

NOTICE OF DECISION NO. 0098 49/12

Canadian Valuation Group
1200-10665 Jasper Avenue NW
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 July 3, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9966838	11842 145 Avenue NW	Plan: 7520907 Block: 12 Lot: 6B	\$1,701,000	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.

cc: 1080253 ALBERTA LTD

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 001825

Assessment Roll Number: 9966838

Municipal Address: 11842 145 Avenue NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

Canadian Valuation Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Patricia Mowbrey, Presiding Officer
Reg Pointe, Board Member
Brian Frost, Board Member

Preliminary Matters

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

Background

[2] The subject property is located at 11842 145 Avenue NW. It is a multi-tenant retail building containing a total of 17,021 square feet and was built in 1978. Its effective age is 1978. The lot comprises 65,205 square feet and is located in the Caernarvon neighborhood.

Issues

[3] Is the 2012 assessment of the subject property correct?

- a) Is the lease rate appropriate?
- b) Is the capitalization rate appropriate?
- c) Is the vacancy rate appropriate?

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.

Position of the Complainant

[5] The Complainant's position is that the assessment is incorrect because the City has applied inappropriate lease rates to the subject property. The Complainant stated as well that the City has applied an inappropriate capitalization rate and vacancy rate.

[6] The Complainant stated that the subject property had been classified as a neighborhood plaza and the assessed lease rates, vacancy rates and associated expenses had been applied to arrive at a net operating income (NOI) for the property. The Complainant indicated that the actual 2010 and 2011 NOIs of \$116,289 and \$112,043 respectively were both considerably lower than the NOI of \$136,112 used in the 2012 assessment (C-1, pg 1). An 8.00% capitalization rate was also utilized to arrive at the assessment.

[7] The Complainant provided a rent roll which indicated that the actual lease rates were less than those utilized in the assessment. The Complainant indicated that the property had suffered chronic high vacancy with 23% vacancy in June 2010 and 31% vacancy in December 2010. One reason for lower rents and chronic vacancy is the quiet mid-neighborhood setting of the subject property. More importantly, the subject property has an irregular site configuration which severely limits exposure to the abutting roadway to the south. The property has no other street exposure.

[8] The Complainant suggested that current lease rates of \$8.00 per square foot for day care space and \$10.00 per square foot for other retail space more appropriately represent market lease rates for the subject property. The Complainant also stated that utilizing a 20% vacancy factor is appropriate for the subject property, which results in an NOI of \$110,305 (C-1, pg 2).

[9] The Complainant presented a sales chart with seven comparable capitalization rates and noted that sales #1 and #6 were most comparable by reason of age, condition, size and location (C-1, pg 2). Sales #1 and #6 indicated capitalization rates of 8.74% and 8.88%. In view of the

fact that each of these properties had higher exposure than the subject, the Complainant suggested an appropriate capitalization rate of 8.75% for the subject property.

[10] When applying an 8.75% capitalization rate to the NOI of \$110,305, a \$1,261,000 value for the subject property is indicated. When capitalizing the actual 2010 and 2011 NOIs at 8.75%, values of \$1,280,000 and \$1,329,000 respectively are indicated (C-1, pgs 2 & 3). On this basis, the Complainant requested that the 2012 assessment be reduced to \$1,275,000.

Position of the Respondent

[11] The Complainant brought an objection to a January 2012 rent roll that the Respondent intended to present. The Complainant requested that the Board strike it from evidence because the information was post facto to the valuation date of July 1, 2011. The Board adjourned and considered the Complainant's objection. The Board decided to strike the 2012 rent roll from the evidence because it was post facto to the valuation date.

[12] It is the position of the Respondent that the 2012 assessment is correct.

[13] The Respondent presented an equity capitalization rate chart containing seven comparables located in proximity to the subject property with a corresponding map identifying the property locations (R-1, pgs 16 & 17). The Respondent stated that the typical capitalization rate for retail properties in this neighborhood is 8.00%.

[14] The Respondent stated that there were differences between the Network Sales Data utilized by the Complainant in its sales #2, #3, #4 and #7 and the Anderson Sales Data. The Respondent also presented market rent charts outlining eight CRUMED spaces in the area (R-1, pg 23) which indicated an average rent of \$15.00 per square foot. In addition, the Respondent presented a day care market rent chart for the area that ranged from \$9.00 to \$12.00 per square foot (R-1, pg 24). The actual lease rate for the day care in the subject property is \$8.00 per square foot and the assessment rate is \$8.25 per square foot. The Respondent also provided a chart depicting equity rents in support of the typical rents used in the assessment (R-1, pg 26).

[15] The Respondent presented evidence that average vacancy for the property over the past three years is 16.38%, which when stabilized is 15% (R-1, pg 30). The Respondent also indicated that increasing the vacancy rate for the subject property would be inequitable.

Decision

[16] It is the decision of the Board to reduce the 2012 assessment for the subject property from \$1,701,000 to \$1,555,500.

Reasons for the Decision

[17] The Board considered the evidence provided by both the Complainant and the Respondent, first addressing the market lease rate. The Complainant provided actual lease rates only and did not provide supporting documentation, whereas the Respondent provided eight lease rate comparables in the area supporting the assessment lease rates. The Board is of the opinion that the lease rates utilized in the 2012 assessment are appropriate.

[18] Regarding the capitalization rate issue, the Board reviewed the evidence of both the Complainant and the Respondent. The Board recognizes that the subject property is obscured by the property adjoining to the southeast, which is the fronting corner location. The Board notes that the adjoining corner property has been assessed utilizing an 8.00% capitalization rate and the same was utilized for the subject property. The Board is of the opinion that the subject property is an inferior location to the adjoining property. The Board placed considerable weight on the Complainant's capitalization rates in the sales comparison chart and accordingly accepts the Complainant's capitalization rate of 8.75% in recognition of the higher risk associated with the inferior location.

[19] As to the matter of vacancy rate, the Board notes that the Respondent applied a stabilized vacancy rate of 15% which recognized longer term vacancy. The Complainant requested that the Board accept a vacancy rate based on the actual vacancy rate for a six month period only and lacked additional supporting data. The Board accepts the Respondent's position.

[20] The Board finds that an 8.75% capitalization rate as applied to the net operating income of \$136,112 in the 2012 assessment, resulting in a reduced 2012 assessment of \$1,555,500, is correct, fair and equitable.

Dissenting Opinion

[21] There was no dissenting opinion.

Heard commencing July 3, 2012.

Dated this 9th day of July, 2012, at the City of Edmonton, Alberta.

Patricia Mowbrey, Presiding Officer

Appearances:

Peter D. Smith, CVG
for the Complainant

Ryan Heit, Assessor, City of Edmonton
Tim Dueck, Assessor, City of Edmonton
for the Respondent