

**NOTICE OF DECISION      NO. 0098 20/12**

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 (the Board) from a hearing held on June 12, 2012, respecting a complaint for:

<b>Roll Number</b>	<b>Municipal Address</b>	<b>Legal Description</b>	<b>Assessed Value</b>	<b>Assessment Type</b>	<b>Assessment Notice for:</b>
1194406	8700 Meadowlark Road NW	Plan: 6151KS Block: 8 Lot: 109	\$4,411,000	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.*

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cc. Meadowlark Real Estate Ltd.

## **Edmonton Composite Assessment Review Board**

**Citation: CVG v The City of Edmonton, 2012 ECARB 2321**

**Assessment Roll Number:** 1194406

**Municipal Address:** 8700 Meadowlark Road NW

**Assessment Year:** 2012

**Assessment Type:** Annual New

Between:

**CVG**

Complainant

**and**

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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### **DECISION OF**

**John Noonan, Presiding Officer**

**James Wall, Board Member**

**Brian Hetherington, Board Member**

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### **Background**

[1] The subject is a three-storey B class suburban office building known as the Meadowlark Professional Building and located at the corner of 87 Avenue and Meadowlark Road, the northern extension of 159 Street. The 2012 assessment was prepared by the capitalized income approach, with an office rent rate of \$13 per sq.ft applied to the 28,252 sq.ft. of office space and a \$14 rate applied to the single main floor retail space of 1,761 sq.ft.

### **Issue**

[2] The complaint form identified as issues: incorrect and inequitable assessment; rental rates greater than both actual and typical for this type of building; incorrect sub-classification; the use of an understated vacancy rate; an incorrect capitalization rate; and the actual leasable area of the building. At the hearing, the Composite Assessment Review Board (Board) heard evidence on a single issue:

[3] Are the assessed lease rates excessive?

- a. Should the office lease rate attributed to the subject be reduced from \$13 per sq.ft to \$11.50?
- b. Should the retail area lease rate be reduced from \$14 per sq.ft to \$11?

## **Legislation**

[4] 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.

[5] The *Matters Relating to Assessment and Taxation Regulation* AR 220/04 states:

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.

## **Position of the Complainant**

[6] Three years of financial statements were presented to show that the actual net income of the property was significantly lower than the \$330,834 level projected by the assessment proforma. For the years 2008-2010, the actual net operating incomes were \$191,673, \$246,944, and \$233,189. The last two years suggested a net operating income level of approximately \$240,000. Rental income for the year ending 2010, the most recent data available, averaged \$11 per sq.ft. as opposed to the City's use of \$13 and \$14 per sq.ft. rates for office and retail space, respectively.

[7] A current rent roll was supplied, showing all the leases in the building. The single retail space was renting for \$11 per sq.ft. as of the valuation date, under a lease which commenced in April 2007 with escalating rates (step-ups). It was submitted that the \$11 per sq.ft. current actual rent was reasonable and ought to be applied in the assessment rather than the \$14 per sq.ft. rate used by the City. A further ten leases were highlighted from the office portion of the property, showing all the new and renewal leasing activity in the subject through the years 2009-2011. Upon making a few corrections where the current stepped-up rates had been overlooked, the average office rent rate achieved was \$11.80 per sq.ft.

[8] The 2011 assessment was based on a lease rate of \$11.50 per sq.ft. and that same rate appeared appropriate for 2012. The Complainant noted the Respondent's evidence showed a declining rent rate for suburban Class B properties since 2009, yet the subject's attributed office

rent increased from \$11.50 to \$13 per sq.ft. Accordingly, using an office rent rate of \$11.50 and \$11 per sq.ft. for retail and applying typical City-used parameters for vacancy, shortfall, and cap rate resulted in a capitalized value of \$3,830,500. Using those same parameters for the previous two years' Net Operating Income (NOI) resulted in values in the \$3.1-\$3.3 million range. Placing greatest weight on the most recent NOI, the Complainant requested the 2012 assessment be reduced to \$3,800,000.

### **Position of the Respondent**

[9] The Respondent told the Board that in preparing assessments, the City uses typical market rents, those rents currently prevailing in the market for properties comparable to the subject property. The City excludes dated step-up leases as those lease rates were agreed at initial signing and not necessarily reflective of current market conditions. Rather, the City analyzes new and renewal leases from the 18 months prior to valuation date, in this case, July 1, 2011, to determine typical market rents.

[10] The Respondent presented three years of RFI (Request for Information) returns from the subject property: 2010, 2011, and the April, 2012 return that will be used for the upcoming assessment cycle. A number of discrepancies were noted between the information supplied on the RFI returns and the information presented by the Complainant, mainly relating to leases alternately identified as gross and triple net.

[11] A 2012 Suburban Valuation Rate chart was presented, showing the assessment parameters for all suburban office classes and districts in Edmonton. Like other Class B offices in the west end district, the subject was assessed at a \$13 per sq.ft. typical lease rate, a rate developed from six leases including one from the subject property. The City had received RFI responses from 27 of 35 B class office buildings in the west end district, and had identified two new and four renewal triple net leases to determine an average rent rate of \$12.98 per sq.ft. and median of \$13.20 per sq.ft. within a range of \$10.97 to \$15.00 per sq.ft. Similarly, a list of retail leases dated from January 2010 to May 2011 in the vicinity of the subject property showed average and median rent rates of \$15.30 and \$14.84 per sq.ft. respectively versus the \$14 per sq.ft. applied.

[12] Another chart presented a listing of the Complainant's highlighted leases, indicating that most of those presented were outdated (pre 2010) step ups, or had not been included in the 2011 RFI. With regard to the 2011 assessed rate of \$11.50, that rate had been developed from an examination of leases dated from January 2009 to July 2010, and though rates had been stable or slightly declining in general, the 2009 data had influenced the selection of a lower typical rate for the previous assessment.

[13] The Respondent also presented third party real estate survey reports that showed west end rates across all classes were higher than the \$13 per sq.ft. assessed rate for Class B properties.

[14] The Respondent requested confirmation of the \$4,411,000 assessment.

### **Decision**

[15] The Board confirms the assessment in the amount of \$4,411,000.

### **Reasons for the Decision**

[16] The main issue before the Board was the office rent rate applied to the subject property. The Board noted that of the ten office leases submitted by the Complainant, seven showed rents in a range of \$11.37 to \$15.96 per sq.ft., with an average of \$13.86 per sq.ft. and median of \$14.79 per sq.ft. That average from the Complainant's own evidence more than supports the \$13 per sq.ft. assessed rate. The \$11.80 per sq.ft. average rate for all ten leases as calculated by the Complainant was influenced by three leases to two tenants who also occupied other space in the building. In each case, the rent rate was \$7 per sq.ft., a far cry from the rates prevailing elsewhere in the subject property and other west end Class B offices. The Board did not accept these \$7 per sq.ft. lease rates as representative of market for either the subject or other Class B west end properties.

[17] The retail rate of \$11 per sq.ft. advanced by the Complainant was an amount agreed in a 2007 lease. The Respondent showed a lengthy list of more current leases that fully supported the \$14 per sq.ft. rate or more.

Heard June 12, 2012.

Dated this 20<sup>th</sup> day of June, 2012, at the City of Edmonton, Alberta.

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John Noonan, Presiding Officer

### **Appearances:**

Tom Janzen, CVG  
for the Complainant

Brennen Tipton, Edmonton  
for the Respondent