

NOTICE OF DECISION NO. 0098 206/12

Canadian Valuation Group
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 August 27, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
2255453	13220 140 Street NW	Plan: 4908KS Block: 2 Lot: 1 / Plan: 4908KS Block: 2 Lot: 2U / Plan: 4908KS Block: 2 Lot: 3	\$5,589,500	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: WELLINGTON PARK INC

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 2093

Assessment Roll Number: 2255453
Municipal Address: 13220 140 Street NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Robert Mowbrey, Presiding Officer
Brian Frost, Board Member
Petra Hagemann, Board Member

Preliminary Matters

[1] Upon questioning by the Presiding Officer, the parties indicated they had no objection to the composition of the Board. Each of the Board Members declared that they had no bias on this matter. One Board Member declared that he had worked for the lender on this property approximately 20 years ago and further stated this would not influence any decision. None of the parties objected to him continuing on the panel.

Background

[2] The subject property is part of the Wellington Park Townhomes project located in Market Area 10, at 13220-140 Street, in the City of Edmonton. The entire project contains 220 units and is operated together with three other roll numbers. The subject property is a row house consisting of 48 suites (12-two bedroom, 24-three bedroom and 12-four bedroom units). The property was built in 1960; however the City has applied an effective age of 1972 for assessment purposes. The assessment of the subject is \$5,589,500 based on a Gross Income Multiplier (GIM) of 9.54.

Issue(s)

[3] Several issues were outlined on the complaint form; however both parties agreed that there was only one issue before the Board. Is the GIM too high, resulting in an excessive assessment for the subject property?

Legislation

[4] The *Municipal Government Act* reads:

Municipal Government Act, RSA 2000, c M-26

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.

Position of the Complainant

[5] The Complainant submitted an 18 page brief (Exhibit C-1) challenging the correctness of the assessment.

[6] The Complainant advised the Board that the 2011 actual income of \$2,692,081 for the entire project was very close to the City’s typical effective gross income of \$2,696,312. The estimate of effective gross income for the subject property is \$585,934. The Complainant stated that income was not an issue.

[7] The Complainant submitted ten comparable properties (Exhibit C-1, page 2), all but one located in Market Area 10, to illustrate that the 9.54 GIM used to calculate the 2012 assessment for the subject was too high. These properties sold from Sept 2009 to July 2011, ranged in year built from 1965 to 1978 and in GIM from 7.74 to 9.50. The subject was built in 1960 however an effective age of 1972 had been applied to the assessment. The GIM for the subject was 9.54 resulting in an assessment of \$5,589,500.

[8] The Complainant attached Network data sheets with details of the sales of the comparable properties. Some of these indicated that the rents were below market and some were in need of major repairs or renovations which, if rectified, could potentially increase future rents.

Adjustments to the GIMs were made by the Complainant with the assumption that these properties would then reflect market rents. The average of the GIMs including adjustments was 8.74 with a median of 8.89. The Complainant was of the opinion that using a GIM of 8.90 to determine the assessment of the subject was fair.

[9] A partial income statement of the entire row house project dated January 2011 to December 2011 was included in Exhibit C-1 (page 7), however since the actual income of the subject and typical income as applied by the City matched, no further discussion ensued on this matter.

[10] The Complainant requested the Board reduce the 2012 assessment to \$5,214,500.

Position of the Respondent

[11] In support of the 2012 assessment of the subject property, the Respondent submitted

- a. a 43 page assessment brief (Exhibit R-1);
- b. an 85 page excerpt of the City's Law and Assessment Brief titled *Errors Inherent in Mixing and Matching City GIMs/Incomes with Third Party GIMs/Incomes* (Exhibit R-2); and
- c. a 44 page Law and Legislation document (Exhibit R-3).

[12] The brief (Exhibit R-1) contained information on the mass appraisal process, the three different approaches used to assess properties and the valuation methods used in the income approach to value as it applies to multi-residential properties. The subject was assessed using the Gross Income Multiplier Model. The variables applicable to this model are: market area, building type and effective age also taking into consideration condition, suite mix, balconies and location (Exhibit R-1, pages 4-9). The Respondent noted that GIM is defined as the factor by which income is multiplied in order to obtain an estimate of value. It expresses the relationship between property value and potential gross income (Exhibit R-1, page 10).

[13] The Respondent informed the Board that the subject property had undergone extensive interior and exterior renovations in 1990. These included roof replacement, flooring, electrical, furnace, kitchens, bathrooms, in suite laundry etc. as shown on pictures (Exhibit R-1, pages 19-25) resulting in an effective age of 1972.

[14] It was the Respondent's position that the Complainant's GIM analysis was misleading. In arguing for a different GIM, the Complainant had applied the City's income to the GIM derived from third party (Network) sales comparables. There can be wide variations in the calculations used to derive income and GIMs. If the Network did not use the same parameters as the City, those inconsistencies could result in an inaccurate valuation. The Respondent maintained that any application of third party GIMs to the subject's effective gross income should be completed in a manner consistent with how those figures were derived (Exhibit R-2, page 3).

