Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01110

Assessment Roll Number:	6991822
Municipal Address:	15411 97 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
Lillian Lundgren, Board Member
Darryl Menzak, Board Member

Procedural Matters

[1] When asked by the Presiding Officer, the parties did not object to the composition of the Board. The Board Members indicated there was no bias in the matter before them.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject property is located in the Eaux Claire subdivision, Edmonton, at 15511 – 97 Street and is known as the No Frills Grocery Store. It is classified as a neighbourhood shopping centre, was constructed circa 2010, and the City assessed area is 34,402 sq ft with a land area of 152,722 sq ft. The subject was assessed by the Income Approach to Value, for the 2013 assessment of $7,295,500.

Issue(s)

[4] 1. Is the subject assessment equitable with assessments of similar properties?

(a) Should the subject be given the 95% size adjustment?

2. Is the assessment capitalization rate too low?

Legislation

[5] 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.

[6] **The *Matters Relating to Assessment and Taxation Regulation***, Alta Reg 220/2004, reads:

> 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

[7] The Complainant presented written evidence, Exhibit C-1, Disclosure, 70 pages, C-2, 95% Rental Area Analysis, 438 pages, C-3, Rebuttal, 124 pages, and oral argument for the Board's review and consideration.

Issue 1 (a) Should the subject be given the 95% size adjustment?

[8] The position of the Complainant was that the assessment of the subject was not fair and equitable and the assessment was excessive. The Complainant argued that all retail properties should be assessed using the same method, and that the size of the property or the specific assessor should not affect the assessment method.

[9] The complainant provided a Fairness and Equity Analysis of Rental Area (C-2), which listed 92 properties and included the City of Edmonton Request For Information rent rolls and Assessment Detail Reports on each property.

[10] The Complainant stated that the Respondent categorized retail assessment in two groups, one used 100% of rent roll size for assessment purposes, and the other group used 95%

of the leasable size, C-1, page 8. The Complainant argued that the subject property was treated inequitably because it was assessed using 100% of the rent roll.

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

[12] The Complainant provided the City's Assessment Record Valuation Summary and the Assessment Proforma for the subject which indicated the actual and the assessment area of the subject was 32,402 sq ft. Thus, with a 95% adjustment, the subject area would total 30,782 sq ft with a corresponding requested assessment value of $6,435,500.

Issue 1 (b) Is the assessment capitalization rate too low?

[13] The Complainant submitted that the 6.5% assessment capitalization rate was too low and stated that a capitalization rate of 7.0% was more appropriate.

[14] The Complainant provided a Capitalization Rate Sales comparable chart of 24 sales, (C-1, page 15), with the respective supporting network data sheets. The sales produced an average capitalization rate of 7.15% and a median of 7.04%.

[15] The Complainant further submitted that of the 24 sales presented, 6 should be excluded, as they were invalid for various reasons; an 8 property portfolio sale, an old lease, leases with upside potential and an outlier, (C-1, page 15). Excluding the 6 sales, the average of the capitalization rates for the remaining sales was 7.24% and the median was 7.15% and supported the requested 7.0% capitalization rate.

[16] The Complainant explained that the sales provided in the capitalization rate chart consisted of sales within the last 2 years and was a true reflection of the market using actual net operating income and unadjusted sales prices which resulted in a leased fee capitalization rate of 7%.

[17] The Complainant requested a 2013 assessment of $6,435,500.

<u>Rebuttal</u>

[18] The Complainant presented Rebuttal evidence, C-3, 124 pages.

[19] The Complainant reproduced the Respondent's City of Edmonton Cap Rate Review of 8 sales, and deleted 2 sales that the Complainant explained were not appropriate to be included in the analysis for a capitalization rate. The Complainant suggested that the comments by the Network indicated that the lease rates were below market and had the effect of reducing the capitalization rate.

[20] The Complainant stated that cap rate analysis changed with the exclusion of the 2 sales; the remaining sales reflected an average and a median for the actual Network cap rate of 7.14% and 6.99%; the City (fee simple NOI) cap rate of 7.04% and 6.94%; and the City (time adjusted, fee simple NOI) cap rate of, 6.83% and 7.01%; and therefore supported the requested capitalization rate of 7.0%.

[21] The Complainant submitted that the Respondent's capitalization rate analysis was flawed and provided Network Data sheets, Assessment Detail Reports, City of Edmonton Valuation Summaries and rent rolls to support the position.

Position of the Respondent

The Respondent presented written evidence, Exhibit R-1, Assessment Brief, Law and Legislation, 188 pages, Exhibit R-2, CARB Decision, 10 pages, and oral argument for the Board's review and consideration.

Issue 1 (a) Should the subject be given the 95% size adjustment?

[22] The Respondent submitted, R-1, pages 51-52, that there were two separate valuation groups for retail; one is for standard retail/retail plazas 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 gross 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 gross leasable area of properties can be ascertained for assessment purposes from the rent roll. The subject property is categorized as a shopping centre and was assessed using 100% of gross leasable area.

[24] On the other hand, the Respondent provided additional details (R-1 pages 49-50), to the Complainant's Rental Area Analysis of 92 properties presented in Exhibit C-2. The Respondent added a column and noted the valuation group for the properties listed. All but 2 of the 92 properties were in the retail or retail plaza valuation group, which means they were assessed in the retail group using the 95% methodology. As such, the Complainant's Rental Area Analysis properties were not comparable.

Issue 1 (b) Is the assessment capitalization rate too low?

[25] The Respondent presented an Assessment Equity Chart for Cap Rates, R-1, page 43, of 20 shopping centres within the age group 1990-2007, indicating a capitalization rate of 6.5%. The Respondent stated that the subject property assessment of 6.50% was equitable with other neighborhood shopping centres, that location was not a factor, and that all the neighbourhood shopping centres were assessed with a capitalization rate of 6.50%.

