

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01127

Assessment Roll Number: 4261616

Municipal Address: 12450 149 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

Brian Hetherington, Board Member

Dale Doan, 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.

[2] At the request of the Respondent's lawyer, both parties were sworn in.

Background

[3] The subject property is a 141,967 sq ft building operating as a Costco wholesale/retail store and occupies a 385,516 sq ft lot in the Gagnon Industrial Estate area. The store was built in circa 1992 and is assessed by the City at \$22,173,000.

Issue(s)

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

1. Should the subject be given the 95% size adjustment?
2. Is the assessment capitalization rate of 6.5% too low?
3. Is the food store lease rate of \$10.50 /sq ft too high?

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, AR 220/2004 reads:***

s 2 An assessment of property based on market value

Must be prepared using mass appraisal,

Must be an estimate of the value of the fee simple estate in the property, and

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, 94 pages, C-2, 95% Rental Area Analysis, 438 pages, C-3, Rebuttal, 133 pages, and oral argument for the Board’s review and consideration.

Issue 1: 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, (C1, page 9). The Complainant argued that the subject property was assessed inequitably because it was assessed using 100% of the rent roll.

[11] The properties listed in C-2 specified the ratio of the City Assessment Proforma sizes to the City Gross sizes and indicated the ratios had a median of 94% and an average of 92% overall. The chart also provided 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 pointed out 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 assessment area of the subject was 141,967 sq ft. The Complainant applied the 95% adjustment to the assessment area for 134,869 sq ft which was the basis of the requested assessment value of \$18,625,000.

Issue 2: 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 18), 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 including an 8 property portfolio sale, an old lease, leases with upside potential and an outlier, (C-1, page 18). Excluding the 6 sales, the average of the capitalization rates for the remaining sales was 7.24% and the median was 7.15% which the Complainant stated supported the requested 7.0% capitalization rate.

[16] The Complainant explained that the sales provided in the capitalization rate chart were sales within the last two years, May 2011 to September 2012, and were 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%.

Issue 3: Is the food store lease rate of \$10.50 /sq ft too high?

[17] The Complainant stated that the subject property assessment lease rate was too high when compared to a Costco store located on the city's southside at 2504 – 91 Street. The Complainant provided the 2013 Assessment Valuation Summary, (C-1 p 16 and 17), and noted it is 153,000 sq ft and is 12 years newer than the subject and was assessed at \$10.00 per sq ft, whereas the subject is assessed at \$10.50 per sq ft.

[18] The Complainant requested the Board reduce the assessment to \$18,625,000.

Position of the Respondent

[19] The Respondent presented as evidence Exhibit R-1, Assessment Brief, Law and Legislation, 206 pages, and oral argument for the Board's review and consideration.

Issue 1: Should the subject property be given a 95% size adjustment?

- [20] The Respondent submitted that there were two separate valuation groups for retail, (R-1, pages 31-32); 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 is that 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.
- [21] The Respondent indicated that the RFI return rate for the shopping centre group 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.
- [22] The Respondent presented additional details in response to the Complainant's Rental Area Analysis of the 92 properties listed in Exhibit C-2. Exhibit C-2 was included as evidence for the two roll numbers. The Respondent reproduced and added a column in the analysis of Exhibit C-2, detailing the valuation grouping for the properties listed. The result was that all but two of the 92 properties were in the retail or retail plaza valuation group, which identified they were assessed in the retail group using the 95% methodology. The Respondent stated that as such, the properties in the Complainant's Rental Area Analysis, Exhibit C-2, were not comparable with the subject, which is a neighbourhood shopping centre.

Issue 2: Is the assessment capitalization rate too low?

- [23] The Respondent presented a Shopping Centre Capitalization Rate Analysis chart (R-1, page 13) of 14 properties, with supporting City sales analysis sheets. The sale dates were within three years of the valuation date and reflected 2013 time adjusted sales prices and 2013 assessed NOIs (which used typical lease rates of similar properties). These comparables were used 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.
- [24] The Respondent's City of Edmonton cap rate review (R-1, page 24), utilized eight shopping centre sales from the Complainant's chart of 24 sales comparables. For comparison, the Respondent listed the median cap rate of the eight sales comparables as follows:
- | | |
|---|-------|
| Actual NOI - not time adjusted sale price | 6.75% |
| Fee Simple NOI - not time adjusted sale price | 6.72% |
| Fee Simple NOI - time adjusted sale price | 6.47% |
- [25] The Respondent stated that the assessment capitalization rate of 6.5% was supported as it was based on a fee simple NOI and time adjusted sale price.

[26] The Respondent referred to the chart, Costco Assessment Comparables, (R-1, p 33), that listed four Costco stores in various areas of the city that range in size, age and lease rate, but that all have the assessment capitalization rate of 6.5% and demonstrate equity for the subject property.

