

## **Edmonton Composite Assessment Review Board**

**Citation: Altus Group v The City of Edmonton, 2013 ECARB 01104**

**Assessment Roll Number:** 3527108

**Municipal Address:** 11925 KINGSWAY NW

**Assessment Year:** 2013

**Assessment Type:** Annual New

Between:

**Altus Group**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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**DECISION OF**  
**Patricia Mowbrey, Presiding Officer**  
**John Braim, Board Member**  
**Pam Gill, Board Member**

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### **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 is a 2 storey wholesale furniture business, constructed in 1975, it is 30,940 square feet (sq.ft) and located in the Prince Rupert neighbourhood. The property is classified as a box retail store and falls within the shopping centre category. The assessment of \$3,475,000 was produced by the income approach to value.

### **Issue(s)**

[5] Should the subject property be given a 95% size adjustment and be assessed the same as other retail groups?

[6] Is the assessment fair and equitable when compared to similar properties?

### **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.

[8] **The *Matters Relating to Assessment and Taxation Regulation*, Alberta Regulation 220/2004, reads:**

Mass appraisal

s.2 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.

**Position of the Complainant**

[9] The Complainant presented written evidence Exhibit C-1, 41 pages; Exhibit C-2, 438 pages; Exhibit C-3, 121 pages (Rebuttal); Exhibit C-4, 12 pages (Sur-surrebuttal)) and oral argument for the Board’s review and consideration.

**Issue 1**

[10] 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 all retail properties should be assessed the same; properties of different sizes, or which assessor had assessed the property, should not be a consideration. 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 categorized retail assessment in two groups, Shopping Centre and Retail, and that the Shopping Centre group used 100% of rent roll size for assessment purposes, and the Retail group used 95% of the leasable size for assessment purposes (C-1, page 7). The Complainant argued that the grouping was not equitable.

[11] 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 Assessment Detail Reports.

[12] The properties listed in C-2, indicated the ratio of the City Assessment Proforma sizes to the City Gross sizes which indicated a median of 94% and an average of 92%. 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.

[13] 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 Complainant's opinion, was a preferred size for the 95% application.

## **Issue 2**

[14] The Complainant submitted that the assessment of the subject has increased by 14.4% over last year's assessment. Using the Respondent's time adjustment of 4.91% (C-1, page 20) the current assessment would produce a value of \$3,186,500.

[15] The Complainant provided 6 time-adjusted sales comparables (C-1, page 12) that ranged from \$43.69/ sq ft to \$91.77/ sq ft. The average of the time adjusted sales was \$77.66/ sq ft and the median was \$81.85/sq ft. The subject is assessed at \$112.31/ sq ft. The Complainant indicated that the value of the subject would be \$2,475,000 using the direct sales comparable approach.

[16] The Complainant also presented 6 equity comparables (C-1, page 13) that ranged from \$79.64/ sq ft to \$91.46/ sq ft. The average of the equity comparables was \$85.89/ sq ft and the median was \$85.29/ sq ft. The Complainant submitted that based on an equity value of \$86/sq ft, the subject value ought to be \$2,660,500.

[17] The Complainant presented the 2003 sale of the subject at \$1,400,000, C-1, page 12. The sale was outside of the normal time adjustment range and the Complainant demonstrated that using a time adjustment factor of 1.75 would derive a value of \$2,450,000 and argued that based on the sale of the subject itself, the assessment at \$3,475,000 is too high.

[18] The Complainant argued that the 9 market lease rate comparables (C-1, page 17) produced an average lease rate of \$6.90/ sq ft and a median rate of \$7.00/ sq ft. The lease rate applied to the subject is \$9.00/ sq ft.

[19] The Complainant also provided 4 assessment lease rate comparables, C-1, page 18, that had a median lease rate of \$6.00/ sq ft.

[20] The Complainant provided a market value proforma using 95% of the actual area and a lease rate of \$7.00/ sq ft (C-1, page 11) and arrived at the requested value of \$2,552,500.

## **Position of the Respondent**

[21] The Respondent presented written evidence, Exhibit R-1, 71 pages (assessment brief, law and legislation); Exhibit R-2, 11 pages (Sur-rebuttal) and oral argument for the Board's review and consideration.

## **Issue 1**

[22] The Respondent submitted that there are two separate valuation groups for retail; one is for standard retail and the other is for shopping centres. The two groups are different as they each use a different approach to calculate size. The Respondent explained 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 reliable size and other information was not available. Therefore the 95% of gross building area methodology was developed in an attempt to ascertain a correct and equitable net leasable area of the standard retail properties for assessment purposes.

[23] The Respondent indicated that the RFI return rate for shopping centres was quite high, and the actual net leasable area of properties can be ascertained for assessment purposes. The subject property is categorized as a shopping centre and was assessed using 100% of net leasable area.

[24] The Respondent provided additional details (R-1 pages 26-27), 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 28-29). The Respondent stated, the subject is a box retail store, valued in the shopping centre group at 100% of net leasable area, and therefore, the Complainant's Rental Area Analysis properties were not comparable.

## **Issue 2**

[25] The Respondent provided a fairness and equity chart of 4 comparables with ages ranging from 1974 to 1981 all in the shopping centre category (R-1, page 19) showing assessed lease rates at \$9.00/ sq ft.

