



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 102/11

CVG
1200-10665 JASPER AVENUE
EDMONTON, AB T5J 3S9

The City of Edmonton
Assessment and Taxation Branch
600 Chancery Hall
3 Sir Winston Churchill Square
Edmonton AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on July 25, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
4243630	4204 139 AVENUE NW	Plan: 9423095 Block: 1 Lot: 8	\$21,222,500	Annual New	2011

Before:

Warren Garten, Presiding Officer
Howard Worrell, Board Member
Brian Hetherington, Board Member

Board Officer: Kristen Hagg

Persons Appearing on behalf of Complainant:

Tom Janzen, CVG

Persons Appearing on behalf of Respondent:

Cam Ashmore, City of Edmonton, Law Branch
Devon Chew, City of Edmonton, Assessor
Mark Sandul, City of Edmonton, Assessor

PRELIMINARY MATTERS

The Board was informed by the Respondent and Complainant that 30 roll numbers were scheduled to be heard during the following days that would have common evidence packages and the same issue. Specific evidence and issues would also be presented for each roll number as they were to be heard by the Board. The parties requested that Roll Number 1171008 form the basis of a master file for this common evidence package and issue. The following is a list of the 30 Roll Numbers that were heard by the Board;

1171008, 1173004, 1174002, 1915404, 1084854, 7984743, 10005215, 10005227, 10005229, 9108853, 9109158, 9109356, 9109992, 9110156, 9110255, 4243630, 2682250, 2682581, 2685600, 2686509, 2255453, 2255958, 2256253, 2256808, 6386700, 6386759, 6386809, 6390157, 6390256, and 9961747.

Further, the Respondent and Complainant requested that the following roll numbers be grouped as follows;

- 1171008, 1174002, 1173004
- 9108853, 9109158, 9109356, 9109992, 9110156, 9110255
- 2682250, 2682581, 2685600, 2686509
- 2255453, 2255958, 2256253, 2256808
- 6386700, 6386759, 6386809, 6390157, 6390256

The Respondent provided the Board with a Master Binder of evidence R-2 that was to be used as common evidence for the 30 roll numbers that contained;

- Tab 1 2011 Row House Mass Appraisal Brief
- Tab 2 Appraisal Institute of Canada Text Excerpts
- Tab 3 IAAO Mass Appraisal of Real Property & Basics of Real Estate Appraisal
- Tab 4 CVG Low Rise Sales Comparables
- Tab 5 COE Low Rise Sales Comparables
- Tab 6 COE Row House Sales Comparables
- Tab 7 2010 Row House Assessment Review Board Decision
- Tab 8 MGB Board Order 075/10
- Tab 9 2011 Law Brief

BACKGROUND

The subject property, known as Claremont Court, is located in Market Area 11, the Clareview Campus of north-east Edmonton, and contains 144 stacked row houses, or carriage-style units, which were built in 2000. The property includes 48 two-bedroom units and 96 three-bedroom units. The condition is classified as average.

ISSUE(S)

Is the City of Edmonton's Gross Income Multiplier (GIM) the appropriate market value multiplier for the subject's assessment?

LEGISLATION

The Municipal Government Act, R.S.A. 2000, c. M-26 (MGA);

s. 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. 284 (1)(r) “property means”

- i) a parcel of land,
- ii) an improvement, or
- iii) a parcel of land and the improvement to it;

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.

Matters Relating to Assessment and Taxation Regulation, Alta Reg 220/2004 (MRAT);

s. 2 An assessment of property based on market value

- a) must be prepared using mass appraisal
- b) must be an estimate of value of the fee simple estate in the property, and
- c) must reflect typical market conditions for properties similar to that property

s. 4(1)(a) The valuation standard for a parcel of land is market value

s. 5(1) The valuation standard for improvements is

- a) the valuation standard set out in section 7, 8 or 9, for the improvements referred to in those sections, or
- b) for other improvements, market value

s. 6(1) When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvement is market value unless subsection (2) or (3) applies.

POSITION OF THE COMPLAINANT

The Complainant presented a list of four comparable properties (C-1, pg 2) which were sold in a period from September 2009 to October 2010, which has an average GIM of 9.95.

The Complainant suggested to the Board that using a 10.00 GIM applied to the effective gross incomes would result in a value range of \$16,869,500 to \$17,702,500, and noted that applying a 10.00 GIM to the City of Edmonton’s estimate of effective gross income of \$1,870,080 would result in a value of \$18,700,500. Based on these numbers he asked the Board to set the assessment at \$18,000,000.

In cross-examination, the Respondent challenged the consistency of the numbers presented by the Complainant in his submission to the Board. He said the numbers proposed on pages 1 and 2 of C-1 did not tally with the operating statements of the property, presented on (c-1, pg 9). The Complainant acknowledged the error and carried out re-calculations to present to the Board.

