Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01628

Assessment Roll Number:	3021649
Municipal Address:	9104 179 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
Harold Williams, Presiding Officer
Randy Townsend, Board Member
James Wall, Board Member

Procedural Matters

[1] There were no procedural matters before the Board. The Board members all stated that they had no bias in this case.

Preliminary Matters

[2] There were no preliminary matters from either party.

Background

[3] The subject property is a neighborhood shopping centre known as Lakeview Plaza, located at 9104 - 179A Ave NW in the Lago Lindo subdivision. The subject building, built in 1984, has been assessed by the City of Edmonton as having 16,187 sq. ft. of leasable space. The 2013 assessment is set at $1,589,500. Site coverage of the property is 29%. The subject property currently has a rental rate of $11.25/sq ft applied to it by the Respondent.

Issue(s)

[3] Is the lease rate applied by the City of Edmonton in excess of market rent, based on assessments of similar properties?

[4] Is the net leasable area, as applied by the City, larger than indicated on the rent roll?

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.

Position of the Complainant

[6] The Complainant provided to the Board the rent roll for the subject property (Exhibit C-1, page 16. The rent rates for the various tenants in this property range from $6.75 to $17.25 per square foot (sq ft). The most current lease has a starting date of January 01, 2010 and runs to December 31, 2015. The rent for this CRU space, used as a nail salon, is $7.00/sq ft

[7] Exhibit C-1, page 20 has two assessment comparables used by the Complainant as part of his case to indicate that comparable assessments are being assessed at lower rates than the subject. The first comparable has a rate of $8.00/sq ft and the second one has a rate of $8.50/sq ft. The median is $8.25/sq ft. The Complainant, however, is requesting a rate of $7.00/sq ft be applied to the subject.

[8] The Complainant also provided to the Board (Exhibit C-1, page 20) six lease comparables ranging from $5.17/sq ft to $11.00/sq ft. All of these comparables are "retail" in the general area of the subject. The average of these comparables is $8.36/sq ft and the median is $8.50/sq ft.

[9] The Complainant pointed out to the Board that the subject property is on the periphery of the City, in the far north end, and as a result suffers from poor location in relation to other neighborhood retail plazas. There is, at present, almost no development to the north of the subject and now that the Anthony Henday ring road is in place little further development will be possible in the immediate area. Since the subject property is not typical of similar neighborhood shopping centres in well developed neighborhoods the landlord cannot produce the same income as other similar properties.

[10] The rebuttal exhibit C-2 provided the Board with two "statements of income and retained income" for years 2009 to 2011. Using the highest attained net income of $71,033 in 2011 and applying a cap rate of 7.5% produces a value of $947,000.

[11] The Complainant is asking the Board to revise the 2013 assessment to $1,180,000

Position of the Respondent

[12] The Respondent provided the Board with a file copy of the rent roll information and unaudited statements of income and earnings (Exhibit R-1, pages 14-29) as provided by the owner. This information shows the net leasable areas of each tenant in the building, when the leases start and end and the net rent that each tenant is paying. Current rents range from $6.75/sq ft to $17.25/sq ft.

[13] Exhibit R-1, page 31 provides evidence of current rent rates of similar properties (CRU space, restaurants and daycares) in locations considered by the Respondent to be of lesser traffic areas than typical, similar to the subject,. For restaurants the average rent is $13.96/sq ft and a median of $12.53/sq ft. For CRUmed and CRUless space combined the average is $13.33 and for day cares the average rent is $10.50 with a median of $11.50/sq ft

[14] Exhibit R-1, page 32 is the Respondent's chart of four equity comparables, which shows averages of $9.13/sq ft for daycare space, $12.50/sq ft for restaurant space, $13.19/sq ft for CRUmed and $14.50/sq ft for CRUless space, all in general proximity to the subject property. Details for the comparables are found in Exhibit R-1, pages 34 to 39.

[15] All of the comparables on pages 31 and 32 of Exhibit R-1 are considered interior parcels that are not on major traffic routes.

[16] The Respondent pointed out to the Board that the subject property is receiving a 20% vacancy rate adjustment to account for the fact that the property owner has had some trouble renting out 100% of his leasable space. The Respondent stated that this large of an adjustment (5% is typical for retail) is only applied when a chronic vacancy problem has been identified over a period of time. In the subject case, the City used a three year time period.

[17] With the exception of one lease, Kelly's Nails, which was signed in 2010 and running until 2015, all of the leases expire in 2012 or 2013. The signing dates ranged from May 2002 to November 2008.

Decision

[18] It is the decision of the Board that the assessment of the subject property is not in excess of market value. Therefore, the 2013 assessed value of $1,589,500 is confirmed.

Reasons for the Decision

[19] The Complainant tended to draw the Board's attention to the fact that the most current lease (Kelly's Nails), which was signed in 2010 for $7.00/sq ft, should be considered the best reflection of typical rent. This rent rate, in the Board's opinion, is below typical rents for similar retail space as provided by the Respondent's comparables.

[20] Except for the lease to Kelly's Nails, all of the other leases are up for renewal in 2012 or 2013. There was no information supplied by the Complainant to indicate what the new rents might be, whether higher or about the same as previous. At least one of the current leases was signed back in 2002 at a rate of $9.95/sq ft. It is the Board's opinion that it is unlikely that this lease would be renewed at the same rate or lower than what was used in 2002.

[21] The Board was not persuaded by the Complainant's argument that the subject property is on the periphery of the City and therefore could not possibly generate higher rents than the asked for $7.00/sq ft. It was evident to the Board from the maps provided by both the Respondent and the Complainant that this particular neighborhood has potential for some future growth as there appears to be pockets of undeveloped residential spaces in the immediate area. This is in comparison to the Complainant's comparable neighborhood shopping centres which are surrounded by fully developed neighborhoods.

[22] The Board finds it difficult to justify using $7.00/sq ft, as requested by the Complainant, when the Complainant's own analysis produced a median for their comparables of $8.25/sq ft. Other than the one subject property lease at $7.00/sq ft all other information indicates that a much higher rent is justified.

[23] The Board is of the opinion that the Respondent has recognized that the subject property may be under-performing by applying a much higher than typical vacancy rate of 20% to the subject

Dissenting Opinion

[24] There was no dissenting opinion by the Board members.

Heard commencing August 19th, 2013.

Dated this 26th day of August, 2013, at the City of Edmonton, Alberta.

Harold Williams, Presiding Officer

Appearances:

John Trelford
for the Complainant

Chelsea Towns
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.