

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 1564

Assessment Roll Number: 4243630
Municipal Address: 4204 139 Avenue NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

CVG

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] Each of the Board members indicated that they had no bias with respect to this complaint; as well, both parties indicated that they had no objection to the composition of the panel.

Background

[2] The subject is a 144-suite carriage style row house complex located at 4204 139 Avenue NW, in the Clareview Town Centre neighbourhood of Multi-Residential Market Area 11. It has an effective year built of 2000, a Gross Income Multiplier (GIM) of 11.79, and a 2012 assessment of \$22,204,500.

Issue(s)

[3] Is the GIM used to prepare the assessment 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 20 pages marked exhibit C-1.

[6] The Complainant presented 12 sales comparables. The number of suites in these comparables ranged from 12 to 305, and the year built ranged from 1964 to 2003. The properties are located in various market areas of the City. The sale dates ranged from May 2009 to July 2011.

[7] The Complainant stated that there were no sales of row housing complexes, therefore only walk-up style apartments were used as comparables.

[8] The Complainant stated that he accepted the City's estimated income and vacancy allowance used to calculate fair values for properties; however, he took the position that the Gross Income Multiplier (GIM) of 11.79 used by the City in the preparation of the subject property's assessment is too high, resulting in an assessment that is too high.

[9] To arrive at a more appropriate GIM the Complainant adjusted the GIMs for all the sales comparables. He used GIMs as reported by The Network (a third party source) and adjusted them by a factor of 0.030996 per year for the difference in age between the subject and each comparable. This factor was derived from the City's assessment model and was accepted by the Complainant.

[10] The Complainant's adjusted GIMs ranged from 9.61 to 11.12. While the Respondent used a GIM of 11.79 for the subject, the Complainant submitted that 10.75 was more appropriate, and yielded a value of \$20,238,208.

[11] In response to questioning by the Respondent the Complainant stated that location adjustments were not made to the comparables and that equity was not an issue.

Position of the Respondent

[12] The Respondent submitted an assessment brief of 29 pages (exhibit R-1), a law and legislation brief of 43 pages (exhibit R-2) and a brief entitled "Errors Inherent in Mixing and Matching City GIMs/Incomes with Third Party GIMs/Incomes" (exhibit R-3).

[13] The Respondent submitted that approximately 2,200 Requests for Information (RFI) are sent out annually with an excellent return rate. From the returns the City is able to estimate the

typical potential gross income and typical vacancy rate for properties. A GIM is then calculated and applied to all properties depending on the age, location and type of property.

[14] The Respondent provided a table of three sales comparables (R-1 page 13) indicating the type of property, age, vacancy, estimated potential gross income (EPGI) and calculated GIM. The GIMs ranged from 11.56 to 14.07, supporting the GIM of the subject at 11.79.

[15] The sale of a condominium row house development, indicating a GIM of 11.33, was also provided as support for the GIM of the subject.

[16] The Respondent provided a table of 24 row house assessment comparables in Market Area 11 (R-1 page 17) which indicated various ages, suite-mixes and sizes, EPGIs, estimated GIMs and assessments per suite. The GIM increases from year-to-year by a factor of .030966 and ranges from 10.96 (for older buildings) to 11.79 (for newer buildings). The Respondent stated that the assessments of comparable properties support the assessment of the subject.

[17] The Respondent argued that the Complainant's third party data showed actual rents while the City uses typical rents and vacancies in their calculations. The Respondent also stated that the Complainant was mixing and matching information with respect to incomes, vacancy, and ages and that the use of third party information can lead to discrepancies (R-3 page 5). The Respondent also argued that the Complainant did not time adjust his data or adjust for different market areas. Further, all of the Complainant's comparables are walk-up buildings and not row housing. The Respondent contends the three most important assessment factors in respect to multi-residential properties are type, location and age.

[18] The Respondent stated that equity is an issue and that the GIMs used by the City are easily compared and can be explained. He also stated that the Complainant did not present any equity comparables to show that the assessment is not fair and equitable.

Decision

[19] Confirmed at \$22,204,500.

Reasons for the Decision

[20] The sales comparables consisting of low-rise properties put forth by the Complainant are not given much weight by the Board, primarily because they do not meet the assessment type factor. In other words, they are of a different classification than the subject row-houses. The classifications for multi-residential type properties are: town-houses (such as the subject), low-rise apartments (such as the comparables), high-rise apartments (such as comparable number 7) and 4-plex developments. The other important factors are location and age.

[21] The Complainant presented two comparables from Market Area 11. However, as low-rise apartments they do not satisfy the property type factor. In addressing the third factor (the age of the properties) it is noted as well that the approach is questionable given that none of the sales are row-housing projects and most are from outside the market area.

[22] The application of the time adjustment factor to the GIMs of the comparables derived from the third-party source (the Network) is also questionable. The reliability of that information without substantiation of the source and the date is diminished. If this information is to be considered as evidence, it can only be given very little weight.

[23] The Complainant has the onus initially in these matters to show that the GIM used by the Respondent is questionable. The GIM is the only issue that is raised by the Complainant. The Board notes that to satisfy the onus the Complainant must illustrate that the GIM used in the assessment of the subject has not been derived from sales comparisons of similar physical and locational characteristics that reflect similar income characteristics, similar risk characteristics and similar expectations as to change in income and value over a typical investment holding period.

[24] The Complainant elected to supply comparables that neither satisfy type nor locational factors. The Complainant's use of the Respondent's time adjustment factor upon this group of comparables does not elevate their level of reliability. The Board did not find the sales evidence of the Complainant opened the question of the incorrectness of the Respondent's GIM for the subject. The equity evidence of the Respondent bears that out. The equity comparables effectively substantiate that the GIM of the subject is well within the range of assessment values for comparables of the subject.

[25] Thus the Board finds that not only has the Complainant not convinced the Board that the Respondent's GIM is incorrect or unfair, it has also failed to convince the Board that there is sufficient evidence to satisfy the question of meeting the onus in this matter.

[26] Three of the Respondent's sales were the same as those used by the Complainant. However, the calculated incomes are different because the Respondent used typical incomes. By contrast, the Complainant used actual incomes in its tables of comparables. The Board notes that the mixing of typical factors and actual factors has been adjudicated upon before and that such an approach was found to be unacceptable for assessment purposes.

[27] For these reasons the Board confirms the subject's 2012 assessment.

Dissenting Opinion

[28] There is no dissenting opinion.

Heard commencing November 5, 2012.

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

Lynn Patrick, Presiding Officer

Appearances:

Tom Janzen
for the Complainant

Amy Murphy
Renee Redekopp
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.