[26] The Respondent also provided 28 junior anchor rates (R-1, page 20), the average of which was \$14.02 and the median was \$14.75.

[27] The Respondent provided additional comments on the Complainant's lease rate comparables (R-1, page 21). Except for the property at 9499 – 137 Avenue, the comparables were in different valuation groups than the subject and therefore the lease rates were not truly comparable. The subject is categorized as a box retail store and falls within the shopping centre category.

[28] The Respondent also provided additional comments on the Complainant's assessment lease rates (R-1, page 22). The comparables are valued differently than box retail store. The first comparable is in the retail group and is not a good comparable for the subject. Of the remaining three comparables two are in poorer condition.

[29] The Respondent provided 12 shopping centre sales for comparison (R-1, page 24). The time adjusted sales prices ranged from \$190.96/ sq ft to \$612.69/ sq ft. The average was \$345.46/ sq ft and the median was \$327.85/ sq ft. The subject is assessed at \$112/sq ft.

[30] The Respondent provided additional comments on the sales and equity comparables of the Complainant (R-1, page 25). Both sets of comparables were valued by different valuation groups and therefore were not comparable to the subject.

[31] Upon questioning the Respondent indicated that because of the condition of the subject, a rate of \$9.00 was used compared to the median and average of \$14.00/ sq ft that is typical for an Anchor tenant in the 20,000 sq ft category (R-1, page 20).

[32] Upon questioning by the Board the Respondent clarified that the subject was a box retail and is in the shopping centre valuation group. It was not a warehouse, the subject had lots of parking, there was a display floor for the furniture and it would be inappropriate to value it on the industrial warehouse model.

[33] The Respondent submitted that the subject was assessed correctly at \$3,475,000 and asked the Board to confirm the assessment.

### **Complainant's Rebuttal**

[34] The Respondent objected to C-3, pages 72 and 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.

[35] 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.

[36] The Board adjourned to review the evidence in C-3, pages 86 to 94. The decision of the Board was to disallow and strike out pages 86 to 94. The reason for the decision is that 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.

[37] The Complainant proceeded to present the remaining evidence in rebuttal (C-3, 112 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.

### **Respondent's Sur-Rebuttal**

[38] The Respondent submitted sur-rebuttal evidence (Exhibit R-2, 13 pages). The Complainant objected to R-2, pages 2 and 3 on the basis of new evidence. The Respondent agreed to strike out the pages. 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 in the sur-rebuttal 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 Sur-surrebuttal**

[39] The Complainant entered into evidence a response to the Respondent's sur-rebuttal, (Exhibit C-4, 12 pages). The Complainant further argued the sale of multiple property portfolios with an excerpt from the Standard on Verification and Adjustment of Sales – 2010, International Association of Assessing Officers (C-4, page 3), that purports that typically multiple parcel sales should not be used in valuation or ratio studies.

### **Decision**

[40] It is the decision of the Board to confirm the 2013 assessment at \$3,475,000.

### **Reasons for the Decision**

[41] The Board reviewed and considered carefully the evidence presented by the Complainant and the Respondent.

#### **Issue 1**

[42] The Board understands 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."

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

[44] The Board is persuaded by the Respondent's explanation and reasons for the use of different approaches to calculating the size of the two retail groups; retail and shopping centre. 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. The Board is persuaded that there are minimal responses to the annual RFI for the retail group and that the 95% of gross building area was developed in an attempt to ascertain correct and equitable net leasable area for assessment purposes.

[45] 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 in that the 95% method of calculating size should be applied to both groups of retail properties, and should be applied to the size indicated on the rent roll.

[46] 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 grouped as shopping centre. The Board accepted the Respondent's grouping of retail and shopping centre for assessment purposes and finds for that reason, the comparables are of a dissimilar grouping to the subject, a shopping centre, and therefore not suitable comparables.

#### **Issue 2**

[47] The Board placed little weight on the Complainant's lease rate comparables and sales and equity comparables as the comparables were in different valuation groups.

[48] The Board finds that the subject is a box retail store and is assessed in the appropriate valuation group of shopping centres. It is not a warehouse, and is operating as a retail sales store open to the general public and accordingly sufficient parking is provided for this purpose.

[49] The Board placed greater weight on the Respondent's lease comparables (R-1, page 20) and found that at \$9.00/sq ft the subject was assessed fairly given its condition. The Board noted that the average and median of the comparables was slightly over \$14.00/ sq ft.

[50] The Board finds that the Complainant did not provide any support for the time adjustment of the 2003 sale of the subject and therefore put no weight on that argument.

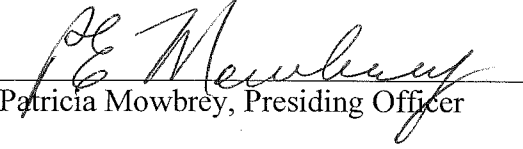
[51] The Board finds that \$3,475,000 is the correct, fair and equitable value for the subject property.

### **Dissenting Opinion**

[52] There was no dissenting opinion.

Heard commencing July 3, 2013.

Dated this 2<sup>nd</sup> day of August, 2013, at the City of Edmonton, Alberta.

  
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.*

