Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01406

Assessment Roll Number:	10037290
Municipal Address:	10360 65 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
Petra Hagemann, Presiding Officer
Brian Frost, Board Member
Brian Hetherington, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties before the Board indicated no objection to the Board's composition. In addition, the Board Members indicated no bias with respect to this file.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject property is a retail building located at 10360 – 65 Avenue NW in the Strathcona Junction neighborhood. It is classified as Power Centre. The building has an effective year built of 2005 and comprises 12,489 square feet (sq ft) of net leasable area, (NLA). The lot size is 29,708.4 sq ft with site coverage of 42%. The 2013 assessment of $3,270,500 has been calculated utilizing the income approach to value.

Issues

[4] **Issue 1**: Is the assessment of the subject property fair and equitable given application of a 5% reduction in gross leasable area, (GLA) that has been applied to other assessments?

[5] **Issue 2:** It the capitalization rate, (cap rate), utilized in arriving at the assessment too low when compared to market cap rates?

Legislation

[6] 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.

Position of the Complainant

[7] The Complainant presented a 123 page disclosure document, (Exhibit C-1), a 438 page support document, (Exhibit C-2) and a 132 page rebuttal document, (Exhibit C-3). Exhibit C-1 addressed the issues, Exhibit C-2 provided evidence in support of Issue 1 and Exhibit C-3 addressed evidence related to Issue 2.

Issue 1:

[8] The Complainant stated the GLA of the subject property is 12,489 sq ft and the GLA used in assessment of the subject property is 12,489 sq ft or 100% of the actual GLA.

[9] In support of the Complainant's contention that this was neither fair nor equitable, a chart listing 92 retail properties was presented with support documentation, (Exhibit C-1). The median ratio of actual GLA to assessed GLA was 95% and the average was 94%.

[10] The Complainant asked that the Board reduce the assessment based on a reduction of the GLA as utilized in the assessment, stating it should be 95% of the actual GLA of 12,489 sq ft, or 11,873 sq ft.

Issue 2:

[11] The Complainant stated that, based on sales of similar properties, a cap rate of 7.00% was more indicative of market than the 6.50% used by the City in the assessment of the subject property.

[12] In support, the Complainant charted the sale of 24 properties, (Exhibit C-1, page 17). The comparable sales occurred between May 2011 and Sept 2012, ranged in year built from 1952 to 2008, and in cap rate from 6.12 to 9.18%. The 9.18% cap rate was highlighted as being an outlier while 5 others were highlighted as being either a portfolio sale or having had upside potential. The median cap rate including the highlighted sales was 7.04% and the average was 7.15%. The median cap rate excluding the highlighted sales was 7.15% with an average of 7.24%. The Complainant stated the practice was for cap rates to be either a whole number or half way between two whole numbers. Accordingly, the Complainant stated the evidence pointed to a 7.00% cap rate being most appropriate.

[13] In Rebuttal, the Complainant added additional support and explanation (Exhibit C-3, page 2) regarding 10 of the sales outlined in the disclosure. The Complainant also critiqued the Respondent's comparable sales (Exhibit C-3, page 3) noting that 2013 stabilized net operating income, (NOI), was applied to the time adjusted sale price to derive fee simple cap rates. This did not consider variations in cap rate that could result from differences in the rationale of each purchaser in making a purchase decision.

[14] The Complainant presented a re-creation of the original assessment, amended to reflect a GLA of 11,873 sq ft, (95% of the actual GLA of 12,489 sq ft), and a 7.00% cap rate, (Exhibit C-1, page 13) and requested the Board reduce the 2013 assessment of the subject property from $3,270,500 to $2,887,500.

Position of the Respondent

[15] The Respondent presented a 185 page disclosure document, (Exhibit R-1), which included response to the issues, support evidence, past Board Orders for similar appeals and a Law and Legislation Brief.

Issue 1:

[16] The Respondent stated the assessment of the subject property based on 100% of the GLA was both fair and equitable.

[17] The Respondent noted that the mass-appraisal methodology used by the City required grouping of similar properties with common attributes and using a uniform valuation model for each group, (Exhibit R-1, page 39), based on market information that also reflected the property attributes.

[18] The Respondent added there were separate valuation groups for standard retail properties and shopping centres. General retail properties and plazas were assessed at 95% of the rent roll size as they fall within the standard retail group.

[19] Within shopping centres, different assessment groups focused on community shopping centres, neighborhood shopping and power shopping centres. The subject property is a power shopping centre which, being within the shopping centre group is assessed using 100% of GLA.

[20] The Respondent added that the reason that they each use a different approach to calculate size is that for the standard retail group, which include owner occupied and small retail properties, the owners historically returned insufficient and incomplete responses to the City's Request For Information, (RFI), and consequently reliable size and other information was not available. Therefore the 95% of gross building area methodology was developed in an attempt to establish a correct and equitable gross leasable area of the standard retail properties for assessment purposes.

