Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 01674

Assessment Roll Number:	8637639
Municipal Address:	7805 Argyll Road NW
Assessment Year:	2013
Assessment Type:	Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
John Noonan, Presiding Officer
Martha Miller, Board Member
Mary Sheldon, Board Member

Procedural Matters

[1] The Complainant did not appear at the merit hearing. The Respondent had no objection to the composition of the Board. The Members of the Board did not report any bias or conflict of interest with respect to this matter.

[2] This hearing was one of four held November 21, 2013 dealing with industrial properties. An earlier request by the Complainant, Altus Group, for a postponement of these hearings was denied by a separate panel of the Composite Assessment Review Board (CARB). This Board heard that the reason for the postponement request was not found to meet the exceptional circumstances required by legislation. Apparently, there was a schedule conflict due to unexpected circumstances. The Respondent's counsel later contacted the Complainant by phone, but no further information or elaboration was forthcoming, nor in the opinion of Altus Group should be required beyond what had already been advanced.

[3] In correspondence with CARB administration, Altus Group wanted the Board to note the postponement request had been denied, and another agent was not available to attend the hearing. As allowed by s. 16 of the *Matters Relating to Assessment Complaints Regulation*, Alta Reg 310/2009 (*MRAC*), the hearing proceeded with the Board relying on the written disclosure to understand the Complainant's case

[4] The Respondent requested that submissions, argument and evidence be carried forward, as far as relevant, from file #8482952 to this file.

Background

[5] The subject is a two-building industrial warehouse property occupying a 38,211 square foot (sf.) lot at 7805 Argyll Road. A 9,600 sf. building built in 1964 fronts Argyll Road and is assessed with the attribute of exposure to a major road. The second building on the property fronts Coronet Road, was built in 1965 and measures 4,040 sf. This second building is granted a rear building adjustment in the assessment due to its lack of exposure to Argyll Road. The 2013 assessment of $1,950,500 was prepared by the direct sales comparison approach. The written materials submitted by the Complainant request a reduction in assessed value to $1,677,500.

Issues

[6] The Complainant's disclosure listed 16 issues, including reference to the property being assessed as average condition when it is actually in fair condition. Also noted was a lack of frontage and access to Argyll Road. These and other points were not further addressed in the disclosure. The Board identified two issues:

1. Do the assessment equity comparables justify a reduction in assessment to $1,677,500?

2. Should the assessment be reduced in light of an income *pro-forma* test?

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] The Complainant's disclosure presented five assessment equity comparables, all built in the 1960s on lots of comparable size, and improved with buildings of comparable size ranging from 14,280 sf. to 18,676 sf. versus the subject's 13,640 sf. The five comparables produced an average per sf. assessment of $124.97 and a median of $122.70. A value of $123 per sf. was concluded as an equitable value, which when applied to the subject would yield $1,677,500.

[9] The disclosure noted the subject is not owner-occupied and as an income producing asset would be valued by an investor using the income approach. A rent roll from the subject property indicated that 6 leases covering the entire subject's 13,550 sf. had been signed or renewed over the span of January 2011 to November 2012 at rates of $6.95 to $7.35 per sf. Using actual rents in place at the subject averaging $7.03 per sf., allowances of 3% for vacancy, 2% structural and a capitalization rate of 6.5%, a value of $1,370,000 was estimated. A separate *pro-forma* used a $7 annual lease rate, identified as market rent, and with the same inputs as before, the value estimate produced was $1,365,000. Third party market surveys from Colliers and The Network were included to justify the selection of vacancy and cap rates, and a list of leases from 5 properties including the subject, all apparently owned by the same landlord, was used to support the rental rate.

Position of the Respondent

[10] The Respondent identified a number of concerns regarding the Complainant's evidence package, and questions that would have been posed had the agent been present. With respect to the income *pro-forma*, the use of a 3% vacancy rate was questioned when elsewhere in the package Altus had commented that a 2.5% rate was used. Another concern was the vacancy shortfall amount and how that was justified, but of greater significance was the selection of the capitalization rate: the Network document showed a multi-bay cap rate of 7.08% and a single tenant cap rate of 6.68%. The Respondent wondered what sales were looked at to derive those rates. Were the sales of multi-building properties or single buildings?

[11] With regard to the equity comparables presented by the Complainant, the Respondent would have queried whether they were all single building properties, and observed that the answer would be yes. In the Respondent's estimation, this was the crux of the complaint: the treatment of single building properties versus the City's method of assessing each building and aggregating the values to produce the assessment. The Respondent observed that some decisions of the CARB favoured the Complainant's view in the single building-multi-building argument, relying on sales of single buildings that were judged to be similar to a complained multi-building property. However, in the absence of market sales evidence, as here, it would be improper to alter the assessment on an equity basis relying on single buildings as valid equity comparables. The City assessed all multiple building properties the same way.

[12] In defense of the assessment, the Respondent carried forward evidence regarding the value factors in the industrial inventory, and the assessment treatment of multiple building properties. Briefly, the factors that affect value in the warehouse inventory include total main floor area, site coverage, effective age, condition, location, main floor finished area as well as upper finished area. For multiple building properties, each building is analyzed for its contributory value, and the assessment is the aggregate value of each building. This method recognizes the typically greater cost of construction of multiple buildings, the possibility of greater income, superior site configuration and subdivision potential.