The revised numbers showed that the net operating income numbers for the property were \$1,213,606 in 2009 and \$1,027,288 in 2010. The re-calculations for his request were based on a 10.00 GIM on an effective gross income value range of \$18,942,000 to \$18,418,500. Using these revised numbers, the Complainant sought a re-assessment to \$18,700,000.

POSITION OF THE RESPONDENT

The Respondent advised the Board that Tax Roll # 1171008 would be used as the Master file for the 30 applications to be heard in the series of scheduled hearings. Much of the evidence and information presented would be carried forward to the other roll numbers being heard.

The Respondent indicated to the Board that the Complainant's choice of methodology in reaching its proposed GIM is flawed, as there is a need to use comparisons with similar Row House properties.

The Respondent referred to a binder provided (R2), containing background information and analyses of comparable properties to be used throughout the series of hearings. The binder included a presentation on the City's Multi-Residential Assessment Income Model (R2, pg5). This model incorporates an equation for the calculation of a Market Value Assessment (MVA), using the following process:

$$\text{MVA} = (\text{Potential Gross Income less vacancy allowance}) \times \text{GIM}$$

The binder also included an outline description of Row House properties (R2, pg 11), the kind of properties being reviewed in the current series of appeals. In presenting this information, the Respondent acknowledged that there had been a limited number of sales of this particular type of property in recent years by which to make accurate assessments.

Among other elements used by the Respondent from R2 were the following:

- The City of Edmonton uses Gross Income Multipliers (GIM) as the basis of reaching assessment values for multi-residential properties. To support this concept, the Respondent referred the panel to a quote from "The Appraisal of Real Estate, Second Canadian Edition" published by the Appraisal Institute. The description of Gross Income Multipliers, according to the Institute, is:
 - *"Gross income multipliers (GIMs) are used to compare the income-producing characteristics of properties. Potential of effective gross income may be converted into an opinion of value by applying the relevant gross income multiplier. This method of capitalization is mathematically related to direct capitalization because rates are the reciprocals of multipliers or factors. Therefore it is appropriate to discuss the derivation and use of multipliers under direct capitalization."*

- The Respondent informed the Board that “averaging is not a sound principle, especially when comparing row housing to walk-up units”.
- When discussing comparables, the Respondent referred to a description contained in Chapter 14 of *“The Basics of Real Estate Appraising”*, published by the Appraisal Institute of Canada. The publication contains the following paragraph (R2, pg 37):
 - *“Market comparables should be just what the term implies; they should be similar in most essential respect to the property being appraised if the comparison process is to be valid. Ideally, the comparables should be similar to the subject from the standpoints of location, type of building, quality of tenancy, and such other pertinent factors. The appraiser must strive to understand on what basis the gross incomes of the comparables were being generated at the time the rents were originally negotiated, such as apartment sizes, amenities, quality of premises, or quality of management.”*
- In section 4, which was an analysis of sales comparables presented by the Complainant, the Respondent suggested that the property at 10725 - 109 Street (R2, pg 39) had been purchased by Investplus GP III Inc; described by the Respondent as a company that sought out “under-valued and under-managed properties”.
- The Respondent also pointed out a sale at 16404 115 Street (R2, section 4, pg 55); described by The Network as a “Highly leveraged transaction.”

The Respondent made the following submissions to the Board in reference to the City of Edmonton brief (R1):

- The owner of the subject property had included references on the City of Edmonton’s “Owner Contact and Certification” forms that estimated current market values on the property had been \$19,500,000 on November 2009 (R-1, pg 21) and \$21,000,000 on December 2010 (R-1, pg 43).
- Varying analyses of six different property sales as reviewed by The Network, Anderson and the City of Edmonton (R-1, pgs 78-80). These charts demonstrate that The Network calculation of the GIM for the six properties ranged from 9.3 - 12.1; the Anderson’s calculations of GIM ranged from 9.17 - 12.23; while the City of Edmonton calculations for the GIM ranged from 9.33 - 11.83.
- An opinion that row house properties should be compared with row house sales (R-1, pg 81). The Respondent acknowledged that row house sales have been limited in recent years, but suggested that it had included row house sales in its comparisons, while the Complainant had not listed any.
- A chart of four row house sales comparables (R2, section 6, pg 69-72; R1, pg 82), which had taken place between December 2005 and March 2011.

In closing, the Respondent sought confirmation of the City of Edmonton’s projected GIM of 11.34846, producing an assessment of \$21,222,500.

COMPLAINANT SUMMARY

The Complainant submitted that any sales completed in the latter half of 2010 should not be classified as post-facto for assessment calculations; he went on to note that the Respondent included a row-house sale completed in March of 2011 (R2, pg 69), nine months later than the July 1 valuation date for assessments. The Complainant stated that the City of Edmonton's estimate of Gross Potential Income for the properties was accurate and not an issue. He also indicated to the Board that he was not suggesting that equity was an issue, but rather questioned whether the City's model produced the right assessment value.