[26] In Exhibit R-1, page 22, the Respondent added a column for comments on the Complainant's capitalization rate sales comparables of 24 properties (C-2 page 15). The comments indicated that there were only 10 shopping centre sales listed, of which the Respondent used 7 in the Respondent's capitalization rate analysis, (R-1, page 23). The remaining 3 shopping centre sales were considered invalid for the following reasons; multiple parcel sale, non-arms length and leasehold interest. The other 14 sales were in the general retail or retail plaza assessment group which the Respondent considered incomparable to the subject.

[27] The Respondent provided a City of Edmonton Cap Rate Review, R-1, page 23, utilizing 8 shopping centre sales, 7 of which were the same as the Complainant's sales comparables. For comparison, the Respondent listed the Network's NOI and an adjusted 2013 Fee Simple NOI, the Network Cap Rate, a Fee Simple (non time-adjusted) Cap Rate; and a Fee Simple (time adjusted) Cap Rate which indicated, respectively, a median of 6.75%, 6.72%, and 6.47%. The Respondent stated that the cap rates demonstrated the difference as the cap rates moved toward the fee simple cap rate, supporting the assessment capitalization rate of 6.5%, which is based on a fee simple market value.

[28] The Respondent presented a Shopping Centre Capitalization Rate Analysis chart (R-1, page 26) of 14 properties, with respective supporting City sales analysis sheets. The sale dates were within 3 years of the valuation date and reflected 2013 time adjusted sales prices, 2013 assessed NOI's (with applied typical lease rates of similar properties), to reach a fee simple capitalization rate, that indicated a median of 6.18%, and an average of 6.20%. The Respondent explained that legislation identifies fee simple estate value (MRAT s2), as the basis for assessment.

[29] The Respondent presented third party capitalization reports and said that these were used only for comparison and trending, and noted that the assessment capitalization rate was within the comparative ranges. Reported by CBRE, the Edmonton Neighbourhood Retail capitalization rate indicated is 6.00%-6.50% (R-1, page 44) and the Colliers report indicated the Edmonton Community Retail capitalization rates ranged from 6.25%-6.75% (R-1, page 48).

[30] The Respondent requested the 2013 assessment of $7,295,500 be confirmed.

Decision

[31] The Decision of the Board is to confirm the subject 2013 assessment of $7,295,500.

Dissenting Opinion

[32] There was no dissenting opinion.

Reasons for the Decision

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

Issue 1 (a) Should the subject be given the 95% size adjustment?

[34] The Board, referred to s.2 *MRAT*, that Mass Appraisal is the legislated methodology for assessment and agreed with the parties that the Income Approach to value was the appropriate valuation method.

[35] The Board noted the premise of stratification of properties for the 2013 assessment, R-1, page 51-52, that states, each property is further stratified showing similarities within their group. The subject is in the Neighborhood Shopping Centre group.

[36] The Board accepted the Respondent's explanation and reasons for the use of different approaches to determining the GLA of the two retail groups. The Board is satisfied that there is ample information returned to the City in response to the annual RFI for the shopping centre

group and that the gross leasable area can be ascertained for assessment purposes from the rent roll. The Board accepted 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 gross leasable area for assessment purposes.

[37] 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. The Board was not persuaded by the Complainant's argument and submission that retail properties were not treated fairly and equitably. The Board was not convinced that the 95% method of calculating size should be applied to both groups of retail properties, nor, that it should be applied to the size indicated on the rent roll.

[38] The Board accepted the Respondent's retail and shopping centre grouping for assessment purposes, and therefore finds the retail comparables inappropriate as they are a dissimilar grouping to the subject.

Issue 1 (b) Is the assessment capitalization rate too low?

[39] The Board finds that the Complainant has not provided sufficient evidence to demonstrate that the 6.5% capitalization rate applied in the subject assessment is incorrect or inequitable.

[40] The Board noted that of the Complainant's 24 sales comparables, C-1, page 15, that 14 were categorized as Retail Plaza or General Retail which were considered dissimilar to the subject; and 10 were shopping centres which were considered unreliable as the capitalization rates were leased fee rates derived from using actual NOI rather than a stabilized NOI.

[41] The Board gave greater weight to the Respondent's sales comparables, R-1, page 23, of which 7 were the same shopping centre comparables as the Complainant's and indicated a fee simple capitalization rate of 6.47%. The Respondent's Shopping Centre Capitalization Rate Analysis, R-1, page 26, of 14 sales comparables indicated an average of 6.20% and a median of 6.18%, all of which supported the assessment capitalization rate of 6.50%.

[42] The Respondent's method of calculating a capitalization rate meets the legislative requirement of determining a fee simple capitalization rate; the Respondent derived the capitalization rate using typical market conditions and applied the fee simple capitalization rate to a typical NOI in the assessment of a property. The capitalization rate was applied in the same manner it was derived.

[43] The Board finds that the Respondent's 6.5% capitalization rate is supported by the Respondent's Shopping Centre Capitalization Rate Analysis, R-1, page 26, and is an appropriate rate to value the subject property.

[44] The Board finds that the Respondent's Equity Comparable chart, R-1, page 43, listing 20 shopping centres located in various areas of the city, with effective ages from 1991 to 2010, and with capitalization rates of 6.5%, indicates equity and support for the subject assessment capitalization rate of 6.5%.

[45] The Board finds the subject 2013 Assessment of $7,295,500 correct, fair and equitable.

Heard commencing August 6, 2013.
Dated this 30th day of August, 2013, at the City of Edmonton, Alberta.

Patricia Mowbrey, Presiding Officer

Appearances:

Jordan Nichol
for the Complainant

Ryan Heit
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.