Edmonton Composite Assessment Review Board

Citation: PHD Properties Ltd. v The City of Edmonton, 2014 ECARB 00539

Assessment Roll Number:	3305109
Municipal Address:	11219 Jasper Avenue N W
Assessment Year:	2014
Assessment Type:	Annual New
Assessment Amount:	$1,174,000

Between:

PHD Properties Ltd. as represented by its designated agent, Altus Group Limited

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
George Zaharia, Presiding Officer
Brian Carbol, Board Member
Martha Miller, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer the parties indicated they did not object to the Board's composition. In addition, the Board members stated they had no bias with respect to this file.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject property is a one-storey retail building with basement located at 11219 Jasper Avenue NW in the Oliver neighbourhood. The building built in 1989, comprises 8,140 square feet of net leasable space. The building is situated on a lot 8,302 square feet (0.191 acres) in size with site coverage of 53%.

[4] The subject property was valued on the income approach resulting in a 2014 assessment of $1,174,000.

Issues

[5] Is the size attributed to the subject property correct?

[6] Is the rental rate applied to the main floor too high?

Position of the Complainant

[7] In support of his position that the 2014 size of the subject property is incorrect and the rental rate applied to the main floor is too high, the Complainant presented a 77-page brief (Exhibit C-1). The Complainant argued that based on Requests For Information (RFI) in 2012 and 2013, the size of the property as shown by the Respondent is greater than it should be, resulting in the assessment of the subject property being too high. As well, the rental rate applied to the main floor is higher than comparable properties

[8] To support his position that the rental space as shown by the Respondent was too high, the Complainant provided RFI's and the commercial rent rolls for 2012 and 2013 (Exhibit C-1, pages 16 – 20). All these documents were consistent in their information, showing the gross/leasable space as follows:

a) Basement 4,100 square feet
b) Main floor 3,755 square feet

The commercial tenant roll for 2013 appeared to have a page missing, but the Board accepted the areas to be the same as those shown in the 2012 rent roll. This was confirmed by the 2013 rent roll provided by the Respondent in Exhibit R-1, pages 11 and 12.

These sizes were in contrast to the sizes used by the Respondent in calculating the 2014 assessment (Exhibit R-1, page 19). The sizes as shown by the Respondent are as follows:

a) Basement 4,400 square feet
b) Main floor 4,180 square feet

[9] The Complainant submitted a chart entitled "City Size Calculation Study" of seventeen properties represented by Altus, including the subject property (Exhibit C-1, page 26). This study showed the relationship between the "rent roll size" and the "assessment size" as a percentage. The range of percentages per floor are as follows:

a) Basement 97% to 253%
b) Main floor 86% to 127%
c) Second floor 83% to 170% (does not apply to this property)

The Complainant argued that the Respondent does not follow its own parameters as set out in its Retail 2014 Assessment Brief wherein it states: *"From analysis of reported rental information it was found that for the retail inventory, the typical ratio of gross leasable area to gross floor area was as follows:*

Main floor 95% of gross floor area
Upper floors 90% of gross floor area
Basement 90% of gross floor area" (Exhibit C-1, page 25)

[10] The Complainant submitted a rebuttal document in response to the Respondent's comment found on page 10 of Exhibit R-1which stated: *"This property is in the Retail Valuation group and as such is assessed using the gross leasable area of the building".* The Complainant took exception to this statement responding as follows: *"This is not true as a number of retail properties are not assessed at their gross leasable area. More often the assessments match the*

RR sizes provided in the annual requests for information, as it is the best indication of what marketable space is available in a property" (Exhibit C-2, page 4). In support of his position, the Complainant supplied two pages of Assessment Size Comparables showing that in almost all cases the relationship between the assessed space and the rent roll was 100% (Exhibit C-2, pages 7 and 8).

[11] The Complainant submitted an "Assessment Lease Rate Comparable Chart" of four other properties with main floor lease rates ranging from $14.25 to $17.75 per square foot resulting in a median of $16.38 per square foot (Exhibit C-1, page 15). The Complainant requested that the main floor lease rate be reduced from $18.50 to $17.75 per square foot.

[12] By applying the reduced areas to the subject property and the reduced rental rate to the main floor of the subject property, the Complainant requested the Board to reduce the 2014 assessment of the subject property from $1,174,000 to $1,031,000.

Position of the Respondent

[13] The Respondent stated that the 2014 assessment of the subject was fair and equitable. To support this position, the Respondent presented a 56-page assessment brief (Exhibit R-1) that included law and legislation.

