



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 175/11

Anna Kiegler, AEC INTERNATIONAL INC.
Suite 1120-10201 Southport Rd SW
Calgary, AB T2W 4X9

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 August 31, 2011, respecting a complaint for:

| Roll Number | Municipal Address | Legal Description | Assessed Value | Assessment Type | Assessment Notice for: |
|-------------|---------------------|---|----------------|-----------------|------------------------|
| 3044203 | 10040 102 STREET NW | Plan: NB Block: 2 Lot: 83 / Plan: NB Block: 2 Lot: 84 | \$9,265,000 | Annual New | 2011 |

Before:

Ted Sadlowski, Presiding Officer
Francis Ng, Board Member
John Braim, Board Member

Board Officer: Karin Lauderdale

Persons Appearing on behalf of Complainant:

Cameron Hall, AEC International Inc.

Persons Appearing on behalf of Respondent:

Cameron Ashmore, City of Edmonton, Law Branch
Darren Davies, City of Edmonton, Assessor
Tracy Ryan, City of Edmonton, Assessor

PRELIMINARY AND PROCEDURAL MATTERS

Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file. The witnesses were sworn in and evidence was provided under oath by both parties.

The Respondent raised two preliminary issues. The first was a question regarding who the owner of the property was and if the Complainant was an assessed person or taxpayer as outlined by the Municipal Government Act s.460 (3).

The second preliminary issue raised by the Respondent comprised of two parts:

1. the sale of a comparable property used, and
2. the expense ratio.

The Respondent indicated that these issues were not addressed on the initial Complaint Form.

DECISION ON THE PRELIMINARY MATTERS

The Complainant explained that Morguard Investments Ltd is the property manager for the subject and the Board was persuaded that AEC International Inc. was the authorized agent.

The decision of the Board was to allow the evidence to be presented by the Complainant.

REASONS FOR THE DECISION

The use of the sale of a comparable property is part of the typical valuation process. It is an integral part of the market approach and is often used to support an income approach.

The subject property is an income producing property and the Board has determined that an expense ratio is also an integral part of the assessment of such a property.

BACKGROUND

The subject is known as Central Car Park. It is a multi-storey parkade comprised of 114,584 square feet, of which 113,664 square feet is parkade and the remaining 920 square feet is retail space. There are 277 parking spaces above ground and the remaining 142 stalls are underground and heated. It is located on 102 Street south of Jasper Avenue and on the west side of 102 Street. The subject is a standalone structure that appears to be atypical of downtown parkades.

ISSUE(S)

1. Is the assessment amount in excess of market value?
2. Was the sale of the subject on May 17, 2010 an arms-length transaction?
3. Should the subject be valued on actual revenue and actual operating expenses rather than typical?

LEGISLATION

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

Equity Comparable: SkyPark (Royal Bank Parkade)

The Complainant submitted that the assessment of the subject is inequitable when comparing it to the SkyPark located at 10041 102 Street, directly across the street from the subject property. Not only do these two properties have similar physical structures, they also operate in a similar fashion. (i.e. same parking management company (Impark) and similar monthly parking rates) The subject has a small retail space which is assessed at \$130,000. The SkyPark has a larger retail space and it carries an assessment value of \$1,205,500. Excluding the retail assessments, the 2011 assessment of the subject is \$9,135,000 and the 2011 assessment of the SkyPark is \$5,760,000. The Complainant indicated that the subject parking area is 113,644 square feet, which is smaller than the SkyPark (119,756 square feet), and yet the subject has a higher assessment.

After the Complainant made adjustments for the smaller land site, the 6,000 square feet smaller retail space, and the subject's smaller building size, the subject's overall value should be no more than \$5,500,000 based on the SkyPark's assessment.

Sale of the Subject:

The Complainant suggested the 2008 sale is "seen as stale dated due to the recent recession", however, the May 17, 2010 sale is an "ideal indicator of market value" (C-1, p.15). The original owners were WR Equities (40%), CPP Investment (40%) and 10060 Jasper Avenue Building Ltd. (20%). In the 2010 sale, CPP Investment sold its entire 40% interest of two parking properties to WR Equities. The two parking properties are Scotia Place "A" and the subject property.

The total sale price of these two properties was \$191,500,000 and the total assessment of these 2 properties was \$198,477,000, therefore the Complainant is of the position that the subject property is over assessed.

Fair Market Value:

Although the Complainant submitted several methods to value the subject property, the Complainant indicated that the best method to value the subject is using the three year stabilized actual revenue (\$789,535) less the stabilized actual operating expenses (\$481,377), and then capitalizing the net operating income at 7.5%, resulting in a fair market value of \$4,110,000 (C-1, p.30).

In the Complainant's rebuttal, the Complainant submitted that the Respondent argued that the validity of the 2010 sale of the subject is questionable. The Complainant indicated that "sales of this magnitude are not typically publicly marketed."

