

NOTICE OF DECISION NO. 0098 112/12

Qingsheng Li, Chican Realty Investment Inc
101 - 9219 111 Ave.
Edmonton, AB T5G 0A2

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 11, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3823556	9219 111 Avenue NW	Plan: 3195HW Lot: 14 / Plan: 3195HW Lot: 13 / Plan: 3195HW Lot: 12	\$2,082,500	Annual New	2012

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.

cc: CHICAN REALTY INVESTMENTS INC

Edmonton Composite Assessment Review Board

**Citation: Qingsheng Li, Chican Realty Investment Inc v The City of Edmonton, 2012
ECARB 000221**

Assessment Roll Number: 3823556
Municipal Address: 9219 111 Avenue NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

Qingsheng Li, Chican Realty Investment Inc

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Peter Irwin, Presiding Officer
Tom Eapen, Board Member
Taras Luciw, Board Member

Preliminary Matters

[1] When asked by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board members indicated that they had no conflict of interest in the matter before them.

[2] The first part of the hearing of this complaint was held on May 24, 2012, during which the Complainant presented his exhibits and evidence. Due to lack of time to complete the hearing on the originally-scheduled date, both parties consented to the adjournment of the hearing and the continuance of it to be rescheduled for July 11, 2012.

Background

[3] The subject property is known as Vinton Building, a mixed-use property located at 9219 111 Avenue in the McCauley neighbourhood of north central Edmonton. The property comprises a 3-storey walk-up rental building with an underground heated parkade. It is demised to accommodate three commercial units and a “manager’s suite” on the main floor as well as 20 self-contained apartment suites on the two upper floors of the development. The property was constructed in 1977 and has an above grade gross building area of 24,732 sq ft.

Issue(s)

[4] Is the 2012 subject property assessment correct?

Legislation

[5] The *Municipal Government Act* reads:

Municipal Government Act, RSA 2000, c M-26

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's position is that the subject property has been assessed in excess of market value. The Complainant stated that the 2012 City tax assessment of \$2,082,500 represents a 6.49% increase over the 2011 assessment and is significantly higher than the 0.5% City average apartment increase in value (C-3, Exhibit 1). The 2012 assessment is also almost four times as high as the 2001 assessment of this property at \$523,500 (C-3, Exhibit 2).

[7] The Complainant stated that the City infrastructure in the surrounding area has not changed from last year, including the gravel back alley behind the building (C-1, Exhibit 3-4).

[8] The Complainant also stated that "[t]he neighbourhood, facing high levels of crime and poverty, is most in need of revitalization in the City of Edmonton" (C-3, page 1). Due to continuous property tax hikes, the Complainant stated that the badly needed renovation and repair of the aging properties in this neighbourhood has become increasingly unaffordable.

[9] The Complainant also stated that the actual rent and revenue of this building did not increase during the fiscal year of 2011 (C-3, Exhibit 5).

[10] The Complainant pointed out that the June 2011 Bourgeois & Company appraisal of the subject property is \$1,925,000, which is about 8% lower than the City's assessment (C-3, Exhibit 6).

[11] The Complainant provided the Board with a copy of the June 2011 appraisal (C-2), which states that "The Direct Comparison Approach is completed on the basis of a comparison of the physical and locational characteristics of the subject and the comparable properties. This

approach is completed with the goal to establishing a unit of comparison wherein the subject property can be valued. In completing this approach, and due to the mixed-use nature of the subject, the only viable approach is the Gross Income Multiplier (GIM) method of comparison. The results of this technique support a value for the subject within a range from \$1,925,000 to \$2,042,000. The techniques implemented provide reconciled values that are generally in support of one another” (C-2, pages 2-3).

[12] The Complainant also stated that the City tax assessment shows incorrect data relating to this building. The suite size of this property in the SPSS calculation sheet is 882 sq ft or 36.7% larger than the actual size of 645 sq ft (C-3, Exhibit 7 & 9).