[13] The Respondent presented both sales and equity comparables. The five sales comparables were all smaller single building properties, ranging from 11,172 sf. to 18,821 sf. Four of the sales were newer construction than the subject, and thus superior, but unlike the subject were not located on major roads so were inferior in that respect. Four of the sales were clustered in a narrow range of $138 to $146 per sf. as compared to the subject's assessment at $143 per sf. The last sale showed a higher value at $164.72 per sf.

[14] Three equity comparables, all two building properties constructed in the 1974-77 timeframe and ranging from 10,000 to 20,212 sf. total building area, were assessed from $140.56 to $152.37 per sf. Two of the comparables were located on major roads, and like the subject, one of the comparables was granted a 10% rear building adjustment for lack of road exposure.

[15] An excerpt from the second Canadian edition of The Appraisal of Real Estate noted that, "income capitalization can be particularly unreliable in the market for commercial or industrial property where owner-occupants outbid investors."

[16] Concluding that the sales and equity comparables validated the assessment as both fair and equitable, the Respondent asked that the assessment be confirmed.

Complainant's Rebuttal

[17] The rebuttal disclosure noted the dissimilarities between the City sales comparables and the subject, noting that the four south side sales were not located on arterial roadways and were newer than the subject. The fifth sale was on 142 Street in the northwest quadrant and was in fair condition. Given these and other characteristics, they were not good comparables to the subject. Similar observations were made regarding the Respondent's equity comparables.

[18] The Complainant also briefly reviewed the multi-versus-single argument, noting that an investor looking to acquire 20,000 sf. of space would not differentiate between a single building of that size or another property having two 10,000 sf buildings. In conclusion, "It is fundamentally incorrect to value two buildings independently from one another as they are on one roll number and must be traded as one economic unit."

[19] The rebuttal also quoted from two appraisal texts, agreeing that the direct sales comparison approach was a straightforward and simple method to support a value opinion for property types that are bought and sold regularly. However, the subject is older and has characteristics that limit the number of reliable sales comparables. In such a case, "Appraisers should apply all the approaches that are applicable and for which there is data. The alternative value indications can either support or refute one another."

[20] The Complainant's rebuttal went on to observe, "As stated on page 40 of C-1, the appellant has the right to the lower of fairness and equity or market value. In order to determine fair market value for the subject property, the income approach must be used as there is sufficient market evidence as disclosed in C-1."

[21] The rebuttal concluded with the respectful request that the 2013 assessment be set at $1,677,500.

Decision

[22] The Board confirms the 2013 assessment in the amount of $1,950,500.

Reasons for the Decision

[23] The Board considered the income *pro-forma* test of the assessment in some detail. The Respondent had reservations about the vacancy rate, so the Board reworked the numbers using 2% vacancy rather than 3%, a modest change. In this case, the result was $1,392,070. Using the $7.03 average lease rate identified by the Complainant for a potential gross income of $95,203,

the Board determined that that the requested assessment of $1,677,500 reflected a cap rate of 5.4% and the assessment of $1,950,000 implied a cap rate of 4.64%. The Board also found that using a 6.5% cap rate but a $10 lease rate would yield a capitalized value estimate of $1,987,500 or somewhat more than the current assessment. While the parameters employed by the Complainant did not seem unreasonable, the Board found little comfort that a capitalized income approach would produce a reliable estimate of market value. While the Complainant had provided some lease details at the subject and other properties apparently owned by the same landlord, the Board had little information to provide assurance that small bay sizes of 1,975 sf. and 2,400 sf. as found at the subject would typically rent for $7 per sf. That lease rate might be typical for this owner, but is it typical of the market on Argyll Road?

[24] The strongest evidence of market value came from the Respondent's sale comparable at 11430 142 Street, which is on a major road. This 1963 property, according to City notes, had no mezzanine finish at time of sale and was in fair condition. The Network observed that the back part of the warehouse was in poor condition, yet it sold for a time-adjusted $144.33 per sf. or $1,612,500. The subject is some 2,500 sf. larger, is in average condition for its age, and occupies a larger lot. One cannot conclude that a capitalized income estimate in the range of $1.37 million is a reliable estimate of market value for the subject.

[25] Having discarded the income approach, the Board turned to the issue of equitable assessment which was the basis of the lower requested assessment of $1,677,500. All three of the Respondent's equity comparables were two-building properties, and one of these was not far distant from the subject at 8537 Coronet Road, the same road that the rear building at the subject fronts. That property was somewhat smaller than the subject, has 3% inferior (higher) site coverage, but is superior in that one of the buildings is a 1977 construction. Its assessment at $142.78 per sf. is very close to the subject's $143 and is the best equity comparable presented to the Board.

[26] The Board would concur with the Respondent's view that where the only comparables presented are equity comparables, then multiple building properties must be compared to similarly-assessed multiple buildings.

Heard November 21, 2013.

Dated this 5th day of December, 2013, at the City of Edmonton, Alberta.

JP Noonan

John Noonan, Presiding Officer

Appearances:

No one appeared for the Complainant

Cam Ashmore, City of Edmonton Law Branch
Marty Carpentier
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.