



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION 0098 590/10

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 from a hearing held on November 1, 2010, respecting a complaint for the following related properties:

Roll Number	Municipal Address	Legal Description	Assessed Value (\$)
2917854	11429 – 132 Street NW	Plan: 7720986 Block: 17 Lot: 2	\$12,168,500
2918209	11505 – 132 Street. NW	Plan: 7720986 Block: 18 Lot: 2	\$8,112.000

Before:

Dean Sanduga, Presiding Officer
Mary Sheldon, Board Member
Brian Hetherington, Board Member

Board Officer: Karin Lauderdale

Persons Appearing: Complainant

Tom Janzen, CVG

Persons Appearing: Respondent

Abdi Abubakar, Assessment and Taxation Branch
Steve Lutes, Law Branch

PRELIMINARY 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.

At the commencement of the hearing, the parties indicated to the Board that arguments, evidence and submission on roll number 2917805 and the other six roll numbers which comprised Phase I of Baywood Park would be carried forward as applicable to the other roll numbers/accounts before the Board as listed on page 1 of this decision.

BACKGROUND

These two properties are operated together and known as Baywood Park Phase II. This project is located in west-central Edmonton, east of St. Albert Trail, between 114 Avenue and 117 Avenue.

Phase II of this complex comprises two roll numbers consisting of 175 suites constructed in 1977.

The breakdown is as follows:

Roll number 2918209 contains 70 suites assessed at \$8,112,000.

Roll number 2917854 contains 105 suites assessed at \$12,168,500.

ISSUE(S)

The Complainant attached to the complaint form a schedule listing numerous issues. Most of those issues had been abandoned and the issues to be decided by the Board were as follows:

- When applying the income approach to value for the subject, should the capitalization rate methodology be used rather than the Gross Income Multiplier method?
- Does the Direct Comparison approach to value for the subject support the assessment?

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.*

POSITION OF THE COMPLAINANT

- The Complainant submitted to the Board that he accepted the Potential Gross Income (PGI) and vacancy rate used by the Respondent in calculating the Effective Gross Income (EGI) for the subject. However, the Complainant argued that, rather than applying a Gross Income Multiplier (GIM) to the Effective Gross Income to arrive at an estimate of value, as the Respondent had done, an estimate of expenses should be deducted from the Effective Gross Income to arrive at a Net Operating Income (NOI). The Complainant suggested to the Board that an expense amount of \$3,500 per suite would be appropriate although the actual expenses per suite were higher. An appropriate capitalization rate should then be applied to that NOI to arrive at a value for the subject (C-1, page 2).
- The Complainant presented to the Board details of ten sales comparable properties and argued that a capitalization rate of 6.50% derived from these sales should be applied to the NOI of the subject. He suggested to the Board that most weight should be placed on sales comparables 7, 8 and 9 (C1 page 2).
- He noted for the Board that some of the comparables were in the adjacent market area 5, while the subject was in market area 4. Two of the sales (#9 and #10) were post facto although he indicated that the sales still occurred in the 2009 assessment year. The average capitalization rate of these comparables was 6.32% and the median was 6.34%. He pointed the Board to a third party document prepared by Cushman and Wakefield (C-1, page 22) which stated that the average capitalization rate for all multi-family sales in Edmonton in 2009 was 6.7%. From this information, the Complainant argued that a capitalization rate of 6.50% applied to the subject would be appropriate.
- The Complainant argued that the Board should place most weight on this capitalization approach to value, which would yield a value less than the assessment amount and he requested that the Board reduce the assessment of the subject accordingly.
- The Complainant also noted for the Board that the average time adjusted sale price per suite for all his comparables would support his request for a reduction in the assessment of the subject in the value of \$6,900,000 (C-1 page 3).

POSITION OF THE RESPONDENT

- The Respondent suggested to the Board that the income for the subject had been underestimated for this assessment year and that the model had thus applied incorrect information in calculating the PGI. He argued that the actual rents achieved as evidenced by the rent roll ought to be used.
- If those actual rents were used in the calculation of value, an amount higher than the assessment for the subject would be the result. However, the Respondent indicated that he was not seeking an upward adjustment to the assessment but merely a confirmation of the existing assessment.
- The Respondent submitted to the Board that the sales comparables presented by the Complainant exhibited significant differences from the subject. Some had different suite mixes, some were in different locations and some were post facto and were not adjusted for income levels or physical differences. Most were considerably older than the subject. The Respondent argued that the Complainant applied the average capitalization rate from these comparables to the Potential Gross Rent of the subject as calculated by the Respondent. The Respondent referred the Board to an excerpt from the Appraisal of Real

Estate document published by the Appraisal Institute of Canada (R-1) which indicated that ;

“data on each property’s sale price, income, expenses, financing terms and market conditions at the time of sale is needed.”

This need for consistency has been confirmed in court decisions. The Respondent argued to the Board that a capitalization rate for the subject cannot be extracted from the sales information provided by the reporting services based on different income levels and vacancy rates than used by the City of Edmonton in calculating the PGI . The Respondent indicated to the Board that the information used by the City of Edmonton in calculating the PGI is based on typical levels of income as reported by property owners on the rent rolls submitted in the annual Requests for Information.

- To highlight the inconsistent and differing information used by the reporting services, the Respondent showed the Board data from two different reporting services concerning the same sales which reported different capitalization rates and income information (R1 page 116) .
- The Respondent requested the Board to confirm the assessment of the subject.

DECISION

The decision of the Board is to confirm the assessment of the subject.

REASONS FOR THE DECISION

- The Board acknowledges the position of the Respondent that the rental income for the subject had been underestimated by the City of Edmonton and that the model had used incorrect information in the calculation of Potential Gross Income. The Board accepts the Respondent’s submission that the error would be corrected in the 2011 assessment year. However, for this assessment year, the Board accepts the Potential Gross Income as calculated by the Respondent and set out in the account detail report .
- The Board accepts the argument of the Respondent that there must be consistency in the data used. The Complainant used the Potential Gross Income and vacancy rate as calculated by the Respondent. These are based on typical market data. The Complainant then proceeded to extract a capitalization rate based on sales data which used different information of income and vacancy.
- The Board does not accept the Complainant’s submission that a direct sales approach supports his request for a reduction in the assessment. The Board is of the opinion that the comparables sales by the Complainant lack similarity in many respects with the subject property, thus making any comparability unreliable.

Therefore, the Board concludes that the Complainant has failed to provide sufficient compelling evidence to the Board that the assessment of the subject is incorrect or inequitable.

Dated this 25th 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
Osgoode Investments Inc.