[13] The Complainant argued that the property’s four smaller bachelor suites and thirteen smaller one-bedroom suites reflect its lower rent, which is approximately 25% below the city’s average rent of \$934. The Complainant stated that they have communicated the correct data to the City several times in the last few years (C-3, Exhibit 8), but the City data regarding residential section of this property has not been corrected (C-3, Exhibit 7 & 9).

[14] The Complainant stated that the 2010 property assessment agreement on a value of \$1,856,000, which was signed by the property owner, the assessor, and the manager of the City Assessment and Taxation Branch, should be respected given that the city assessors thoroughly inspected the site at that time and no notable change has taken place in this property since then (C-3, Exhibit 10).

[15] In conclusion, the Complainant requested that the Board reduce the assessment to \$1,925,000.

Position of the Respondent

[16] The Respondent explained the mass appraisal process and stated that the properties are stratified into groups of comparable properties, common property attributes are identified for the properties in each group, and a uniform valuation model is calibrated for each group using market information incorporating the property attributes (R-2, pages 4-5). The cost approach, sales comparable approach, and income approach were also explored (R-2, page 6).

[17] For the purpose of the 2012 Annual Assessment, Low-Rise apartments were valued based on the income approach using typical potential gross income (PGI), typical vacancy and typical gross income multiplier (GIM). The income approach is the approach of choice because it best reflects the typical actions of buyers and sellers when purchasing income producing properties. The use of the GIM to value Multi-Residential housing is widely used in the assessment field (R-2, page 6).

[18] The Respondent stated that the Multi-Residential model distinguishes different values for the various types of Multi-Residential properties by making adjustments for building type and significant variables attributable to the building type. Two models are created to work in tandem. One calculates the market typical PGI using the rental information and the second calculates the market typical GIM using the sale information and the PGI model. The models follow legislated guidelines and appraisal theory (R-2, page 7).

[19] In determining gross potential rent, the valuator is not bound by the contractual rent between the landlord and tenant but must determine rental income based on rents typically paid in the market at the time of valuation. The typical market rent was used to form the basis of the subject property valuation (R-2, page 11).

[20] Owners of Multi-Residential properties receive surveys from the City that request owner contact information, the February 2012 rent roll for residential units and any commercial or retail space, annual financial statements for previous year, and parking information (R-2, page 12).

[21] These survey results were analyzed to determine the typical potential gross income and typical vacancy for each Low-Rise property. The City reviews its findings with actual values submitted by owners on the survey. The *Municipal Government Act* requires all property owners to provide any information requested by the municipality that is necessary for the assessor to prepare an assessment (R-2, page 12).

[22] An audit is used to determine the accuracy of the City's predictions relative to the market place and is a direct reflection on the accuracy of the assessment model.

[23] The assessment model, the process utilized, and the results are submitted annually to the Assessment Services Branch of the Department of Municipal Affairs for audit purposes. The City of Edmonton has met all governing legislation, regulations and quality standards.

[24] The Respondent provided eight comparable sales of walk-up apartments from different parts of the city. These range from 2.5 to 3.5 storeys, while the subject is a 3-storey building (R-2, page 20). All of these buildings were sold between September 2009 and June 2011, and their time adjusted sale prices factor stays as 1.0.

[25] In comparing the Respondent's comparables to the subject property, the Respondent noted that while the subject has heated underground parking, all of the Respondent's comparables have surface parking. The subject property is, additionally, constructed with concrete building and steel frame, while the comparables are all wood frame construction. Finally, the subject has no basement suites, while most of the Respondent's comparables do have basement suites.

[26] The subject property's main floor has three retail spaces, and all of them have been occupied for the past three years. The Respondent's assessment valuation, however, applies a 20% vacancy allowance (R-2, page 21).

[27] The Respondent's eight sales comparables (R-2, page 20) showed an average sale price of \$80,750 per suite and an average 2012 assessment of \$81,260 per suite. The subject property, meanwhile, is assessed at a value of \$84,100 per suite.