The Complainant suggested that low-rises are the best comparables. He noted that the City used low-rises for comparables, but provided no explanation of any adjustment for the differences between row houses and walk-ups.

The Complainant noted that he had presented a list of comparisons that were the best from an investment perspective. He suggested that the actual income of the subject properties was similar to the estimates provided by the City of Edmonton.

Finally, the Complainant submitted that the multiplier factor used by the Respondent for the subject properties was excessive, and added that the GIM figures reported by The Network and Anderson for the comparable properties reflected market factors that affect decision makers in the market place. He pointed out that the best comparable property from the Respondents list, from statistics prepared by The Network and Anderson, shows a 9.3 multiplier, which is close to the Complainant's submission for the subject properties of 9.5.

Based on his four comparables, presented in his submission, the Complainant asked for a GIM of 10.00 and a reduction of the assessment to \$18,700.000.

RESPONDENT SUMMARY

The Respondent opened his summary presentation by arguing that methodology is the key to how calculations are made and that the Complainant has used different methodology than that used by the City of Edmonton. The Respondent requested that the Board accept the methodology of GIM used by the City of Edmonton as correct. The Respondent pointed out that the Complainant had taken GIM calculations from The Network and applied it to the City of Edmonton Gross Potential Income, and cautioned the Board that it ought to be very careful if accepting such a methodology.

The Respondent noted that a request had been made to the Complainant regarding the release of a recent appraisal that had been completed however the request was denied by the Complainant.

Commenting on the Complainant's use of data from The Network, the Respondent stated that The Network, in its calculations, made assumptions, and added that nobody expects certainty and that different reporting agencies arrive at different results. He questioned the reliability of the numbers used, arguing that there is no knowledge of where the data is coming from, or whether consistent sources are being used.

- The Respondent suggested that there was an assumption by the Complainant that The Network adjusts the market information.

- He added that appraisal manuals clearly state that different locations impact value, but that the Complainant had indicated that this was not important.
- Further, the City of Edmonton's Potential Gross Income calculations were lower than those suggested by the Complainant, suggesting that the methodology was a key issue in the differences.

Referring to an MGB Board Order (MGB 075/10) from June 2010 (R2 pp 77-97), the Respondent drew attention to the Reasons for the decision, which concluded with a quote from a commentary by J Cummings on the *Westcoast Transmission* hearing:

For this (assessment) process to work, it is evident that the appraiser must make some choices about the concepts to be used, and then use them consistently.

Based on this statement, the Respondent argued that the Complainant cannot expect to "have it both ways", and that there needs to be a consistency between rents and GIM; thus, it would not be appropriate to use only the Network GIM.

With regards to post facto sales, the Respondent noted that there is a question as to how they can be used. He suggested that the Board can use them to look for trending in value, and pointed out that GIMs were trending down.

Finally, the Respondent submitted that the hearing was not intended to debate the issue of whether the City of Edmonton's GIM model was right or wrong; he indicated that the model shows historical differences between low-rise homes and row houses.

In closing, he the Respondent disagreed with the Complainant that equity was not an issue.

COMPLAINANT REBUTTAL

The Complainant stated that the particular hearing was looking at one property, not all properties listed for the hearings. He added that the City of Edmonton's Potential Gross Income and the actual income are largely the same.

Further, the Complainant submitted that The Network and Anderson data are based on actual income and that there was no evidence presented by the City of Edmonton to show that row houses have higher market value than walk-ups.

In closing, the Complainant said that while he did not know why the owners had not released information about the prior appraisals, he felt it was not relevant as the issue is the most appropriate multiplier. He suggested that the City of Edmonton's GIM, at 11.34846, was out of line and requested confirmation of his request for a GIM of 10.00, and an assessment of \$18,700,000.

DECISION

The Board's decision is to reduce the 2011 assessment for roll number 4243630 from \$21,222,500 to \$20,218,000, based on a GIM of 10.81.

REASONS FOR THE DECISION

The Board requested information of the Respondent on several occasions as to which comparables or coefficients of value were used to calculate the GIM used in the City of Edmonton assessment(s). There was no evidence presented to the Board by the Respondent to show how the GIM's were calculated so as to determine the rationale behind the GIM calculation. The Board had no alternative but to determine that the values were somewhat subjective.

The GIM method is described in the Respondent evidence package (R-2, tab 3, pg 31) and includes the following quote: "to obtain samples in each group, many sales are needed". The board found that there was only one valid sale of a row house in the City of Edmonton evidence package (R-2, pg 70) from which the City could create a model for GIM purposes. The Board notes that if the Respondent only used this one sale, it could distort the model.

