Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01132

Assessment Roll Number: 9943337
Municipal Address: 482 RIVERBEND SQUARE 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 8,077 square foot building, housing a 5,483 sq ft bank and a vacant 2,594 sq ft retail property, located at 482 Riverbend Square in the Falconer Heights area of Edmonton. The property is located on a 46,760 sq ft area of land and is classified as a neighbourhood shopping centre. It is presently assessed by the City at $3,302,500.

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 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, 94 pages, C-2, 438 pages, C-3, 141 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 which used 100% of rent roll size for assessment purposes, and the other group used 95% of

the leasable size. The Complainant argued that the subject property was treated inequitably because it was assessed using 100%.

[11] The properties listed in C-2 provided the ratio of the City Assessment Proforma sizes to the City Gross sizes which indicated a median ratio of 94% and an average ratio of 92% overall. The chart also showed 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 assessment area of the subject was 8,077 sq ft. The Complainant applied a 95% adjustment for a reduced area of 7,673 sq ft which was the basis of the requested assessment value of $2,913,000.

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 presented the Board with a chart of 24 sales (C-1, p 18) which occurred between May 2011 and September 2012, showing the capitalization rate for each of the sales.

[15] Six of the sales were highlighted for exclusion, due to such factors as being part of a portfolio sale, and being an outlier or having upside potential. With the exclusions, the average cap rate was 7.24% and the median was 7.15%, which supported the Complainant's request for a cap rate of 7.00%.

[16] The Complainant requested the Board to reduce the assessment to $2,913,000.

<u>Rebuttal</u>

[17] The Complainant presented the Board with a 141-page rebuttal document (C-3), and asked the Board to focus on a City of Edmonton Shopping Centre Capitalization Rate Analysis chart (C-3, p 3) with detailed information on pages 4-68.

[18] The Complainant identified ten shopping centre sales, (C-1, p 2) from the chart of 24 capitalization rate sales, (C-1, page 18). The Complainant further excluded two sales as one was encumbered with a 40 year lease at $1 per year for a part of the property; and the second sale had not been listed on the open market and was considered a non arms-length sale. Analysis of the remaining eight shopping centre sales indicated a median capitalization rate of 7.14%, based on the Network document information. The corresponding median rates, provided by the City, based on a fee-simple NOI was 6.62% and, with a time adjusted sales price was 6.47%. (C-3, page 2).

[19] In response to the City of Edmonton Cap Rate Review, (R-1, p 54), the Complainant added highlighted comments regarding three sales, noting that two sales have upside potential which has the effect of reducing the cap rate, and one sale, a multiple parcel sale, of which both parcels were included in the Complainants evidence.

Position of the Respondent

[20] The Respondent presented the Board with a 210-page submission (R-1) in support of his request to confirm the assessment at $3,302,500.

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

[21] The Respondent submitted that there were two separate valuation groups for retail, (R-1, pages 55-56), 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.

[22] 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.

[23] 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 three roll numbers. The Respondent reproduced and added a column in the analysis of Exhibit C-2 (R-1, pp 62-63), 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?

[24] The Respondent presented the Board with a Shopping Centre Capitalization Rate Analysis chart of 14 sales of retail properties that occurred between August 2010 and April 2012 (R-1, p 37, together with detail sheets on pp 38-53). These sales indicated adjusted capitalization rates of these properties ranging from 4.65% - 8.04%, presenting a median of 6.18% and an average of 6.20% which the Respondent stated supported the assessment capitalization rate of 6.5%.

[25] The Respondent's City of Edmonton cap rate review (R-1, page 54), 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%

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 asserted that third party capitalization reports were used only for comparison and trending, and to 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 61), while the Colliers report indicated the Edmonton Community Retail capitalization rates ranged from 6.25%-6.75% , (R-1, page 60).

[27] The Respondent drew the Board's attention to two previous 2013 CARB decisions, (C-1, p 91- 108), which had dealt with the same issues of capitalization rates and the 95% size adjustment.

[28] The Respondent requested the Board to confirm subject assessment of $3,302,500.

Decision

[29] The Decision of the Board is to confirm the subject 2013 assessment of $3,302,500.

Reasons for the Decision

[1] 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?

[1] 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.

[2] 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.

[3] 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.

[4] 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.

[5] 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?

[6] 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.

[7] 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 the actual NOI rather than a stabilized NOI.

[8] The Board gave greater weight to the Respondent's capitalization rate review of eight sales (R-1, page 54), 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 37) 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%.

[9] The Board finds the subject 2013 assessment of $3,302,500 is correct, fair and equitable.

Heard commencing September 5, 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
Steve Lutes, 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.