[28] The Respondent also supplied the Board with four assessment comparables located in the same neighbourhood as the subject property (R-2, page 21). Due to the presence of apartments and retail space, these comparables are all similar to the subject. The assessment amounts per suite for these comparables ranged from \$78,401 to \$92,555 per suite, with an average assessment of \$85,917 per suite. The subject property, meanwhile, is assessed at a value of \$84,100 per suite.

[29] The commercial assessments for the Respondent's four equity comparables ranged from \$88.49 to \$225.95 per sq ft, with an average of \$162.22 per sq ft. The subject property, meanwhile, is assessed at a value of \$54.86 per sq ft for the commercial areas.

[30] In response to the Complainant's argument that the City records reflect an inaccurate average suite size, the Respondent explained that the suite size for all Multi-Residential buildings is calculated the same way (R-2, page 24). The City takes outside measurements to obtain the gross area of the building, and divides this by the number of suites. If there is commercial area on the main floor, the leasable area is subtracted from the gross area first, and then divided by the number of units.

[31] In closing, the Respondent requested the Board to confirm the 2012 assessment at \$2,082,500.

Decision

[32] The Board's decision is to confirm the 2012 assessment of the subject property at \$2,082,500.

Reasons for the Decision

[33] The Board was most persuaded by the sales and equity comparables provided by the Respondent (R-2, pages 20-21). The Complainant did not provide any sales or equity comparables.

[34] The Respondent's eight sales comparables have an average sale price of \$80,750 per walk-up suite and an average 2012 assessment of \$81,260 per walk-up suite, while the subject is assessed at \$84,100 per walk-up suite. The subject property, however, is superior to these sales and assessment comparables. Specifically, the subject property is a concrete building with steel frame, while the comparables are wood-frame construction. The subject's parking is also superior to the comparables as it has heated underground parking, while the comparables, with the exception of one, are limited to surface parking.

[35] The Respondent's four 2012 commercial retail/apartment equity comparables averaging \$162.22 per sq ft also confirm the subject property assessment which, at \$54.86 per sq ft, is much lower.

[36] The Board finds that the appraisal of the subject property supports the assessment. The Board notes that the appraisal's comparable apartment sales and the one mixed-use property (C-2, pages 37 & 38) reflect a GIM average of 8.96. The appraiser, however, used a range of 8.25 to 8.75 to arrive at the appraisal amount. Applying a GIM average of 8.96 to the formula results in a value of \$2,091,076, which supports the subject property assessment (C-2, page 40).

[37] The Board notes the appraisers' comment that the secondary function of the appraisal report is to assist with an assessment appeal in the following calendar year. The appraisal states that "the conclusions arrived at herein are generally in line with the assessment and that an appeal may not be worthwhile undertaking" (C-2, page 2).

[38] The Board is convinced by the Respondent's explanation of the City's method for determining average suite size. It is the difference in methods that has caused the inconsistencies between the parties' data, yet the Board is satisfied that the City has utilized an equitable approach in arriving at a number for average suite size, as the Respondent stated that they use the same method for all Multi-Residential buildings. Regardless of the difference in suite size data, however, the Board does not find average suite size to be a persuasive factor on which to base a reduction in the subject property assessment, as the average suite size is not factored into the assessment model.

[39] The onus rests with the Complainant to provide compelling evidence on which a change to the assessment can be based. The Board finds that the Complainant did not meet this requirement.

Dissenting Opinion

[40] There was no dissenting opinion.

Heard commencing July 11th, 2012.

Dated this 3rd day of August 2012, at the City of Edmonton, Alberta.

Peter Irwin, Presiding Officer

Appearances:

Loretta Orlecky

Qingsheng Li, Chican Realty Investment Inc
for the Complainant

Andy T. Lok, Assessor, City of Edmonton
Steve Lutes, Legal Counsel, City of Edmonton
for the Respondent