

NOTICE OF DECISION

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 October 1, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9986028	14503 Miller Boulevard NW	Plan: 0024700 Block: 9 Lot: 2	\$16,315,000	Annual New	2012

cc: 1492951 Ontario Inc

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 1565

Assessment Roll Number: 9986028

Municipal Address: 14503 Miller Boulevard NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Hatem Naboulsi, Presiding Officer

Jasbeer Singh, Board Member

Mary Sheldon, Board Member

Preliminary Matters

[1] The parties to the hearing did not have any objection to the composition of the Board. The members of the Board did not indicate any bias with respect to this matter.

[2] Evidence, argument and submissions are carried forward to this file, as far as relevant, from roll number 1049360.

Background

[3] The subject property is a four storey 122 unit low-rise apartment building located at 14503 Miller Boulevard NW in market area 11. Built in 2002 on a lot measuring 110,850 square feet, the subject property is assessed in average condition. The subject property was valued by the municipality based on the income approach using typical potential gross income (PGI), typical vacancy and typical gross income multiplier (GIM). The 2012 assessment of \$16,315,000, or \$133,729 per suite, is under complaint.

Issue

[4] Is the 2012 assessment of the subject property fair?

Legislation

[5] 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

[6] The Complainant filed this complaint on the basis that the subject property’s assessment of \$16,315,000 was excessive. In support of this position, the Complainant presented a 17 page assessment brief that included five sales comparables (Exhibit C-1).

[7] The Complainant submitted that the Respondent had used the income approach in valuing the subject for assessment purposes and that the Complainant had no issue with this method of valuation. The Complainant also stated that there was no issue with the PGI estimated by the Respondent for the subject nor was there any issue with the vacancy rate of 4% used by the Respondent in its calculations.

[8] Based on the sales and equity comparables, the Complainant argued that

- a. an analysis of his four sales comparables (#1, #3 - #5) indicated that the capitalization rates averaged 6.925%. Using that for guidance, the capitalization rate for the subject property should be 6.5% (Exhibit C-1, page 2).
- b. a similar analysis of the GIMs indicated that the subject’s GIM should be no higher than 10.25 (Exhibit C-1, page 2).

[9] The municipality’s projected effective gross income of \$1,376,060 with a market indicated capitalization rate of 6.5% and expenses of \$3,600 per suite would yield a value of \$14,413,000. Using the GIM approach with the market indicated multiplier of 10.25, the 2012 assessment would be \$14,105,000. In the Complainant’s view, the substantially lower

assessment figures derived using two different approaches clearly indicated that the subject's 2012 assessment of \$16,315,000 was excessive (Exhibit C-1, page 2).

[10] The Complaint requested the Board to reduce the 2012 assessment to \$14,300,000 (Exhibit C-1, page 3).

Position of the Respondent

[11] The Respondent presented to the Board, a 41 page assessment brief (Exhibit R-1) and carried forward a law & legislation brief (Exhibit R-2) from roll number 1049360. The assessment brief included two sales comparables and a set of six equity comparables that supported the subject's 2012 assessment of \$16,315,000 (or \$133,729 per unit) as fair and equitable (Exhibit R-1, pages 22 & 30).

[12] The Respondent explained to the Board that the municipality relied on modeling the PGI and GIM to arrive at a fair and equitable 2012 assessment in respect of low-rise apartment properties. The models used a number of significant variables to reflect as accurately as possible, the differences and characteristics in different market areas of the City (Exhibit R-1, page 8).

[13] Apart from the actual sales information received from the land titles registry, the income and expense information provided by owners and property managers was a significant source of input for the municipality's assessment process. Such information was acquired in response to the City's request for information (RFI) (Exhibit R-1, page 6).

[14] The Respondent further advised the Board that the 2012 assessment for low-rise apartment properties was based on the income approach using typical PGI, typical vacancy and typical GIM (Exhibit R-1, pages 6 & 7).

[15] The Respondent argued that the municipality's assessment branch relied on validated sales information and an analysis of the current and factual information received from the property managers and this was a consistent and reliable methodology. In contrast, the Complainant's selective use of the GIM and capitalization rate from third party sources, mixed with the City's income information was inconsistent and unreliable. The Respondent showed that three independent industry sources had reported different income, vacancy and GIM figures in respect of the Complainant's sales comparable #2, located at 11805 – 47 Street (Exhibit R-1, pages 36–39).

[16] Using the two sales comparables from the subject's market area, the Respondent showed that the subject had been assessed fairly at \$133,729 per unit. Actual sales indicated a per unit price range between \$113,710 and \$186,170 per unit (Exhibit R-1, page 22).

[17] The Respondent argued that the GIM value of 11.8565 used for the subject was within the range of the corresponding figures in respect of the two sales comparables (Exhibit R-1, page 22).

[18] Relying on a set of six equity comparables, the Respondent stated that the subject's per unit assessment of \$133,729 was equitable for the age of the property, unit size and market area 11 location (Exhibit R-1, page 30).

[19] The Respondent advised the Board that the Complainant's sales comparable #1, located at 12615 – 152 Avenue, had been reported as a 'motivated sale' and should not be relied upon (Exhibit R-1, pages 32, 33).

[20] The Respondent pointed out that all four valid sales comparables provided by the Complainant were of different building types. These comparables were 2.5 or 3.5 stories, versus the subject's 4 stories. They were also 34 to 44 years older in age, and not equipped with elevators; hence, they could not be viewed as good comparables.

[21] The Respondent argued that the evidence and the argument presented to the Board supported the current assessment. The Respondent requested the Board confirm the 2012 assessment at \$16,315,000 or \$133,729 per suite.

Decision

[22] The Board confirms the 2012 assessment at \$16,315,000.

Reasons for the Decision

[23] The Board was persuaded by the Respondent's argument that the industry sources could not be used blindly or exclusively to provide guidance in establishing value. This was convincingly demonstrated by evidence that showed three different industry sources reporting different income information, inferences and results in respect of the same sale.

[24] The Board noted that the Complainant's approach of relying on the GIM or the capitalization rate from one of the industry sources and using it in conjunction with the municipality's income figures could not be relied upon to provide guidance in establishing value.

[25] The Board is of the opinion that there were significant issues with the sales comparables presented by the Complainant for the purpose of establishing value for the subject:

- a. The five sales comparables were located in different market areas of the city and could not provide reliable guidance to the Board.
- b. Comparable #1, at 12615 – 152 Avenue, was shown to be a motivated sale and was of little assistance in examining the subject's assessment.

[26] The Board was persuaded by the Respondent's sales evidence that showed that the subject's assessment of \$133,729 per suite was consistent with the market conditions. This was evident from the two sales occurring fairly close to the valuation date. The Board also found that the Respondent's equity argument, including a set of six equity comparables, supported the subject's 2012 assessment.

[27] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. The Board is satisfied that the Complainant did not provide sufficient and compelling evidence for the Board to form an opinion as to the incorrectness of the assessment. Accordingly, the Board confirms the 2012 assessment of the subject at \$16,315,000.

Dissenting Opinion

[28] There was no dissenting opinion.

Heard commencing October 1, 2012.

Dated this 12 day of October, 2012, at the City of Edmonton, Alberta.

Hatem Naboulsi, Presiding Officer

Appearances:

Peter Smith
for the Complainant

Andy Lok
Tanya Smith
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.