[21] The Respondent advised that the RFI return rate for shopping centres was quite high, and the actual GLA of properties could be more accurately ascertained from the rent roll and could be assessed using 100% of GLA.

[22] The Respondent pointed out (Exhibit R-1, pages 40 & 41) that 90 of the 92 properties included in the Complainant's analysis (Exhibit C-2) belonged to a different category of properties (standard retail group) than the subject property. The Respondent reiterated that the retail group was treated differently from the subject property which is within the shopping centre category.

[23] The Respondent concluded by stating that all properties within the shopping centre category were assessed using 100% of the GLA, indicating the assessment is fair and equitable.

Issue 2:

[24] The Respondent stated the cap rate was derived from market sales of similar properties. In order to arrive at a fee simple value, typical factors such as lease rates, vacancy and expenses are used in determining effective gross income, which is then divided by the time adjusted sale price to arrive at the cap rate applicable at the valuation date.

[25] In support of the 6.50% cap rate used in the subject assessment, the Respondent graphed 14 sales of shopping centre properties, (Exhibit R-1, page 15). The properties ranged in year built from 1970 to 2008 and sold between August 2010 and April 2012. Their cap rates based on their time adjusted sales prices ranged from 4.65% to 8.04% with an average of 6.20% and a median of 6.18%. The Respondent included the third party reports primarily as support to illustrate that the capitalization rate used in assessing the subject was within the comparative range.

[26] The Respondent provided a third party report from Colliers International,(Exhibit R-1, pages 35 to 38), which indicated a range of 5.75% to 6.50% for properties similar to the subject property while a CBRE report, (Exhibit R-1, page 39), indicated a range of 5.75% to 6.25%.

[27] The Respondent concluded by saying the 6.50% cap rate used in the assessment is correct and asked that the Board confirm the 2013 assessment of the subject property on $11,014,000.

Decision

[28] The 2013 assessment of $3,270,500 is confirmed.

Reasons for the Decision

Issue 1:

[29] The Board was not persuaded by the analysis presented by the Complainant to determine if the subject property is assessed equitably with other similar properties. Of the 92 properties analyzed by the Complainant, 90 of them were not similar to the subject property as they were from the retail valuation group. The Board is satisfied that the City's application of 95% of the gross building area to determine GLA is equitable for the retail valuation group given the inaccuracies of RFI data for properties within that group. The subject property is not in the retail valuation group.

[30] The Complainant asked that the Board reduce the GLA for the subject property to 95% of the leased area as stated on the rent roll. The leased area on the rent roll already accounts for space lost to common area from the gross building area. Were the Board to agree to the Complainant's request that the GLA for the subject property should be based on 95% of the net rentable area as stated on the rent roll, the inequity would be compounded because the net rentable area already assumes some loss of space to common area.

[31] The Board accepts the Respondent's argument that all properties within the shopping centre inventory are valued using the same assessment methodology, having been assessed using 100% of the GLA. The subject property comprises two separate buildings with minimal common area and is classified as big box retail shopping centre. The Board is satisfied that the subject property, having been assessed at 100% of the GLA, has been fairly and equitably assessed.

Issue 2:

[32] The Board was not persuaded by the Complainant's cap rate analysis. The Complainant's comparables were generally defined retail property and not power shopping centres, the classification of the subject property. Most were strip centres with multiple tenants. Four contained gas bars. These are higher risk properties which would be expected to reflect a higher cap rate than the subject property. The Board concluded only three of the Complainant's 24 comparable sales appeared to be big box retail properties. One was in part under a 40 year $1.00 lease. The other two showed 7.04% and 6.54% cap rates, (albeit the third showed as having upside potential on the income). The Board was not convinced by the Complainant's position that the Respondent was incorrect in using a 6.50% cap rate in the subject property assessment.

[33] The Board accepted the Respondent's argument for a 6.50% cap rate in its comparable sales, all of which were power shopping centres. The Board was persuaded by the Respondent's argument that in derivation of the cap rate, comparable sales must be analyzed on a fee simple basis because irregularities and assumptions within third party sales data can otherwise skew the result, as noted in the Respondent's comment that one sale (Exhibit C-1, page 30) assumed no vacancy whereas the City uses a stabilized vacancy rate in its calculations.

[34] The Board was persuaded by the Respondent's comment that purchaser rationale was not a factor in cap rate derivation on a fee simple basis because cap rates are derived on adjustments based on fact and that subjectivity cannot and does not enter into decision making.

[35] The Board was satisfied that the Respondent was correct in the choice of cap rate given the strength of the comparable sales data and the additional support from independent industry sources which support the Respondent's assessed cap rate of 6.50%.

[36] The Board finds that the 2013 assessment of $3, 270,500 is correct, fair and equitable.

Dissenting Opinion

[37] There was no dissenting opinion.

Heard commencing September 13, 2013.
Dated this 25th day of September, 2013, at the City of Edmonton, Alberta.

Petra Hagemann, Presiding Officer

Appearances:

Jordan Nichol
for the Complainant

Chris Rumsey
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.