

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01656

Assessment Roll Number: 2722650

Municipal Address: 10109 125 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] The parties did not state any objection to the composition of the Board. The members of the Board stated that they did not have any bias or conflict of interest with respect to this matter.

Preliminary Matters

[2] There were no preliminary matters before the Board.

Background

[3] Known as The Manor, the subject is a restaurant located at 10109 – 125 Street in the High Street area, in the Westmount neighborhood, Market Area 190. It is a two story wood construction house converted to commercial with an effective year build of 1956. The lot size is 7,494 square feet and the building is 2,731 square feet. The 2013 assessment is \$733,500.

Issue(s)

[4] What method was used to determine the 2013 assessed and is that the appropriate method?

[5] Is the assessment of the subject appropriate when using the sales comparison approach to value?

[6] Is the assessment of the subject fair and equitable?

Legislation

[7] 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

[8] In support of the appeal, the Complainant presented written evidence, rebuttal evidence and oral argument for the Board’s review and consideration (C-1 and C-2).

[9] The Complainant informed the Board that the Notice of Assessment and the Realty Assessment Summary appear to assess the subject based on a Land Override with a cost approach to valuation as they do not attribute a value to the improvement (C-1 page 11 and 13). The Complainant operated on the assumption that the Respondent was assessing the value of the land only with a nominal amount for the improvement.

[10] The Complainant believed the improvement to be assessed at \$500, which it accepts.

[11] The Complainant argued that a review of recent market transactions of similar properties indicated a lower market value for the land in the amount of \$483,404.

[12] Additionally, it was argued that influence adjustment factors should be applied in calculating the assessment, including location and limited access.

[13] The Complainant explained that the subject is located behind High Street with little traffic flow and that the subject must compete with other commercial properties in the market area with substantially better exposure and traffic counts. The Complainant argued that compared to other commercial sites, the subject does not enjoy high visibility in its location in a quiet residential neighborhood on a one way street. Maps and photographs were submitted in support of this (C-1 pages 5 and 6).

[14] In support of its argument that the land is assessed too high, the Complainant produced ten sales comparables which, in its opinion, are similar to the subject (C-1 page 8). Locations range from down town, to McDougal to Oliver. Lot size ranges from 7,500 to 23,200 SF, with the subject being 7,495 SF. Comparables 3, 4 and 6 are corner lots. According to the

Complainant's information, all comparables enjoy better exposure due to higher traffic counts than the subject. The time adjusted sale price per square foot (TASP/SF), ranges from \$33.32 to \$156.94, with the median of \$64.48 SF, the subject assessed at \$97.80 SF and the requested assessment at \$64.50 SF.

[15] Further, the Complainant argued that if the subject is assessed as a residential property with commercial modifiers, the valuation is still too high. The Complainant submitted that the subject should be assessed on a cost basis since it has to compete with other commercial businesses with much superior access and visibility. The subject is in an isolated area and using the sales comparison method ignores the effect of location. The subject pays higher property taxes than other restaurants, but does not have the benefit of higher traffic counts and exposure; therefore, it cannot compete fairly. In closing, the Complainant stated that there should be no extra taxes by converting an old residential house into a commercial property.

[16] During questioning, the Respondent confirmed that the subject was not assessed for land value and that the assessment was done based a manual over ride to assess as a residential house with commercial modifiers using the sales comparison approach to valuation.

[17] In rebuttal, the Complainant submitted evidence of traffic count maps and photographs, to support his argument that the Respondent's comparables were in superior locations to the subject, with very high traffic counts and better exposure.

[18] The Complainant requested a reduction of the 2013 assessment from \$733,500 to \$483,500.

Position of the Respondent

[19] In support of the assessment, the Respondent presented written evidence and oral argument for the Board's review and consideration (R-1).

[20] The Respondent drew the Board's attention to the Assessment Notice and Assessment Summary and the Account Detail report (C-1 pages 11 and 13 and R-1 page 7). The Respondent explained that the subject is classified as retail and has a manual over ride to assess as a residential house with commercial modifiers using the sales comparison approach to valuation. It was not assessed as a Land Override with a cost approach to value.

[21] The Respondent pointed out that the Assessment Notice indicates land use code 224, which means converted house to commercial use, and explained that there are approximately 200 similar types of properties in Edmonton. The Notice of Assessment with manual over ride is similar looking to the form that is used for land over ride, which could account for the Complainant's misunderstanding.

[22] Historically, the subject has been assessed as retail with a manual over ride to assess as a residential house with commercial modifiers based on the sales comparison approach.

[23] The subject's value is modified upward for the quality of construction which, in the Respondent's opinion, is superior to other residential conversions.

