Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01435

Assessment Roll Number: 10010541
Municipal Address: 2142 99 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
Lynn Patrick, 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 they have no bias in the matter before them.

Background

[2] The subject property is a power centre located at 2142 99 Street in South Edmonton Common. The property has a 5,502 square foot building that is occupied by Canadian Western Bank. The property is assessed using the income approach and the assessment is $2,437,000.

Issue(s)

[3] Issue 1: Is the subject property equitably assessed with similar properties?

Issue 2: What is an appropriate capitalization rate to value the subject property for assessment purposes?

Legislation

[4] 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

[5] The Complainant filed this complaint on the basis that the subject property assessment is inequitable and incorrect.

[6] The Complainant argued that the subject property is not assessed equitably with similar retail properties. Similar retail properties are assessed at 95% of the leasable area, but the subject property is assessed at 100% of its leasable area. In support of this position, the Complainant presented a Rental Area Analysis of 92 retail properties (Exhibit C-2). According to the Complainant, the properties listed on pages 1 and 2 of Exhibit C-2 are assessed based on 95% of the leased area stated on the Commercial Tenant Roll.

[7] The Complainant also argued that the 6.0% capitalization rate used to prepare the assessment is too low and should be increased to 6.5%. Sales of recent retail properties indicate that the market capitalization rate is approximately 7%, and in recognition of the South Edmonton location, a negative adjustment of 0.5% was applied.

[8] The Complainant presented a Capitalization Rate Sales chart of twenty-four sales comparables that have a median capitalization rate of 7.04% (Exhibit C-1, page 16). When the Complainant removed six of the sales comparables which are less comparable, the remaining eighteen comparables have a median capitalization rate of 7.15%.

[9] The capitalization rates in the Capitalization Rate Sales chart are the rates published by The Network. These rates are based on the actual net operating income and the actual sale price on the sale date. The Complainant did not make any adjustments.

Rebuttal

[10] The Complainant presented a rebuttal document (Exhibit C-3) and highlighted some of the Respondent's sales. The Complainant commented as follows (page 2, Exhibit C-3):

- the sale located at 10503 51 Avenue NW is a multiple parcel sale.
- the sale located at 100 Manning Crossing is part of a portfolio sale that included eight properties. Seven of the eight properties are located in Ontario.
- the sale located at 11219 Jasper Avenue was not adjusted for below market rents. The upside potential has the effect of reducing the capitalization rate.

- the sale located at 16504 95 Street & 9501 167 Avenue has not been adjusted for below market rents, and
- the sale located at 14103 23 Avenue was not listed on the open market.

[11] In summary, the Complainant requested the Board to reduce the assessment to $2,137,000 based on 95% of the leasable area and a 6.5% capitalization rate.

Position of the Respondent

[12] The Respondent submitted that the subject property assessment of $2,437,000 is equitable and correct.

[13] The Respondent explained that the subject property is valued within the Shopping Centre group of properties and all properties within the shopping centre inventory are valued using the same methodology which obtains a net leasable area directly from the rent roll.

[14] For other types of retail properties within the standard retail inventory, the information that is provided to the City from property owners is usually either incomplete or shows a gross area. Additionally, some properties are owner occupied. Due to not having a net leasable area for most properties, the City developed a study which showed that the net leasable area is typically 95% of the gross building area.

[15] In response to the Complainant's concern that the properties in Exhibit C-2 are assessed using 95% of the leased area on rent rolls, the Respondent stated that this is not the case. Regardless of whether the property is a shopping centre or a retail plaza, the property is assessed based on its net leasable area. In both the shopping centre valuation group and the retail valuation group, the final size is an attempt to accurately reflect the net leasable area for the property.

[16] For any individual property, if the property owner can show that the net leasable area that the City has actually used to assess the property is inaccurate (either too high or too low) the owner may file an appeal to correct the size.

[17] Using a Shopping Centre Capitalization Rate Analysis (Exhibit R-1, page 26), the Respondent defended the 6.0% capitalization rate applied to the subject. The analysis is based on fourteen sales of shopping centres that transacted from August 2010 to April 2012. The Respondent used the stabilized net operating income and time adjusted sale prices when deriving the capitalization rates. The results of the capitalization rate study are a median capitalization rate of 6.18% and an average capitalization rate of 6.20%.

[18] The Respondent also submitted several decisions in support of its position. The Respondent highlighted two 2013 decisions, ECARB 00971 and ECARB 0112, which confirmed the assessments. These decisions involved the same parties who presented the same evidence and argument as in the subject complaint.

[19] In summary, the Respondent requested that the Board confirm the assessment at $2,437,000.

Decision

[20] The property assessment is confirmed at $2,437,000.

Reasons for the Decision

[21] The main issues of this complaint are related to whether the subject property is equitably assessed with similar properties, and what capitalization rate should be used to value the subject property.

[22] With respect to the equity issue, the Board finds no evidence of an inequity. The subject property is assessed in the same manner as all other properties in the shopping centre group, using 100% of the net leasable area. Furthermore, properties in the retail group are also assessed using 100% of the net leasable area.

[23] Respecting the capitalization rate issue, the Board finds that the Complainant's Capitalization Rate Sales analysis is unreliable because the sale comparables have not been time adjusted. Further, the capitalization rates are leased fee rates based on the actual net operating income rather than the stabilized net operating income. There can be significant differences which result in inconsistent capitalization rates.

[24] For assessment purposes, the Board accepts the Respondent's method of calculating a capitalization rate because it meets the legislative requirement for determining a fee simple capitalization rate. The Respondent derives the rate using typical market conditions, and applies this fee simple capitalization rate to a typical net operating income. In other words, the capitalization rate is applied in the same manner as it was derived.

[25] The Board finds that the 6% capitalization rate used to prepare the assessment is supported by the Respondent's Shopping Centre Capitalization Rate Analysis, and is appropriate for valuing the subject property for assessment purposes.

[26] Accordingly, the assessment is confirmed.

Heard on October 28, 2013.

Dated this 27th day of November, 2013, at the City of Edmonton, Alberta.

Lynn Patrick, Presiding Officer

Appearances:

Jordan Nichol
for the Complainant

Amy Cheuk
John Ball
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.