Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01621

Assessment Roll Number: 3924214
Municipal Address: 13330 50 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
Shannon Boyer, Presiding Officer
Martha Miller, Board Member
Mary Sheldon, Board Member

Procedural Matters

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

Preliminary Matters

[2] Evidence, argument and submissions are carried forward, where relevant, from file 3055993 to this file.

[3] The Respondent objected to the Complainant's rebuttal being introduced as evidence on the grounds that the documents contained information about the sale of a neighboring property that was not referred to in the Respondent's evidence. The Complainant agreed to strike pages 2,3 & 4, but claimed that pages 5,6, & 7 did respond to the Respondent's comments about a portion of the sale. The Board's decision was not to admit the Complainant's evidence as rebuttal because it did not respond to the Respondent's evidence, but referred to a sale of a neighboring property on the same date.

Background

[4] The subject property is a restaurant in the Kennedale Industrial subdivision of Edmonton. Known as Earl's, with a year built of 1994, it is 6,906 square feet on a site of 56,495 square feet and has a 12% site coverage.

[5] The subject is assessed on the income approach with the classification of Power Centre, although the Assessment Notice stated the subject's class as "Retail". The 2013 assessment is $2,620,500 and the Complainant is requesting that the assessment be reduced to $1,130,000 based on land override sales comparable approach, or alternatively, $2,372,500 based on the income approach.

Issue(s)

[6] Should the subject be assessed using the income approach and is the subject correctly assessed as part of the Shopping Centre group?

[7] Is the 2013 assessment for the subject correct when compared to sales and equity of similar properties?

Legislation

[8] 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

[9] The Complainant presented evidence and argument for the Board's review and consideration in support of their request for a reduction to the 2013 assessment from the current $2,620,500 to $2,372,500 (Exhibit C-1, 65 pages).

[10] The Complainant argued that it appeared that the subject had been assessed in 2013 as land with a nominal improvement; specifically the assessed value of $2,620,000 with a $500.00 improvement for a total 2013 assessment of $2,620,500. The Complainant's position was this produced a value for the land that was too high.

[11] The Complainant provided a chart of nine land sales of properties similar to subject. The sale dates ranged from 2006-2011 with time adjusted sale price per square foot from $13.54-$56.71, with the subject at $46.37 per square foot for land. The result was an assessment request for Land of $1,129,930 together with $500.00 for the improvement to a total figure for subject for 2013 assessment of $1,130,000. The Complainant acknowledged that this assessment calculation was low and concluded that the subject was likely assessed using the income approach.

[12] Alternatively, it is the Complainant's position that if the income approach is the correct method of value for the subject, then the subject should be assessed in the Retail category. The Complainant pointed out that the current Assessment Notice stated "Retail" not Power Centre. The Complainant stated that it is relying on that notation to lower the assessment (C-1; page 11).

[13] The subject's 2012 assessment was adjusted in a withdrawal to correction from $2,831,000 to $1,936,500 (C-1, page 23). The Complainant argued the reduction in the 2012 assessment supported the classification of Retail for subject.

[14] The Complainant requested a capitalization rate of 7% for a 2013 assessment of $2,372,500. (C-1, page 12). The parameters used by the Complainant in the income pro forma were those for a property in the retail group.

[15] The Complainant provided a table of twelve Retail Sales Cap Rates in support of the request for a 7% cap rate for subject (C-1, page 19). The range of Assessment Capitalization rates for eight of those sales is from 6.5%-7.6%. Two of the comparables were valued on the Cost Method and one assessment methodology was unknown.

[16] In further support of the income approach to value for subject the Complainant provided fifteen Restaurant Assessment Lease Rate Comparables in various locations in Edmonton (C-1, pages 16). All comparables had a rental rate of $26.00 per square foot which the City typically uses when assessing retail properties. The Complainant requested a rental rate of $26.00 per square foot for subject.

[17] In summary the Complainant argued the subject's correct classification is in the retail group. The correct method of assessment is the income approach using typical rents, cap rate and other variables for retail properties, as outlined by the Complainant.

[18] The Board was asked, therefore, to reduce the 2013 assessment from $2,620,500 to assessment of $1,130,000, or alternatively, $2,372,500.

Position of the Respondent

[19] The Respondent presented evidence and argument for the Board's review and consideration in support of their request to confirm the 2013 assessment for subject at $2,620,500 (R-1, 156 pages).

