

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 1662

Assessment Roll Number: 4314241
Municipal Address: 4 Hooper Crescent 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 indicated no bias with respect to this matter.

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

Background

[3] The subject property is a 106 suite apartment complex located in market area 11 in northeast Edmonton. It was built in 1980 and contains 48 one bedroom suites, 48 two bedroom suites and 10 three bedroom suites. The subject 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 the subject was \$12,003,500 or \$113,240 per suite.

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] In support of its position that the 2012 assessment of the subject was excessive, the Complainant presented a 16 page brief to the Board (Exhibit C-1). The Complainant submitted to the Board that the current year’s assessment of the subject represented an 11% increase from the previous year even though the time adjustment chart used by the Respondent showed no increases over that time period (Exhibit C-1, page 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 potential gross income (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. However, the Complainant took issue with the gross income multiplier (GIM) of 11.17 used by the Respondent to arrive at the 2012 assessment for the subject. The Complainant argued that market evidence supported a lower GIM than that used by the Respondent. The Complainant also argued that the market evidence would support a capitalization rate of 6.75% which would result in a lower current assessment for the subject.

[8] To support the position that a GIM of 9.75 and a capitalization rate of 6.75% were appropriate for the current assessment of the subject, the Complainant provided the details of the sales of five multi-residential apartment buildings (Exhibit C-1, page 2). The age range of these comparables was from 1968 to 2002. The GIM range was from 8.75 to 10.38 for an average of 9.31 and the capitalization rate range was from 6.37% to 7.42% for an average of 6.98%. The average PGI of the comparables was \$915 per unit per month.

[9] The Complainant argued that if a GIM of 9.75, based on the above market evidence, were applied to the subject’s effective gross income of \$1,074,198, the resulting value for the subject would be \$10,473,000. As well, the Complainant argued that a capitalization rate of 6.75%, extracted from the above market data, would be appropriate to be applied to the net operating

income of the subject, assuming expenses of \$3,600 per suite. This would result in a value of \$10,261,000 for the subject.

[10] The Complainant advised the Board that the most weight ought to be placed on his sales comparables #3, #4, and #5, as comparable #1 was much newer and comparable #2 was considerably older than the subject. During questioning, the Complainant advised the Board that only sales comparables #2 and #4 were in the same market area as the subject. Also during questioning, the Complainant indicated that the value per suite of the sales comparables ranged from \$81,250 to \$113,710.

[11] The Complainant requested the Board reduce the 2012 assessment of the subject to \$10,300,000.

Position of the Respondent

[12] The Respondent stated that the 2012 assessment of the subject was fair and equitable. In response to the Complainant's argument that an 11% increase in the subject's assessment over the previous year was excessive, the Respondent reminded the Board that each year's assessment was independent. Further, an objection to an increase in assessment, without additional compelling evidence, was not sufficient to change an assessment (Exhibit R-2, page 36).

[13] To support its position, the Respondent presented to the Board an assessment brief (Exhibit R-1, 40 pages) and a law and legislation brief (Exhibit R-2, 44 pages). This law and legislation brief was carried forward from roll number 1049360. The Respondent advised the Board that multi-residential apartment buildings were valued using the income approach to value. Typical PGI and vacancy rate figures were used. The Respondent advised that typical rental figures for the multi-residential apartments were derived from the request for information (RFI) documents received from landlords across the municipality and then adjusted in the computer model for variables such as market area, effective age, condition, suite size and mix etc. (Exhibit R-1, page 8). Vacancy rates were determined for each market area by analyzing reported vacancies from owners' income and expense statements. The Respondent confirmed to the Board that the PGI figures and vacancy rates used by the Complainant in his analysis were the figures collected and used by the municipality.

[14] The Respondent further advised that the GIM for the multi-residential apartment buildings was derived from another computer model using validated property value information and the PGI model described above. The Respondent advised that the significant variables for the GIM model were market area, building type and effective age (Exhibit R-1, page 8). The market value of a property was derived from the PGI, less vacancy, multiplied by the GIM, all derived as described above (Exhibit R-1, page 9).

