

Edmonton Composite Assessment Review Board

Citation: Assessment Advisory Group Inc. v The City of Edmonton, 2012 ECARB 0485

Assessment Roll Number: 3196409

Municipal Address: 10159 108 Street NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

Assessment Advisory Group Inc.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Lynn Patrick, Presiding Officer

Darryl Menzak, Board Member

Judy Shewchuk, Board Member

Preliminary Matters

[1] There were no preliminary issues raised. When asked by the Presiding Officer, the parties did not object to the composition of the Board. In addition, the Board members indicated no bias in the matter before them.

Background

[2] The subject is a 13,617 sq. ft. retail/office building, located at 10159-108 Street in the downtown area of the City of Edmonton. The building was built in 1959 with an effective year built of 1962. A capitalization (cap) rate of 7.00 was used to prepare the 2012 assessment of \$1,285,000.

Issue(s)

[3] Is the cap rate used by the Respondent correct?

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 evidence package of 16 pages marked exhibit C-1.

[6] The Complainant took the position that the cap rate of 7.00% used by the City of Edmonton in the preparation of assessments in the 1090 Downtown neighborhood is too low in respect to the subject. The 7.00% cap rate for major traffic routes in this neighborhood may be justified for some properties; however, for those locations off the major routes like Jasper Avenue, the cap rate ought to reflect the risk and rate of return differences that may be experienced by a property such as the subject. For these reasons the Complainant suggests a cap rate of 8.00% would be more suitable.

[7] In support of the suggested cap rate the Complainant presented 11 sales comparables from various market areas in the City. They ranged in year built from 1964 to 2008. Building size ranged from 8,830 to 88,820 square feet, and sale dates ranged from October 2009 to June 2011. The cap rates presented ranged from 7.08% to 8.88% and were derived from The Network (third-party) documents.

[8] The Complainant relied on the cap rates of three comparables. These rates were 8.24%, 7.43% and 7.71%, and the Complainant submitted they were the best representations of market cap rates. The Complainant stated that the subject building was older than all of the comparables and should receive even a higher cap rate for the return of capital cost and a return on investment over a shorter period of time.

[9] The Complainant argued that newer buildings on busier streets were assessed using a cap rate of 7.00% and that it appeared to be unreasonable to apply the same cap rate to an older building. As well, the Complainant stated location is the ultimate factor in determining a cap rate and that three of the comparables provided by the Respondent are not in a similar location to the subject.

Position of the Respondent

[10] The Respondent submitted an evidence package (including a law brief) of 78 pages marked exhibit R-1.

[11] The Respondent took the position that similar properties in the subject neighborhood are assessed using the same cap rate. The neighborhood in question is bounded by 104 Avenue and 97 Avenue and 109 Street and 97 Street. The Respondent presented a table of seven properties (R-1, Page 11) in the 1090 Neighborhood, indicating that a cap rate of 7.00% was used to prepare the assessments in that neighborhood. The age of the properties ranged from 1952 to 1995 and sizes ranged from 4,259 to 19,767 square feet. Two of the properties are on the same street as the subject and the others are within a block of the subject. Four are on Jasper Avenue, a major downtown street. The Respondent contends that the differences in rental rates achieved between streets such as Jasper Avenue and the subject, which is on 108 Street, reflect the differences warranted by location within the neighborhood. However, in the Respondent's view, these differences do not justify increasing the cap rate for the neighborhood as this is the mark of risk and return on investment and is reflected in the market value.

[12] The Respondent also took the position that the comparables used by the Complainant were not acceptable for various reasons. The Complainant used actual vacancy rates that were not typical and rent rates that were estimated or triple net rents that were low.

[13] The Respondent provided three sales comparables of older properties indicating a cap rate average of 7.21%. The sales were located on more heavily trafficked streets, being 118 Ave. at 94th Street, 88 Ave. at 109 Street, and 97 St. at 105 Avenue. The cap rates were determined using the sales prices and estimated typical rents and support the contention that 8% is not justified for locations of lesser significance than Jasper Ave.

[14] In summation, the Respondent submitted that the three sales comparables' age or location do not affect the cap rate as much as the Complainant contends, and that the difference in location is captured in rental rates.

Decision

[15] The assessment for the subject property is confirmed at \$1,285,000.

Reasons for the Decision

[16] The establishment by the Respondent of a blanket cap rate for the 1090 Downtown Neighborhood of 7% was done using the direct capitalization approach, where capitalization rates are derived from comparable sales of income producing properties. In this process the net operating income of each comparable property is divided by the sale price.

[17] The eleven sales comparables presented by the Complainant were scattered about the City, there being no sales in the subject Neighborhood 1090. The Complainant's suggested emphasis upon comparables 3, 6 and 10 as carrying the most weight of the eleven being put forward was based upon age, condition and location. The Board finds that none of the Complainant's comparables were the same age as the subject. The closest in age is comparable number 10 (124 Street at 114 Ave), which sold at a cap rate of 7.71%. However, 124 Street is not a location where blanket cap rates are achieved. It is sufficiently removed from the subject neighborhood, or any other similar neighborhood, that it is not strongly supportive of the contention that age is a factor in this assessment. The condition of comparable 10 may be superior to that of the subject, however, there is limited evidence in that regard. The location factor becomes the most compelling consideration with the higher cap rate of the 124 Street property reflecting the risk/return factors compared to the Downtown location.

[18] The questionable reliability of the information used by the Complainant from the Network reports is illustrated in the chart of the Complainant's comparables prepared by the Respondent. This chart, which corrects the Net Operating Income and the resulting cap rates, demonstrates there is a decline in the average that had been developed by the Complainant. As such, the Complainant's information does not support the 8% level requested by the Complainant.

[19] The three sales comparables provided by the Respondent have location issues and, although comparable number two is from another 7% blanket neighborhood in the City and indicates a cap rate of 6.69%, it alone is not necessarily compelling. However, this comparable does provide market evidence of what occurs in a higher demand neighborhood, even when a property is not directly located on a high traffic street. In the Board's opinion, this helps to support the Respondent's cap rate.

[20] The Board finds the equity comparables in the Cap Rate Comparables chart on page 11 of Exhibit R-2 to be compelling. These comparables support the correctness of the 7.00% cap rate developed by the Respondent for the 1090 Neighborhood, regardless of the fact that properties in this neighborhood have a variety of uses and ages. As such, the Board finds the current cap rate and assessment to be both fair and equitable.

Dissenting Opinion

[21] There was no dissenting opinion.

Heard commencing November 6, 2012.

Dated this 5 day of December, 2012, at the City of Edmonton, Alberta.

Lynn Patrick, Presiding Officer

Appearances:

Tom Janzen
for the Complainant

Tim Dueck
for the Respondent

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.