriately be applied to both groups of retail properties, and be applied to the size indicated on the rent roll.

[41] The Board noted that the comment column, added by the Respondent, to the Complainant's Fairness and Equity Analysis of Rental Area chart C-2, grouped each listed property as retail or retail plaza, except 2 properties, which, according to the Respondent, were recently placed in the shopping centre group. The Board accepted the Respondent's grouping of general retail and shopping centre for assessment purposes and finds for this reason that the comparables are of a dissimilar grouping to the subject and therefore not appropriate.

Issue 2

[42] The board is persuaded by both the equity argument and the market lease rate argument put forward by the Respondent with regard to the lease rate for the retail/warehouse building and the storage space.

[43] The equity argument for the retail/warehouse component was consistent at $10.50/ sq ft. The Board noted that the subject property was the oldest in the list and a lower rental rate might be applicable. However the Board also noted the subject property was the smallest in size, (the largest being at least 3 times the size), and based on the economies of scale a higher rental rate would be applicable. The respective adjustments are contrary and the Board considered them to be relatively equal in respective weight, as there was no evidence provided to guide them, suggesting the net result would be very close to $10.50/ sq ft.

[44] The Board was further persuaded that the $10.50 rental rate was market driven by the survey of lease rates for Junior Anchor tenants 20K+ (R-1, page 27). The average and median figures clearly support the assessment although the Board had some hesitation in deciding if these properties were truly comparable in spite of the many similarities.

[45] With respect to the storage space the Board was persuaded by the comments added by the Respondent (R-1, pages 29/30) that contended the Complainant's comparables were not good indicators of the rental rates for the respective retail/warehouse and storage areas as none of them were located in the shopping centre group.

Issue 3

[46] The Board reviewed the Complainant's Assessment Capitalization Rate Comparable chart, C-1, page 20, and noted of the 14 comparables, 9 were banks and 3 were restaurants at various locations, all with a capitalization rate of 7.50%. The Respondent submitted (R-1, page 49) detailing the Complainant's 14 equity comparables, and added a "group category" column, which identified each property as retail plaza or general retail. The Board considered the comparables dissimilar to the subject, as the subject was categorized as a shopping centre. They therefore placed minimal weight on the Complainant's argument for a 7.50% cap rate

[47] The Board gave weight to the Respondent's Shopping Centre Capitalization Rate Analysis of 14 sales comparables that indicated an average of 6.19% and a median of 6.18%, which supported the assessment capitalization rate of 6.50% (R-1, page 32). The Respondent stated that all sales had been validated, but the Board took into consideration size discrepancies that were noted.

[48] The Board placed greatest weight on the Respondent's equity comparable chart, (R-1, page 26), containing 14 shopping centres that were located throughout the city, 13 of which had effective ages of older than 2002, each with a capitalization rates of 7.0%, which indicated equity and support for the assessment capitalization rate of 7.0%.

Issue 4

[49] The Board is aware of the latitude provided to the Respondent by legislation with regard to the methodology employed in arriving at market value. The Board accepts the methodology of utilizing the income approach to value as being the most appropriate method of estimating the market value of the subject property as it reflects the motivations and actions of buyers and sellers in the market place. The Board therefore gave little weight to the direct sales comparison approach.

[50] The Board placed little weight on the equity comparison approach as the site coverage ratios are substantially different and the Board was not persuaded that the comparables were in the same shopping centre group as the subject, as there was no supporting documentation.

Dissenting Opinion

Heard commencing July 3, 2013.

Dated this 1st day of August, 2013, at the City of Edmonton, Alberta.

P.E. Mowbrey

Patricia Mowbrey, Presiding Officer

Appearances:

John Trelford, Altus Group
for the Complainant

Steve Lutes, City of Edmonton
Tracy Ryan, City of Edmonton
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.