[15] The Respondent stated that “analyzing sales to produce a GIM solely from third party documents is problematic for a number of reasons” (Exhibit R-2, page 4). It further stated that there was no way to verify the source, accuracy or completeness of the information that went into the document as it relates to timing and income. Was the income actual or estimated? If estimated, how was it estimated? Did gross income include utilities, partial or none? Was vacancy actual or typical? Was it an arms-length transaction? In other words, too many questions were unanswerable.

[16] The Respondent took issue with the Complainant averaging GIMs (Exhibit R-2, page 7). It was in violation of the appraisal rule that one can only average GIMs or capitalization rates if a subject property is highly similar to the sales from which the GIMs are being derived.

[17] To support the assessment of the subject, the Respondent supplied seven low rise apartment sales comparables. The City has used consistent methodology to produce more reliable results. Six of these comparables were similar to those used by the Complainant; however every one of the common comparables had a different GIM than the one supplied by the Complainant. The Respondent suggested that this was further evidence that third party sources could not be relied upon when it came to GIMs. These comparables suggested that the subject was assessed below its market value.

[18] The Respondent advised the Board that the Complainant’s sale #7 located at 11203-132 Avenue sold August 2010 with an actual GIM of 13.05. The Network document noted that this property generated rents substantially below market. After adjustments, the Complainant derived a new GIM of 7.74, making it the lowest GIM of all the comparable properties presented. The Respondent advised the Board that this same property had subsequently been resold in June 2011 with a GIM of 10.19. This further pointed to the inconsistency of the evidence presented by the Complainant and the flaw in using third party information at face value.

[19] The Respondent also included a row house sale in his evidence to support the assessment of the subject property. Although this property is titled as a condominium, it was similar to the subject in property type, age, suite mix, average suite size and adjusted sale price per suite and suggested the subject, with a GIM of 9.54, was assessed below its market value.

[20] To suggest that the subject property was assessed in an equitable manner, the Respondent included the assessments of all row house developments in Market Area 10 including the three other Wellington row houses (Exhibit R-1, page 41).

[21] Based on the evidence provided, the Respondent requested the Board to confirm the 2012 assessment of the subject property.

Decision

[22] The decision of the Board is to confirm the 2012 assessment of the subject property at \$5,589,500

Reasons for the Decision

[23] The Board examined the evidence provided by the Complainant. It consists of ten sales comparables, nine of which are in Market Area 10 and one in market area 1A. All of these comparables are walk up apartments whereas the subject is part of a row house project. No row house projects have been sold in Market Area 10. Both parties agreed that walk up apartments are similar to row house projects because they are residential properties held for investment purposes. The Board accepts this position only if all attributes have been treated equally.

[24] The Board heard that the rental income of the subject town house project is not inclusive of any utilities whereas the rental income of the sales comparables provided by the Complainant includes all utilities except power. The Board notes Exhibit R-2, page 3 which refers to the basic methodology in deriving GIMs. According to the *Appraisal of Real Estate* Second Canadian Edition,

“In developing an income or rent multiplier, it is essential that the income or rent of the properties used to derive the multiplier is comparable to that of the subject and that the specific multiplier derived be applied to the same income base (page 22.16).”

The Board therefore questions the reliability of comparing the GIMs of the walk up apartments to the townhomes of the subject.

[25] The Board questions the correctness of the GIMs used in the Complainant's evidence (Exhibit C-1, page 2). In examining Exhibit R-2, *Errors Inherent in Mixing and Matching City GIMs/Incomes with Third Party GIMs/Incomes* the Board is in agreement that analyzing sales to produce a GIM solely from third party documents is problematic. Although Network data may have been documented in a consistent fashion, the Board is not convinced that the Network's calculation is consistent with that used by the City. The Board accepts that there is no way of knowing the accuracy of the information provided on the third party Network documents and the Board is of the opinion that the GIMs therefore are suspect.

[26] The Board considered the Complainant's position that the average and median GIMs of the comparables supplied by the Complainant suggested the subject's GIM is excessive. The Board is persuaded by the Respondent's argument that averaging GIMs of properties that are not highly similar is not typically sound valuation practice as outlined in *Real Estate Investment Analysis and Advanced Income Appraisal*, UBC Real Estate Division 2003; page 7.6 (Exhibit R-2, page 7). The Board therefore places little value on the median and average GIMs of the Complainant's comparable properties.

[27] The Respondent provided the Board with one low rise apartment in addition to six comparables also used by the Complainant and the condo row house property. Despite this, the Board notes that the Respondent's comparables have GIMs ranging from 8.82 to 11.50, indicating that the subject's GIM of 9.54 is fair and that the assessment of the subject may be below market value.

[28] The Board is of the opinion that the subject is assessed in an equitable manner as shown by the GIMs and the assessment per suite of all row houses in Market Area 10 (Exhibit R-1, page 41).

[29] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. The Complainant did not provide sufficient and compelling evidence in order for the Board to justify making a change in the assessment.

Dissenting Opinion

[30] There was no dissenting opinion by a board member.

Heard commencing August 27, 2012.

Dated this 17 day of September, 2012, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

Tom Janzen, Canadian Valuation Group
for the Complainant

Devon Chew, City of Edmonton
Steve Lutes, City of Edmonton
for the Respondent