[20] The Respondent further explained that the subject is assessed in 2013 based on the income approach. Within the income approach, the subject was classified as a Power Centre. The Respondent explained that there are separate valuation categories for retail properties: one is standard retail properties and the other is Shopping Centres. Power Centres are a subgroup in the Shopping Centre category. Admittedly, the word "retail" appeared on the assessment form, but the typicals used to calculate the assessment were those applied to Power Centre group properties.

[21] Historically, in 2010 and 2011, the subject was assessed as a Power Centre.

[22] The Respondent provided the pro forma for subject valuing the property on the income approach with the classification of Power Centre.

[23] The parties agree that $26 per square foot is an appropriate lease rate without admission that the subject should be classified as retail.

[24] The parties disagreed about the inputs to the calculation of assessment. The Complainant requested retail typical parameters and the Respondent requested Power Centre typical parameters. The Respondent's allowance for CRU was 2.5% and the Complainant requested 5%; the Respondent's CRU market rent was $7 per square foot and the Complainant requested $6 per square foot; the Respondent used a Capitalization Rate of 6.5% and the Complainant requested 7%.

[25] The Respondent argued the Complainant did not provide evidence in support of the retail classification, other than the word " retail" on the assessment form which contained the correct assessment value for subject, using Power Centre typicals. In contrast, the Respondent provided photographs which showed the subject as part of a Power Centre being located beside a Costco, Home Depot, CIBC and TD Bank (R-1, pages 4-5).

[26] The Respondent argued that the Complainant made an incorrect assumption that the subject was valued as retail when historically and based on the 2013 assessment of market value; it was classified as Power Centre.

[27] In support of its position regarding the capitalization rate of 6.5%, the Respondent provided a Shopping Centre Capitalization Rate analysis, utilizing three years of sales showing how the 2013 stabilized net operating income was consistently applied to the time adjusted sale proceeds of the above sales to produce the adjusted Capitalization Rate Exhibit R-1, page 14). The rates for these fourteen properties range from 4.65%-8.04% and a median and average of 6.18% and 6.20% respectively. The Respondent provided the analysis sheets for each of these sales. (R-1, pages 15-30)

[28] The Respondent provided third party data showing the Retail Cap Rates for Regional/Power properties in Edmonton to range from a low of 5.75% to 6.5% (R-1, pages 31-34). Another third party Canadian cap study was provided showing Retail Cap Rates for Power Centres ranging from 5.75%-6.25% (R-1, page 35).

[29] In summary the Respondent argued the only question before the Board on subject is its classification of Retail or Power Centre. The Respondent asked the Board to confirm the 2013 assessment for subject at $2,620,500 as it is a Power Centre and should be valued with the typical Power Centre parameters.

Decision

[30] The decision of the Board is to confirm the 2013 assessment of the subject property at $2,620,500.

Reasons for the Decision

[31] The Board is convinced that the correct method to use to assess the subject is the income approach.

[32] The Board acknowledges the Complainant's submission that the assessment notice received by the owner resembles a land override assessment; however, the Board notes that when

it tested the assessment amount, the Complainant realized the potential error in assessing the subject as land.

[33] Despite the error of using the word "retail" on the assessment notice, the Board confirms that the subject is properly assessed as part of the Shopping Centre group.

[34] The Board notes the subject was classified as a Power Centre in 2010 and 2011. In 2012 the classification is unclear in the withdrawal to correction notice. The Board also notes that the 2013 assessment was calculated using typical rents, cap rate and other variables used for assessing properties within the classification of Shopping Centre group. The Complainant's reliance on the erroneous word "retail", is not sufficient to convince the Board to alter an assessment, that was otherwise calculated appropriately.

[35] The Board confirms that when compared to sales and equity of similar properties in the Shopping Centre group, the 2013 assessment is appropriate. The typical parameters used for the Shopping Centre group are appropriately applied in the assessment.

[36] The Board finds the 2013 assessment of the subject property at $2,620,500 including the assessment cap rate component, to be fair and equitable.

Dissenting Opinion

[37] There was no dissenting opinion.

Heard commencing October 15, 2013.
Dated this 12th day of November, 2013, at the City of Edmonton, Alberta.

Shannon Boyer, Presiding Officer

Appearances:

John Trelford
for the Complainant

Alana Hempel
Steve Radenic
Tanya Smith, 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.