As the Board was not provided with evidence supporting the GIM used by the City to calculate the assessment(s), the Board concluded that the City must have extracted information from other property sales (low rise, multifamily etc.) in the City of Edmonton in order to arrive at a final GIM for the subject property(s).

The use of GIM is well explained in the City evidence package (R-2, tab 1, pg 5) which partially states "*A GIM is predicted by a model developed from the analysis of validated sales*"

The Respondent's evidence also included a portion of the Appraisal of Real Estate Second Canadian Edition (R-2, tab 2, pg 17); an excerpt cautions as follows:

"Appraisers who attempt to derive and apply gross income multipliers for valuation purposes must be careful for several reasons. First, the properties analyzed must be comparable to the subject property and to one another in terms of physical, locational, and investment characteristics. Properties with similar or even identical multipliers can have very different operating expense ratios and, therefore, may not be comparable for valuation purposes."

The Board found that the City of Edmonton generally did not put much weight to the operating costs of multi-residential property, which as a result can have an affect of distorting the City's calculation of GIM.

Both the Complainant and Respondent agreed that valid row house sales were not available as little or no trades had taken place. It was determined by the Board that the City's GIM must have been derived from low rise apartment sales and/or other similar type multi-residential properties.

Due to the foregoing deficiencies, the Board's decision is based on the only evidence before it, which is the sale comparables brought forward by both the Complainant and Respondent.

The sales comparables discarded by the Board are as follows:

<u>Complainant(C-1, pg 2)</u>	<u>Reason</u>
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Low Rises:

6450-184 Street	Post Facto
9520-103 Ave.	Post Facto
10115-108 Ave.	Post Facto
16404-115 Street	Post Facto

<u>Respondent (R-2, pg. 57-72)</u>	<u>Reason</u>
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Low Rises:

6450-184 Street	Post Facto
11405-27 Ave.	Vendor Take Back Mortgage (deemed non-arms length)

Row Houses:

241 Dunluce Road	Post Facto
18010-98 Ave.	No Financial information available
501 Dunluce Road	Sold in 2005 with no time - adjusted price provided

The Respondent argued that the Complainant's use of information from The Network and from Anderson Data Online was unreliable. However the Respondent used information from these two organizations (R-2, tab 5 and 6) as its own bona fide sales comparables. The Board found that when the selling price and Gross Potential Rents were compared between The Network and Anderson Data Online, that the information was consistent with each sale and could be considered as a credible source.

The Board would like to acknowledge that the City of Edmonton's GIM spread between all 30 properties under appeal was 7.59% from highest to lowest. The lowest being roll number 9108853 at a GIM of 10.4865 and the highest being roll number 4243630 at a GIM of 11.34846. From the information provided, there appears to be a much larger differential between property rents than GIM calculation.

The Board concludes that the greatest impact on the differential in value between Multi-Residential properties in general is the Gross Potential Rent and not the GIM. Increases in rent have the largest single impact on the market value of Multi-Residential property.

Gross Potential Rent was not an issue in these hearings

The Board placed the most weight on the following sales comparables extracted from both the Complainant (C-1, pg 2) and the Respondent (R-2, pg 57-68):

<u>Location</u>	<u>GIM</u>	<u>Area</u>	<u>Provider</u>
10725-109 Street	9.28	3	Complainant
11411-103 Ave.	10.23	3	Complainant
10340-117 Street	9.80	3	Complainant
11511-27 Ave.	10.63	2	Respondent
10227-119 Street	10.67	3	Respondent
11420-60 Ave.	10.06	2	Respondent
9560-163 Street	9.24	3	Respondent and Complainant

The Board notes that the average GIM of these qualified sales comparables provided by the Complainant and Respondent is a GIM of 9.99. The Board placed the greatest weight on this GIM calculation.

As a test the Board notes the median GIM from these same seven comparables is 10.06. As a further test the Board notes the average GIM for the 3 property sales with more than 40 units is 9.99 with a median GIM of 10.06. The average GIM of the 4 property sales with less than 40 units is 9.99 with a median GIM of 10.02.

From the information above there is no clear evidence that the number of units sold in a transaction has a major impact on the GIM.

The Board has used the GIM of 9.99 as a benchmark (base) and applied to each property based on the differential calculated by the City of Edmonton assessment details. This in effect allows for GIM differences in areas within the City. The calculation is as follows:

City of Edmonton GIM $11.34846 - 10.4865$ (Base) $= 0.86196 / 10.4865 = 0.0821971$ Increase to the revised base of $9.99 \times 1.0821971 = 10.81$ GIM

DISSENTING OPINION AND REASONS

There was no dissenting opinion by the Board Members

Dated this 11th day of August, 2011, at the City of Edmonton, in the Province of Alberta.

Warren Garten, Presiding Officer

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, R.S.A. 2000, c.M-26.