[24] Although the Respondent did not base the 2013 assessment on land only sales, as a test, the Respondent decided to compare land prices that it researched with the Complainant's comparables. The Respondent produced three land sales comparables which, in its opinion, are similar to the subject (R-1 page 15). Comparables 1 and 2 are located on Jasper Avenue and comparable 3 is located on 124 Street. The TASP/SF ranges from \$89.99 to \$124.96, with an average of \$103.14 SF, a median of \$94.47 SF, the subject assessed at \$97.80 SF, and an asking assessment of \$64.50 SF. The Respondent was of the view that this test supported the 2013 assessment.

[25] The Respondent produced three LUC comparables (land use code comparables) which, in its opinion, are similar to the subject to support its position that the 2013 assessment is appropriated (R-1 page 11). All are residential conversions ranging in year built between 1921 and 1925, with the subject at 1946. The lot size ranges between 4,066 SF and 7,504 SF, with the subject at 7,494 SF. The building size ranges from 1,687 SF to 3,389 SF with the subject at 2,731 SF. The TASP/SF ranges from \$214.83 to \$294.81, with an average of \$249.68 SF, a median of \$239.41 SF, and the subject assessed at \$268.58 SF.

[26] Using the same chart, the Respondent provided an equity analysis (R-1 page 11). The assessments for the same comparables range from \$404,000 to \$728,000, with a median of \$728,000 and the subject assessed at \$733,500.

[27] The Respondent argued that while the subject is a residential conversion, it does not make it so rare that it should be assessed using the cost approach. That would not be fair, in its view, to the other 200 residential conversions, many of which are also located in the subject's market area.

[28] During questioning by the Complainant, the Respondent acknowledged that the subject was assessed higher than the Respondent's comparables at \$268.58 SF, and explained that this is because the subject is newer and of better quality of construction than the comparables. The Respondent agreed that its three comparables were on busier streets than the subject.

[29] The Respondent asked the Board to confirm the 2013 assessment of \$733,500.

Decision

[30] The Board confirms the 2013 assessment of \$733,500.

Reasons for the Decision

Issue #1: What method was used to determine the 2013 assessed and is that the appropriate method?

[31] The Board acknowledges the Complainant's confusion when confronted with the assessment realty summary which seemed to indicate that the subject had been valued using a land override approach.

[32] However, the Board notes that the valuation group indicated on that summary is “retail” and that historically, the subject has been assessed as residential with a commercial override or component. Indeed, the Board notes that in the Complainant’s evidence, it is acknowledged that the highest and best use of the subject is as a residential building converted to commercial (Exhibit C-1, page 7).

[33] The only evidence provided by the Complainant in support of a reduction in the assessment is details of land sales (Exhibit C-1, page 8).

[34] The Board accepts the submission of the Respondent that there are approximately two hundred properties in the municipality which are residential buildings converted to commercial use. The Board accepts that all of these properties, including the subject, are valued in the same way. To do otherwise and value the subject using a different assessment approach would result in inequitable assessments.

Issue #2: Is the assessment of the subject appropriate when using the sales comparison approach to value?

[35] The Respondent provided the only evidence of the sales of comparable properties. The comparables provided were all residential conversions to commercial, but were older and of less quality than the subject.

[36] The time adjusted sales prices per square foot of these comparables supported the assessment per square foot of the subject at \$268.58 when some adjustments were made for age and quality.

[37] The Board notes that the Respondent did provide evidence of comparable land sales. However, as noted above in issue #1, the subject is assessed as residential converted to commercial. While it is interesting that the time adjusted values per square foot of these land sales supported the square foot value of the land of the subject, it was of little assistance to the Board in determining the correctness of the subject assessment.

Issue #3: Is the assessment of the subject fair and equitable?

[38] The Board notes that the Respondent provided the evidence of the same comparables to support the position that the assessment of the subject was fair and equitable.

[39] In the opinion of the Board, the assessments per square foot of those comparables support the assessment per square foot of the subject.

[40] In conclusion, the Board’s opinion is that the method of assessment used to value the subject by the municipality is appropriate and equitable.

[41] In addition, the Board is of the opinion that the evidence of the Respondent demonstrates that the assessment of the subject is correct when sales of comparable properties are considered. As well, the Board is of the opinion that the evidence of the Respondent demonstrates that the assessment of the subject is equitable when assessments of comparable properties are considered.

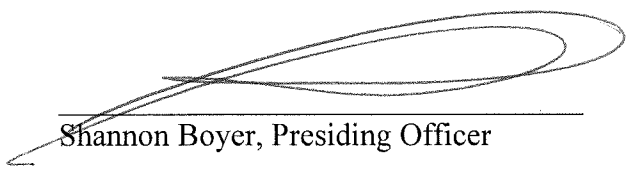
[42] The Board confirms the 2013 assessment of \$733,500.

Dissenting Opinion

[43] There was no dissenting opinion.

Heard on October 17, 2013.

Dated this 12th day of November, 2013, at the City of Edmonton, Alberta.



Shannon Boyer, Presiding Officer

Appearances:

Brett Flesher
for the Complainant

Tim Dueck
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.