Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01339

Assessment Roll Number: 5404488
Municipal Address: 3425 118 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
Jerry Krysa, Presiding Officer
James Wall, Board Member
Randy Townsend, Board Member

Procedural Matters

[1] At the commencement of the hearing, the parties to the complaint indicated that they have no objection to the composition of the Board, and the members of the Board indicated that they have no bias in the matter of this complaint.

[2] In accordance with the parties' request, the Board will consider the evidence and argument presented in respect of the equity issue at the hearing of the complaint filed in respect of tax roll number 9955641, in this matter without further mention.

Preliminary Matters

[3] At the commencement of the hearing, the Respondent conceded that the 7.00% capitalization rate employed in the preparation of the subject's assessment is inequitable in relation to the assessed 7.50% capitalization rate of similar properties. The Respondent recommended that a 7.50% capitalization rate be applied in the assessment of the subject property, resulting in a revision of the assessment from $4,185,000 to $3,906,000.

Background

[4] The subject property is a 117,440 square foot parcel of land, improved with a 28,395 square foot food store / retail structure that was constructed in 1972. The property is part of a multi-parcel neighbourhood shopping centre development known as Beverly Shopping Centre. The property has been assessed by means of the income approach to value at $4,185,000.

Issues

Issue 1. Is the assessment of the subject property equitable in relation to the assessments of other retail properties?

Issue 2. Is the subject's 7.00% capitalization rate equitable in relation to capitalization rates of similar properties?

Legislation

[5] The *Municipal Government Act*, RSA 2000, c M-26

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.

Issue 1. Is the assessment of the subject property equitable in relation to the assessments of other retail properties?

Summary of Parties' Positions

[6] The Complainant argues that the assessment of the subject property is not fair and equitable with similar retail properties that are assessed at 95% of their actual value. The Complainant submits that the Respondent has stratified similar retail properties into two separate groups, and the assessments for the two groups of properties are prepared inconsistently by different valuation groups (assessors); with the result that one group of properties stratified as "Retail", is assessed preferentially in relation to the other group, "Shopping Centres", to which the subject belongs.

[7] The Complainant submits that the assessment of the subject property is founded on 100% of the net leasable area of the improvement as indicated on the subject's rent roll. The Complainant argues that in contrast, the assessments of similar properties stratified as Retail are based on 95% of the leasable size of the property, resulting in assessments that reflect 95% of the actual value of the properties.

[8] In support of the argument, the Complainant provided a summary of 92 Retail properties to demonstrate that the leasable areas assessed by the Respondent reflect, on average, 94% of the total leasable area indicated on the properties' rent rolls; with a corresponding median ratio of 95%. The summary also demonstrates that the leasable areas assessed by the Respondent reflect, on average, 92% of the gross building size indicated on the Respondent's records, with a corresponding median ratio of 94% (C2, pp.1-2). Supporting documentation of each of the properties' rent rolls and assessed areas was provided (C2, pp.3-438).

[9] The Complainant further provided two of the Respondent's valuation reports for each of three properties that were inadvertently assessed by both valuation groups in 2012, to demonstrate the following variance in assessed areas and assessments (C1, pp.24-32):

Tax Roll #: Valuation Group	**3924230**		**9943060**		**9943061**	
"Retail"	4,575 Sq.Ft	$1,420,000	43,290 Sq.Ft.	$8,654,500	27,256 Sq.Ft.	$5,774,000
"Shopping Centre"	4,712 Sq.Ft.	$1,778,000	47,318 Sq.Ft.	$9,220,000	28,247 Sq.Ft.	$8,004,500
Variance	+137 Sq.Ft.	**+25.2%**	+4,028 Sq.Ft	**6.5%**	+ 991 Sq.Ft.	**38.5%**

[10] The Respondent argues that the subject property is correctly and equitably assessed in relation to similar shopping centre properties, as an identical methodology was applied to determine the net leasable area of all properties in the Shopping Centre inventory.

[11] The Respondent confirms the Complainant's assertion that the assessment of the subject property is founded on the total net leasable area of the property, as determined from rent roll information received in response to requests for information made pursuant to section 295 of the *Municipal Government Act*.

[12] The Respondent submits that the properties stratified in the shopping centre valuation group are typically professionally managed, and as a result, relevant rent roll and financial information is almost always provided in response to the legislated requests for information. In contrast, the typically smaller properties in the Retail stratum are most often not professionally managed, and are frequently owner occupied; consequently the compliance rate to the legislated requests for information is low and the information supplied is frequently incomplete or inaccurate. The Respondent submits that as a result of the lack of adequate information for the Retail stratum of properties, a formula that estimates the net leasable area of Retail properties from the gross building area on record is employed, as set out below:

Main Floor	95% of Gross Floor Area
Upper Floors	90% of Gross Floor Area
Basement	90% of Gross Floor Area

[13] The Respondent argues that notwithstanding the differing methodologies employed to determine net leasable areas, the subject property is equitably assessed in relation to the properties valued by the Retail valuation group. The Respondent maintains that the formula employed by the Retail valuation group estimates the typical net leasable area of each Retail property in a mass appraisal approach, and the resulting assessments are founded on the total net leasable area; as are the properties stratified in the shopping centre valuation group.

[14] In response to the three duplicate 2012 assessments provided by the Complainant at pages 24-32 of exhibit C1, the Respondent concedes that the properties were undervalued for the 2012 taxation year as a result of being inadvertently transferred from the Shopping Centre inventory to the Retail inventory without updating the size of the properties to reflect their gross building areas. The Respondent submits that the three properties have since been returned to the Shopping Centre inventory for 2013, and the assessments are again properly founded on the total net leasable area.

Findings and Reasons: Issue 1

[15] The Board finds that the subject property is equitably assessed in relation to similar properties in the Shopping Centre and Retail stratifications, with the exception of the capitalization rate as noted in Issue 2, below.

[16] The Board rejects the Complainant's argument that similar Retail properties are assessed at 95% of their actual value. Although the Complainant provided numerous examples of net leasable area variances, the Complainant failed to provide any market evidence to demonstrate that the resulting assessments of those (Retail) properties are below market value, and are therefore inequitable with the assessment of the subject property. The Board is not persuaded that a discrepancy in one attribute of a property necessarily results in an assessment inequity.

[17] The Board further applies little weight to the Complainant's analysis, for the reason that twenty four of the Complainant's ninety two examples specify a gross building size that is exceeded by the indicated rent roll area; however, the Complainant made no apparent investigation, and offered no explanation of the anomaly.

Issue 2. Is the subject's 7.00% capitalization rate equitable in relation to capitalization rates of similar properties?

[18] As noted in "preliminary matters" on page 1 of this decision, the Respondent conceded that the 7.00% capitalization rate employed in the preparation of the subject's assessment is inequitable in relation to the assessed 7.50% capitalization rate of similar properties. The Respondent recommended that a 7.50% capitalization rate be applied in the assessment of the subject property, as requested by the Complainant, resulting in a revision of the assessment from $4,185,000 to $3,906,000.

Findings and Reasons: Issue 2

[19] The Board accepts the joint submissions of the parties to revise the subject's capitalization rate from 7.00% to 7.50%, resulting in a revised assessment of $3,906,000.

Decision

[20] The assessment is revised from $4,185,000 to $3,906,000.

Heard August 15, 2013.

Dated this 16th day of September, 2013, at the City of Edmonton, Alberta.

J. Krysa

J. Krysa, Presiding Officer

Appearances:

Adam Greenough
for the Complainant

Chris Rumsey; Steve Lutes (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.