

## **Edmonton Composite Assessment Review Board**

**Citation: CVG v The City of Edmonton, 2012 ECARB 1681**

**Assessment Roll Number:** 5207634  
**Municipal Address:** 140 Harrow Circle NW  
**Assessment Year:** 2012  
**Assessment Type:** Annual New

Between:

**CVG**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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**DECISION OF**  
**Hatem Naboulsi, Presiding Officer**  
**Jasbeer Singh, Board Member**  
**Mary Sheldon, Board Member**

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### **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, as far as relevant, to this file from roll number 1049360.

### **Background**

[3] The subject property is a 3.5 storey, 95 unit low-rise apartment building located at 140 Harrow Circle NW in market area 11. Built in 1978 on a lot measuring 136,988 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 \$10,559,000, or \$111,147 per suite, is under complaint.

## **Issue**

[4] Is the 2012 assessment of \$10,559,000 for 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 \$10,559,000 was excessive. In support of this position, the Complainant presented a 16 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 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 the four sales comparables (#2 - #5) indicated that the capitalization rates averaged 6.87%. Using that for guidance, the capitalization rate for the subject property should be 6.75% (Exhibit C-1, page 2).
- b. a similar analysis of the GIMs indicated that the subject’s GIM should be no higher than 9.75 (Exhibit C-1, page 2).

[9] The municipality's PGI of \$950,191, with a market indicated capitalization rate of 6.75% and expenses of \$3,600 per suite, would yield a value of \$9,010,000. When the GIM of 9.75 was applied, the 2012 assessment would be \$9,264,000. In the Complainant's view, the substantially lower assessment figures derived using two different approaches clearly indicated that the subject's 2012 assessment of \$10,559,000 was excessive (Exhibit C-1, page 2).

[10] The Complaint requested the Board to reduce the 2012 assessment to \$9,100,000, or \$95,789 per unit (Exhibit C-1, page 3).

### **Position of the Respondent**

[11] The Respondent presented 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 11 equity comparables that supported the subject's 2012 assessment of \$10,559,000 (or \$111,147 per unit) as fair and equitable (Exhibit R-1, pages 23 & 30).

[12] The Respondent explained 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 \$111,147 per unit. Actual sales indicated a per unit price range between \$108,717 and \$159,382 per unit (Exhibit R-1, page 23).

[17] The Respondent argued that the GIM value of 11.1126 used for the subject was within the range of the corresponding figures in respect of the two sales comparables (Exhibit R-1, page 23).

[18] Relying on a set of 11 equity comparables, the Respondent stated that the subject's per unit assessment of \$111,147 was equitable for the age of the property, unit size and its location in market area 11 (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 both valid sales comparables in market area 11, provided by the Complainant, were of different building types (2.5 & 3 stories versus 3.5 stories for the subject.) Further, the one closer in age to the subject (11530 – 34 Street), supported the 2012 assessment of \$111,147 per suite.

[21] The Respondent argued that the evidence and the argument presented to the Board, supported the current assessment, and requested the Board to confirm the 2012 assessment at \$10,559,000 or \$111,147 per suite.

### **Decision**

[22] The Board confirms the 2012 assessment of the subject at \$10,559,000.

### **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 \$111,147 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 11 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 \$10,559,000.

### **Dissenting Opinion**

[28] There was no dissenting opinion.

Heard October 1, 2012.

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

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Hatem Naboulsi, Presiding Officer

### **Appearances:**

Peter Smith, CVG  
for the Complainant

Tanya Smith, Legal Counsel  
Andy Lok, Assessor  
for the Respondent

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*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.*