



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 469/10

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 October 15, 2010, respecting a complaint for:

Roll Number 3053584	Municipal Address 12615 152 Avenue NW	Legal Description Plan: 8521490 Block: 15 Lot: 75
Assessed Value \$8,349,000	Assessment Type Annual - New	Assessment Notice for 2010

Before:

Darryl Trueman, Presiding Officer
George Zaharia, Board Member
Taras Luciw, Board Member

Board Officer: Annet N. Adetunji

Persons Appearing: Complainant

Tom Janzen, CVG

Persons Appearing: Respondent

Bozena Anderson, Assessment and Taxation
Branch
Cameron Ashmore, Law Branch

PRELIMINARY MATTERS

On questioning, the parties were satisfied with all procedural elements including the composition of the Board. The witnesses to the hearing were sworn in.

At the outset of the hearing, the Board was advised that the City Assessor, who prepared the City's evidence, submitted a doctor's note at a late date saying that he could not attend the hearing. This did not allow sufficient time for the City to provide a replacement Assessor. The City's lawyer advised that with respect to this hearing, and for the four additional roll numbers which were scheduled to be heard that same day, the City would be supplying written evidence only.

BACKGROUND

The subject property, built in 2002, is a 61 suite apartment building located in north-central Edmonton. It contains 16 one-bedroom suites and 45 two-bedroom suites. The average suite size is approximately 1,022 square feet and the land base of the development is approximately 1.34 acres.

ISSUE(S)

Has the City of Edmonton assessment model incorrectly assessed this property because:

1. the GIM (gross income multiplier) Income Approach to Value method used does not take into account operating costs, and
2. the sale of the subject property in September 2009 was not considered.

LEGISLATION

The Municipal Government Act, R.S.A. 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.*

The Matters Relating to Assessment Complaints Regulation (MRAC), A.R. 310/2009;

S.9(1) A Composite Assessment Review Board must not hear any matter in support of an issue that is not identified on the complaint form.

COMPLAINANT'S POSITION

The Complainant advised the Board that he would not be pursuing the arguments pertaining to equity or the GIM used by the Respondent.

He accepted the Potential Gross Income (PGI), the vacancy rate and the Effective Potential Gross Income (EPGI) used by the Respondent in calculating the assessment as being reasonable estimates for valuation purposes. He pointed out that the subject property had no laundry income.

The Complainant presented a list of four sales which had occurred through the period July 2007 to September 2009, from which he said he could extract an operating expense estimate and a market capitalization rate (C1, p. 2). He applied these parameters to the accepted City's effective

gross income estimate that resulted in a market value for the subject property of \$6,894,500, or \$113,025 per suite (C1, p. 2).

The Complainant advised the Board that while he recognized that the sale of the subject property was “post facto”, he testified that the transaction had been struck or negotiated in June of 2009. Therefore, in his opinion, the City should have accepted the price transacted for the subject property of \$6,700,000 as good and sufficient evidence for his requested reduced assessment of \$6,700,000 (C1, p. 2).

RESPONDENT’S POSITION

The Respondent presented exhibit R1 which consisted of an explanation of the mass appraisal process, a subject property detail report, a rent roll for the subject property as at February 28, 2009, an MGB decision in 2009 which references capitalization rate calculation methodology, and property detail reports for the five comparable sales which the Respondent relied upon to support his assessment.

In R2 the Respondent provided a chart of comparable sales and details of the subject property which demonstrated that the Complainant’s use of mixing incomes from various sources in the calculation of his capitalization rate was incorrect.

Finally, in exhibit R3 the Respondent provided law and legislation which mandates his assessment responsibilities.

DECISION

The complaint is granted and the 2010 assessment is reduced to \$7,564,000.

REASONS FOR THE DECISION

The Board considered the sale of the subject property itself, in light of recent case law, that this information can be helpful in establishing market value. The case law clearly requires that post facto information only be considered if the sale is shortly after the valuation date and still well within the assessment year. However, the Board noted that there was no reference to the sale of the subject property on the complaint form submitted by the Complainant, and for this reason the Board was unable to consider its relevance in accordance with MRAC, section 9 above.

It then noted that the subject property was generally newer (built in 2002) than any of the comparable sales presented by either party, that it was of slightly different architectural design (being a four-story building), and that, unlike any of the comparables presented, it contained an elevator.

The Board determined that there was little support for the Complainant’s request which was based upon four sales comparables presented by the Complainant. Sale indices one and three were of the same property that sold again approximately one year after its original sale date, and

while increasing both its gross and net operating performance by 40% and 60% respectively, its sale amount did not increase. Sale index number 2 was of a property approximately three times larger than the subject and roughly 30 years older, while sale index number 4 was located in a municipality some 20 miles west of Edmonton.

The Board, however, noted from the Respondent's sales comparables that the subject property was assessed at approximately \$12,000 per suite more than the highest price comparable sale which sold for a time adjusted sale price of \$124,107 per suite. Based upon this information and the similar income generating characteristics of the subject property at \$1,072 per suite compared to the Respondent's sale index number 1 at \$1,043 per suite, the Board determined that a reduction to \$124,000 per suite, or an assessed amount of \$7,564,000 correctly reflected the market value of the subject property.

The Board is persuaded, based on the evidence, that the reduced 2010 assessment of \$7,564,000 is fair and equitable.

Dated this 10th day of November, 2010, at the City of Edmonton, in the Province of Alberta.

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.

cc: Municipal Government Board
675 Properties Inc