[15] The Respondent argued that the analysis submitted by the Complainant used inconsistent information. The PGI, vacancy rate and effective gross income figures used in the Complainant's calculations were the values calculated and used according to the municipality's methodology described above. The Respondent submitted that the sales data used by the Complainant to derive the GIM and cap rate used in its calculation were flawed and potentially inaccurate.

[16] The Respondent pointed out that only two of the Complainant's sales comparables were from the same market area as the subject (Exhibit R-1, page 40). In addition, the Respondent

argued that the Complainant's sales comparable #1 was flawed as it was a motivated sale (Exhibit R-1, page 31-32).

[17] The Respondent advised the Board that the third party documentation, such as the Network documentation, relied on by the Complainant in deriving GIM and cap rate figures could be inaccurate as there was no way to determine the origin or date of the information quoted. The Respondent presented the Board with an example of the information from three different reporting services for the Complainant's sales comparable #2 (Exhibit R-1, pages 36-39). The GIM reported for that sale was different in each of the reporting services.

[18] The Respondent presented the Board with two sales of properties in market area 11 comparable to the subject (Exhibit R-1, page 23). The GIM for comparable #1 was 11.05; for comparable #2, the GIM was 12.042. The Respondent pointed out that the sale price per unit of comparable #1, the most comparable to the subject, was \$113,710. The Respondent argued that this supported the assessment per unit of the subject at \$110, 536.

[19] The Respondent also submitted a chart of equity comparables to the Board (Exhibit R-1, page 30). The range of assessments per unit of these comparables was from \$108,717 to \$159,382. The Respondent argued that this evidence supported the assessment per unit of the subject at \$113,240.

[20] The Respondent also provided case law to support its position that it was inappropriate to apply a GIM and capitalization rate based upon third party documentation to the Respondent's typical income and vacancy rate information. Such an application would be inconsistent and result in an unreliable estimate of market value (Exhibit R-1, page 41).

[21] The Respondent concluded by requesting that the Board confirm the 2012 assessment of the subject at \$12,003,500

Decision

[22] The decision of the Board is to confirm the current assessment of the subject at \$12,003,500.

Reasons for the Decision

[23] The Board agrees with the statement of the Respondent that an increase in an assessment of a property is not, without further compelling evidence, sufficient reason to overturn an assessment.

[24] The Board examined the evidence presented by the Complainant. The Board is of the opinion that the comparable sales data presented by the Complainant in support of the request for a 9.75 GIM and a 6.75% capitalization rate is not persuasive. Only two of the comparables are from the subject's market area; a significant variable in both the PGI model and the GIM model. The Board also heard evidence that one comparable was a motivated sale, which makes it of less assistance in establishing value.

[25] The Board is concerned that the sales data and information presented by the Complainant to derive its GIM and capitalization rate might not be reliable and could be problematic. In that regard, the Board notes the evidence of the Respondent presented in respect of the Complainant's sales comparable #2. That evidence shows that three reporting services report

three different GIM figures for the same property. The only common thread in these reports is the sale price of the property.

[26] The Board agrees with the Respondent that inconsistent data should not be used in deriving the GIM or capitalization rates. In this case, the Complainant has used rental and vacancy data collected by the municipality according to its methodology to establish a PGI. However, the Complainant has also used sales data from other sources to establish a GIM. As noted above, the sales data used by the Complainant could be unreliable.

[27] As well, the Board notes that the municipality uses the GIM method to value these types of properties and not the capitalized income method. In any event, the capitalization rate suggested by the Complainant suffers from the same flaw as the Complainant's GIM in that it was derived and applied in an inconsistent manner.

[28] The Board also agrees with the Respondent that the value per unit for the subject, at \$113,240, is within the range per suite value of the comparables presented.

[29] Therefore, the Board concludes that evidence presented by the Complainant is not sufficiently compelling to alter the assessment of the subject and that the 2012 assessment of \$12,003,500 for the subject is fair and equitable.

Dissenting Opinion

[30] There was no dissenting opinion.

Heard October 1, 2012.

Dated this 11 day of October, 2012, at the City of Edmonton, Alberta.

Hatem Naboulsi, Presiding Officer

Appearances:

Peter Smith, CVG
for the Complainant

Andy Lok, Assessor
Tanya Smith, Legal Counsel
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.