[14] The Respondent drew the Board's attention to page 21 of Exhibit R-1 that provided an explanation of "mass appraisal". The distinction between mass appraisal and single-property appraisal is described as follows: *"Single-property appraisal is the valuation of a particular property as of a given date: mass appraisal is the valuation of many properties as of a given date, using standard procedures and statistical testing."*

[15] The Respondent discussed the differences between the retail and retail plaza inventories and the reason for the different approaches as to how the assessable space is determined. Retail plaza properties are usually owned for investment purposes and when RFI's are sent to these owners, there is a very high response rate, allowing the City to rely on the rent rolls provided. In terms of the retail inventory, the majority are owner/occupied and when RFI's are sent to these owners, there is a very low return rate with the information from only 25% to 30% of the returns being usable. The City has therefore established the typical ratio of gross leasable area to gross floor area as identified in paragraph 9 above.

[16] The Respondent acknowledged that some properties might have an advantage using the 95%/90%/90% formula and others may not, but that on the whole, the system typically works and that based on mass appraisal, properties are assessed equitably.

[17] In response to the Complainant's critique as shown on page 26 of Exhibit C-1, in the "City Size Calculation Study", the Respondent commented that the group of seventeen properties was but a sub-set of the full inventory of approximately sixteen hundred properties, and therefore did not represent the majority of the inventory.

[18] The Respondent submitted a Comparable Rents Chart of main floor lease rates in six comparable properties (Exhibit E-1, page 14). The effective dates of these leases ranged from September 1, 2008 to June 1, 2011, and the lease rates ranged from $18.00 to $31.00 per square foot with a resulting average of $22.00 and median of $21.00 per square foot.

[19] The Respondent requested the Board to confirm the 2014 assessment of the subject property at $1,174,000.

Decision

[20] The decision of the Board is to confirm the 2014 assessment of the subject property at $1,174,000.

Reasons for the Decision

[21] The Complainant was able to support his requested reduced assessable size from the RFI's and rent rolls, but accepting his position would in essence change the valuation of the subject property from a mass appraisal to a single appraisal value. This would be in contravention of the *Matters Relating to Assessment and Taxation Regulation*, s. 2(a) that clearly mandates that an assessment "*must be prepared using mass appraisal*".

[22] Although the Complainant was able to demonstrate that for seventeen properties represented by the Complainant there were significant discrepancies between the rent roll sizes and the assessment sizes, the Board placed less weight on this argument in that it was stated by the Respondent and not disagreed with by the Complainant that the group of seventeen properties was a small sub-set of the full inventory of approximately one thousand six hundred properties. Again using mass appraisal, the Board must place greatest weight on the overall picture rather than on an individual snapshot.

[23] The Board placed less weight on the Complainant's position in the rebuttal in that the properties chosen appeared to be retail plazas, and the fact that the assessed space to rent roll was virtually equal, would be consistent with the Respondent's position that owners of retail plazas are usually investors and when sent RFI's, the Respondent receives a majority return of information upon which to establish assessable space.

[24] The Board placed more weight on the Respondent's explanation of the differences between the retail and retail plaza inventories, and the rationale as to how and why the assessed space is determined.

[25] The Board placed more weight on the lease rate information provided by the Respondent in support of the $18.25 per square foot market rent applied to the subject property. The $17.75 per square foot lease rate requested by the Complainant is the same lease rate applied to another property owned by the same owner located on the same block as the subject. Although the Respondent acknowledged that age is not the only factor affecting rental rates, the fact remains that the subject property built in 1989, is nine years newer than the effective age of the other property. Based on the age differential and the comparable lease rates provided by the Respondent, the Board accepts the $18.25 per square market rent applied by the Respondent to the subject property.

[26] The Board was persuaded that the 2014 assessment of the subject property at $1,174,000 was fair and equitable.

Dissenting Opinion

[27] There was no dissenting opinion.

Heard June 17, 2014.

Dated this 15th day of July, 2014, at the City of Edmonton, Alberta.

George Zaharia, Presiding Officer

Appearances:

Jordan Nichol, Altus Group
for the Complainant

Chris Rumsey
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.

Appendix

Legislation

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.

The *Matters Relating to Assessment and Taxation Regulation*, Alta Reg 220/2004, reads:

s 2 An assessment of property based on market value

(a) must be prepared using mass appraisal,

(b) must be an estimate of the value of the fee simple estate in the property, and

(c) must reflect typical market conditions for properties similar to that property.

Exhibits

Exhibit C-1 Complainant's Evidence – 77 pages
Exhibit C-2 Complainant's Rebuttal – 18 pages
Exhibit R-1 Respondent's Evidence – 56 pages