

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01100

Assessment Roll Number: 4121117

Municipal Address: 9115 51 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
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 1990. There are two storage garages that were constructed in 1979 & 1980 respectively. The principal building contains 41,452 square feet (sq ft) of retail-warehouse space and there is an additional 14,809 sq ft of unheated storage space for a total area of 56,360 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 \$6,046,000 was calculated using a 7.0% capitalization rate. The assessment equates to a unit rate of \$107.27/ sq ft based on the total size of the retail/warehouse building and the storage building.

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, 121 pages (Rebuttal); Exhibit C-4, 12 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. 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, 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. The ratio had a median of 94% and an average of 92% overall. The Complainant emphasized that the chart also indicated a ratio of the City Assessment Proforma sizes to Rent Roll sizes which resulted in a median of 95%, and an average of 94%, and 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 and, in the Complainants opinion, is a preferred size for the 95% application.

Issue 2

[12] The Complainant provided a chart of 9 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.

Issue 3

[14] The Complainant submitted that the 7.0% assessment capitalization rate (cap rate) was too low and 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% supports the requested rate.

Issue 4

[15] 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 13) and supporting data

(pages 32-37). This comprised a chart of 6 sales of warehouse properties that had main floor building areas ranging from 25,200 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 total assessment of \$3,517,418.

[16] The Complainant 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 \$3,766,130.

[17] Based on the Complainant's chart of 8 market lease rate comparables that indicated a median of \$7.00/sq ft for the retail/warehouse space and the Complainant's requested \$1.00 /sq ft for the storage space, the requested value provided by the Income Approach to Value was \$2,995,000.

[18] The Complainant requested the Board to reduce the assessment to \$2,995,000.

Position of the Respondent

Issue 1

[19] In defense of the assessment the Respondent submitted that there are two separate valuation groups for retail properties. One is for general retail and Plazas, and the other is for shopping centres (R-1, page 25/26). The two groups differ in their approach to calculating leasable size area. The Respondent explained that the reason for the different approaches; the general 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 neighbourhood 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 27) of 14 similar properties that had been assessed at \$10.50/ sq ft the same as the subject. These properties comprised 6 Home Depot; 2 Costco; 2 Revy; a Leon's; a Rona; a Totem and a Finesse-CIBC Bank. The buildings ranged in age from 1990 to 2006 and size from 32,636 sq ft to 141,967 sq ft and were in various locations throughout the city.

[23] The Respondent supplied a second chart detailing rental rates for 28 Junior Anchor tenants in the same CRU Junior Anchor 20K+ group as the subject, (R-1, page 46). 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] By way of rebuttal of the Complainant's assessment evidence (C-1, page 19) the Respondent provided the Complainant's two charts with added comments (R-1, page 45 & 48). 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.

Issue 3

[25] In support of the cap rate of 7.0% the Respondent provided an equity chart of 13 similar properties, (R-1, page 27), that were all assessed with a cap rate of 7.0%. The Board noted they comprised a variety of property types in various locations throughout the city that ranged in age from 1978 to 2004.

[26] A second chart of 3 years of sales cap rates from the shopping centre group was also provided by the Respondent, (R-1, page 28). Stabilized net operating incomes were applied and the sale prices were time adjusted to valuation day to produce fee simple cap rates that 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

[27] 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 16). Reference was made to the fairness and equity charts (R-1, page 27) that demonstrated 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.

[28]

Complainant's Rebuttal

[29] The Respondent objected to C-3, pages 72-73, 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 86-94 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 to 102. 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, 121 pages), to question the validity of the Respondent's submission and the strength of support for the subject assessment, particularly the Respondent's 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 pages 69-71), 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"(C-4). 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.

Decision

[35] The decision of the Board is to confirm the 2013 assessment of the subject property at \$6,046,000.

Reasons for the Decision

Issue 1

[36] 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.

[37] The Board accepted the premise of stratification of properties for the 2013 assessment, (R-1, page 121), that each property type are stratified into space types showing similarities within their group and that the subject is stratified into the Neighborhood Shopping Centre group.

[38] 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 the correct and equitably consistent/consistently equitable) net leasable area for assessment purposes.

[39] 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.

[40] 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, the comparables are of a dissimilar grouping to the subject, a shopping centre, and therefore not appropriate comparables.

Issue 2

[41] The board was 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.

[42] The Respondent's equity argument for the retail/warehouse component was consistent at \$10.50/ sq ft. The Board noted that the subject property was one of the oldest in the list and a lower rental rate might be applicable. However the Board also noted the subject property was also one of 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 considers 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.

[43] 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 46). 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 stated similarities.

Issue #3

[44] 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

[45] 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 28). The Respondent stated that all sales had been validated, but the Board took into consideration size discrepancies that were noted.

[46] The Board placed greatest weight on the Respondent's equity comparable chart, (R-1, page 27), 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

[47] 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.

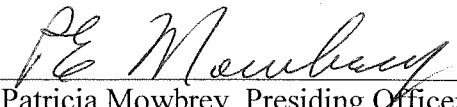
[48] The Board placed little weight on the Complainant's equity comparison approach as the site coverage ratios are substantially different and the Board was not persuaded that the comparables were in the same shopping centre group as the subject, as there was no supporting documentation.

Dissenting Opinion

[49] There was no dissenting opinion.

Heard commencing July 3, 2013.

Dated this 2nd day of August, 2013, at the City of Edmonton, Alberta.


Patricia Mowbrey, Presiding Officer

Appearances:

John Trelford, Altus Group
for the Complainant

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