[27] The Respondent asserted that third party capitalization reports were used only for comparison and trending, and demonstrate that the assessment capitalization rate was within the comparative ranges. The CBRE report indicated an Edmonton Neighborhood Retail capitalization rate of 6.00-6.50% (R-1, page 38), while the Colliers report indicated the Edmonton Community Retail capitalization rates ranged from 6.25%-6.75% (R-1, page 37).

Issue 3: Is the food store lease rate of \$10.50 /sq ft too high?

[28] In response to the Complainant's request for the lease rate of \$10/sq ft for the subject, the Respondent presented a Costco Assessment Comparables chart (R-1, p 33), that lists four Costco stores in various locations of the City. The Respondent stated that Costco stores are categorized according to age and size:

2008 and older and less than 145,000 sq ft	\$10.50/sq ft
2008 and older and greater than 145,000 sq ft	\$10.00/sq ft
2009 to present and greater than 145,000 sq ft	\$11.00/sq ft

The subject Costco is 141,967 sq ft and the assessment lease rate is \$10.50/sq ft.

Rebuttal

[29] The Complainant presented Rebuttal evidence (C-3, 133 pages).

[30] The Complainant reproduced the Respondent's City of Edmonton Cap Rate Review of 10 sales, and deleted two sales that the Complainant explained were not appropriate to be included in the analysis for a capitalization rate as the comments by The Network indicated that one sale had a 40 year lease at \$1 per year, and one sale was a non arms-length.

[31] The Complainant stated that with the elimination of the two sales, the cap rates changed, and the remaining sales reflected an average median for the actual Network cap rate of 7.14%; the City (fee simple NOI) cap rate of 6.62%; and the City (time adjusted, fee simple NOI) cap rate of 6.47%, and therefore supported the requested capitalization rate of 7.0%.

[32] 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 demonstrate the inconsistencies and errors.

Decision

[33] The Decision of the Board is to confirm the subject 2013 assessment of \$22,173,000.

Reasons for the Decision

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

Issue 1: Should the subject be given the 95% size adjustment?

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

[36] The Board noted the premise of property stratification for the 2013 assessment (R-1, page 150-152), where each property is further stratified showing similarities within their group. The subject is in the Neighborhood Shopping Centre group.

[37] The Board accepted the Respondent's explanation and reasons for the use of different approaches to determining the GLA of the two retail groups (i.e. retail and shopping centre). 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.

[38] 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. The Board is also not persuaded that the 95% method of calculating size should be applied to both groups of retail properties.

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

Issue 2: Is the assessment capitalization rate too low?

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

[41] The Board noted of the Complainant's 24 sales comparables (C-1, page 18), that 14 were categorized as Retail Plaza or General Retail and for that reason were dissimilar to the subject; 10 were shopping centres and were considered unreliable as the capitalization rates were lease fee rates derived from the use of actual NOI rather than a stabilized NOI.

[42] The Board gave greater weight to the Respondent's capitalization rate review of eight sales (R-1, page 30), which were included in the Complainant's shopping centre comparables and indicated a fee simple capitalization rate of 6.47%. The Respondent's Shopping Centre Capitalization Rate Analysis (R-1, page 13) of 14 sales comparables indicated an average of 6.20% and a median of 6.18%, which also supported the assessment capitalization rate of 6.50%.

[43] The Board placed weight on the Respondent's chart, Costco Assessment Comparables, R-1, p 33) which identified the capitalization rate of 6.50% for four Costco stores of varying size, age and lease rates.

[44] The Board accepted the Respondent's method of calculating a capitalization rate noting that it met the legislative requirement of determining a fee simple capitalization rate. The Respondent derived the capitalization rate using typical market conditions and applied this fee simple capitalization rate to a typical NOI in the assessment of a property. The capitalization rate was applied in the same manner as it was derived.

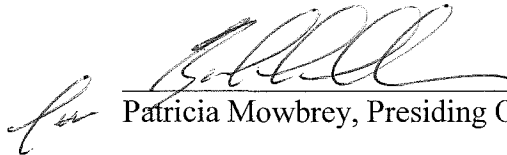
Issue 3: Is the food store lease rate of \$10.50 /sq ft too high?

[45] The Board finds the lease rate of \$10.50/sq ft is correct as it fits within the category specified for assessment purposes, which is older than 2008 and less than 145,000 sq ft.

[46] The Board finds the subject 2013 assessment of \$22,173,000, correct, fair and equitable.

Heard commencing September 3, 2013.

Dated this 3rd day of October, 2013, at the City of Edmonton, Alberta.


Patricia Mowbrey, Presiding Officer

Appearances:

Jordan Nichol
for the Complainant

Chris Rumsey, Assessor
Cam Ashmore, Legal Counsel
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.