The Complainant also suggested that since the seller is the Canada Pension Plan and the buyer is a private investment fund, it is a "legal presumption that the property traded at or above market value." The Canada Pension Plan must be able to defend the sale value if questioned by the Canadian public.

POSITION OF THE RESPONDENT

The Respondent provided an assessment brief (R-1) outlining the mass appraisal approaches and concluded that a combination of the Sales Comparison Approach and the Income Approach were both employed in defending the 2011 assessment of the subject property. The evidence indicated the assessment had been created by applying a unit rate per stall to the two types of stalls present in the subject parkade, namely, above ground or surface stalls and underground stalls.

The respective unit rates for each type of stall had been determined by a combination of methods that included the following:

1. The Assessment and Taxation Branch annual survey (A & T survey) wherein the Respondent collects rental information and expenses relating to particular types of property pursuant to sections 294, 295 and 328 of the Municipal Government Act R.S.A. 2000, c. M-26 (MGA). The appropriate information from the operating statements was collated by the Respondent and *typical* rates determined for each parkade based on the relative merits of location and proximity to high rise projects (R-1, p. 30-31). In effect this comprised the Respondent's internal survey.
2. Third party surveys such as Colliers, (R-1, p. 52-57) and two independent surveys, one of which was disclosed (R-1, p. 58-65).

When the appropriate unit rates are applied to a specific parkade, the Potential Gross Income (PGI) of the property is estimated. The Respondent deducts a combined vacancy and operating expense from the PGI to estimate the Net Operating Income (NOI). In the case of the subject property, the combined vacancy and expense ratio applied by the Respondent was 40% of the PGI. The Respondent then applied an overall capitalization rate of 7.5% to the net operating income to produce the assessment.

To demonstrate the subject property had been treated equitably with other parkades in the downtown area, the Respondent provided the Board with an equity chart (R-1, p.44) detailing 9 parkades that had been assessed in a similar manner by applying an underground unit rate of \$280 per stall and an above ground rate of \$200 per stall to produce the PGI.

A combined vacancy and expense ratio of 40% had been deducted to estimate the NOI and a capitalization rate of 7.5% applied to all the NOIs to produce the 2011 assessments.

DECISION

The decision of the Board is to reduce the 2011 assessment from \$9,265,000 to \$8,788,000. The 2011 assessment of the retail component was not an issue in this appeal. The assessment of the retail component remained at \$130,000 and the assessment of the parkade would reduce to \$8,658,000.

REASONS FOR THE DECISION

1. The Board finds that sale of the subject on May 17, 2010 was inconclusive as to whether it is an arms-length transaction or not. The Respondent submitted that the Morguard Investment Ltd. has indicated the allocated price for the portfolio sale is \$72,400,000. However, they also indicated that there was no appraisal made on the property (R-1, p.47). Based on the above, the Board could not rely on the allocated price. The Board finds that the sale did not assist in any way to determine the assessment value of the subject.
2. The Board accepts a parking rate of \$200.00 per month for the aboveground stalls as the Respondent consistently applied that rate to all high-rise parkades in the downtown area (R-1, p.44), with the exception of the Revillon Parkade. However, the Board finds the Respondent's underground parking stall rate of \$280 per month is excessive for the subject as the subject can only achieve a maximum of \$245, which is the monthly asking rate. The lower rate is well supported by the rates being achieved in the Revillon Parkade, which, like the subject property, is also located in the downtown core. In addition, like the subject, it is not directly associated with, or connected to, a high-rise building as is the Royal Bank Parkade (SkyPark) and other central core parkades.
3. The Board reviewed the financial statements (C-1, p. 24 and 26) but placed little weight on them as the line item "Security & Life Safety" was skewed upward on the 2009 statement and thus skewed the three year stabilized operating expenses upwards. No explanation was given for this by the Complainant.
4. The 40% expense ratio applied by the Respondent included operating costs and an allowance for vacancy. As a result of questioning, it transpired that the 40% had been determined as the median figure from the survey of nine parkades all located in the downtown area of Edmonton. It also transpired that the combined vacancy and expense ratios from the nine parkades ranged from 26% to 69%. The subject property was stated to form the top end of the range at 69%.
5. The Board notes that the SkyPark parkade is connected by a pedway directly to the Royal Bank Building (R-1, p.19) and subsequently it is also connected to the central pedway system of the downtown core, whereas the subject property has no such connection. Therefore, the Board finds the subject is inferior to the SkyPark.
6. The Board was not persuaded by the Respondents income approach as it became evident from questioning that the expense allowance of 40% also included an allowance for vacancy. In accordance with appraisal theory, the Board is aware that these are normally distinct and separate items in the income approach methodology.

Dated this 12th day of September, 2011, at the City of Edmonton, in the Province of Alberta.

Ted Sadlowski, 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, RSA 2000, c M-26.

cc: 10060 JASPER AVENUE BUILDING LIMITED