



ASSESSMENT REVIEW BOARD

Churchill Building
10019 103 Avenue
Edmonton AB T5J 0G9
Phone: (780) 496-5026

NOTICE OF DECISION NO. 0098 549/11

Canadian Valuation Group (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 (CARB) from a hearing held on December 19, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
1056894	9940 106 STREET NW	Plan: NB Block: 6 Lot: 77/78/79/80	\$38,062,500	Annual New	2011

Before:

Tom Robert, Presiding Officer
George Zaharia, Board Member
Petra Hagemann, Board Member

Board Officer: Karin Lauderdale

Persons Appearing on behalf of Complainant:

Tom Janzen, CVG

Persons Appearing on behalf of Respondent:

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

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.

BACKGROUND

This subject property is a high rise office building known as Sterling Place. It is located at 9940-106 Street in downtown Edmonton. The building comprises 167,156 square feet of office space, 2,941 square feet of main floor retail space, and 200 square feet of storage space for a total area of 170,297 square feet. In addition, there are 189 underground parking stalls.

ISSUE(S)

1. Is the \$18.00 per square foot market rent applied to the office space in the subject property too high?
2. Is the assessment fair and equitable compared to similar office space within the area of the subject?
3. What is the market value of the subject property as at July 1, 2010?

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

Issue 1: Is the \$18.00 per square foot market rent applied to the office space in the subject property too high?

The Complainant argues that the subject office lease rate, based on a BH ("B" High) classification at \$18.00 per square foot is not reflective of the typical market lease rates for similar space within the area of the subject. The Complainant advises that the lease rates have declined throughout the downtown area from the spring of 2009 to the present. Competing office space rents are as low as \$7.00 to a high of \$14.00 per square foot for similar space (Exhibit C-1, page 2).

In support of his position, the Complainant presented a rebuttal document (Exhibit C-2) of a decision from a CARB for a similar property, First Edmonton place located near the subject. The CARB reduced the lease rate from \$18.00 to \$15.00 per square foot.

Issue 2: Is the assessment fair and equitable compared to similar office space within the area of the subject?

The Complainant indicated that two comparable office buildings, First Edmonton Place and Energy Square, located very close to the subject have been assessed based on \$15.00 per square foot office space for the 2011 assessment (Exhibit C-1, page 2).

Issue 3: What is the market value of the subject property as at July 1, 2010?

The Complainant provided three sale comparables of similar buildings to the subject which indicated a range of capitalization rates from 5.85% to 7.85% (Exhibit C-1, page 3). The Complainant applied a 6.0% capitalization rate to the actual net operating incomes from 2009 and 2010 (Exhibit C-1, pages 8 & 11) to arrive at a value range for the subject from \$30,092,500 to \$31,765,500. The Complainant argues that vacant space with added tenant improvements would result in a further reduction of \$500,000 (Exhibit C-1, page 3).

The Complainant requests the Board to reduce the 2011 assessment from \$38,062,500 to \$32,000,000.

POSITION OF THE RESPONDENT

Upon conclusion of the Complainant's presentation of evidence, the Respondent submitted to the Board that the Complainant had not presented sufficient evidence to alter the assessment and therefore had not met onus. He therefore requested the Board to confirm the assessment without hearing the evidence prepared by the City.

In regard to the issue of onus as presented by the Respondent, the Board has concluded the Complainant provided sufficient evidence for the Board to determine consideration to alter the assessment.

Issue 1: Is the \$18.00 per square foot market rent applied to the office space in the subject property too high?

The Respondent provided evidence that a new lease was signed January, 2010 for \$20.00 per square foot, greater than the \$18.00 per square foot rate applied to the subject (Exhibit R-1, page 30).

Issue 2: Is the assessment fair and equitable compared to similar office space within the area of the subject?

The Respondent put forward thirty seven assessment equity comparables of downtown BH office buildings indicating that a rate of \$18.00 per square foot was applied to all similar properties (Exhibit R-1 page 41).

In regard to the assessment of First Edmonton Place, the office space assessment was reduced from \$18.00 to \$15.00 per square at the complaint level; however, the class of the building was not changed from BH (Exhibit C-2, page 6).

The Respondent also provided a third party document wherein the subject is classified as an “A” building (Exhibit R-1, page 43).

Issue 3: What is the market value of the subject property as at July 1, 2010?

The Respondent presented a proforma indicating that a net operating income based on the typical market office rent of \$18.00 per square foot and a capitalization rate of \$8.00%, resulted in the overall total assessment of \$328,062,500 (Exhibit R-1, page 20).

The Respondent further advised that assessments of all properties must be based on the fee simple estate as set out in assessment regulations.

The Respondent requested the Board to confirm the 2011 assessment at \$328,062,500.

DECISION

The decision of the Board is to confirm the 2011 assessment of the subject property at \$38,062,500.

REASONS FOR THE DECISION

In regard to Issue 1:

The Board was not persuaded by the Complainant’s market rental data suggesting that the market rents within the area were in the range of \$7.00 to \$14.00 per square foot for office space. This position was not supported by any substantive evidence.

The Board accepts the Respondent’s evidence indicating that an actual new lease was signed January 2010 for \$20.00 per square foot, which well supports the \$18.00 per square foot typical market lease used in arriving at the 2011 assessment.

In regard to Issue 2:

The Board placed most weight on the Respondent’s chart indicating that all BH comparable properties (thirty-seven) are assessed at the same \$18.00 per square foot for office space as is the subject.

With regards to the \$15.00 office rate used in First Edmonton Place, this rate resulted from a complaint that was based on the current leases in place in that property. However, the CARB decision did not change the BH classification of this property.

In regard to Issue 3:

The Board determined that the value arrived at via the income approach by the Complainant was based on actual net operating incomes for 2009 and 2010. In brief, assessment regulation specifies that assessments must be calculated based on market value inclusive of all fee simple interests. The use of a 6.0 % capitalization rate was not sufficiently supported by evidence presented.

In conclusion, the Board was not satisfied that evidence presented supported a reduction in the market lease rate applied to the subject that would have resulted in a reduction in the assessment of the subject property.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 20th day of December, 2011, at the City of Edmonton, in the Province of Alberta.

Tom Robert, 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: RMA PROPERTIES LTD