

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 1839

Assessment Roll Number: 10202310
Municipal Address: 13215 66 Street 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] Upon questioning by the Presiding Officer, the parties indicated they had no objection to the composition of the Board. In addition, the Board members indicated they had no bias on this file.

[2] Evidence, argument and submissions were carried forward to this file from roll number 1049360, where applicable.

Background

[3] The subject property is a 2.5 storey 30 unit apartment building located at 13215 – 66 Street NW in market area 10. Built in 1965 on a lot measuring 40,348 square feet, the subject property has been 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 \$2,419,000 (or \$80,633 per suite) is under complaint.

Issue

[4] Is the 2012 assessment for the subject at \$2,419,000 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 \$2,419,000 was excessive as a result of the subject being inequitably assessed in ‘average’ condition. In support of this position, the Complainant presented an 18 page assessment brief that included five sales comparables and one equity comparable (Exhibit C-1).

[7] 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 6.98%. Using that for guidance, the capitalization rate for the subject property should be 7% (Exhibit C-1, page 2).
- b. A similar analysis of the gross income multipliers (GIMs) indicated that the subject’s GIM should be no higher than 9.00 (Exhibit C-1, page 2).
- c. A similar, adjacent property, located at 13225 – 66 Street, had been assessed in ‘Fair’ condition for the 2012 assessment. Built in 1965, as was the subject, this comparable property also had 30 suites. With shared location, age, size and condition attributes, the subject ought to have been assessed in ‘fair’ condition, as the other comparable had been.
- d. The City’s assessment branch had based the subject’s 2012 assessment on a rental income of \$755 per unit, per month, whereas the adjacent “fair” comparable had been assessed on an income basis of \$635 per unit, per month. This, in the Complainant’s opinion was inequitable.

[8] If the City's projected gross income of \$635/unit/month, used for the adjacent "fair" comparable, was applied to the subject property, the 2012 assessment, based on 7% capitalization rate and expenses of \$3,600 per suite, would be \$1,575,000. Using the GIM approach with the indicated multiplier of 9.00, the 2012 assessment amount would be \$1,964,000. In the Complainant's view, the substantially lower assessment figures derived using two different approaches clearly indicated that the subject's 2012 assessment of \$2,419,000 was excessive (Exhibit C-1, page 2).

[9] The Complaint requested the Board reduce the 2012 assessment to \$1,600,000, a value approximating a 7% capitalization rate (Exhibit C-1, page 3).

Position of the Respondent

[10] The Respondent presented to the Board, a 47 page assessment brief (Exhibit R-1) and a law & legislation brief carried forward from roll number 1049360 (Exhibit R-2). The assessment brief included three sales comparables and a set of 30 equity comparables that supported the subject's 2012 assessment of \$2,419,000 as fair and equitable.

[11] The Respondent explained to the Board that the municipality relied on modeling the potential gross income (PGI) and gross income multiplier (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).

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

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

[14] The Respondent argued that the municipality's assessment branch relied on validated sales information and an analysis of 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 one of the Complainant's sales comparables (#2 located at 11805 – 47 Street) (Exhibit R-1, pages 42–45).

[15] Using the three sales comparables from the same market area as the subject, the Respondent showed that the subject had been assessed fairly at \$80,633 per unit, whereas the actual sales indicated a per unit price range between \$84,150 and \$88,178 per unit (Exhibit R-1, page 30).

[16] The Respondent argued that the GIM value of 9.3230 used for the subject was lower than the corresponding figures in respect of three sales comparables (Exhibit R-1, page 30).

[17] Relying on a set of 30 equity comparables, the Respondent stated that the subject's per unit assessment of \$80,633 was very equitable for the age of the property, unit size and its location in market area 10 (Exhibit R-1, page 36).

[18] 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 as a good comparable (Exhibit R-1, pages 38, 39).

[19] The Respondent pointed out that all four valid sales comparables provided by the Complainant, including comparable #5, which was located in the same market area as the subject, supported the subject's 2012 assessment of \$80,633 (Exhibit R-1, page 46).

[20] The Respondent informed the Board that the subject and the adjacent 'fair' property had been inspected by the assessor for the area. They were both found to be in 'average to good' condition for the age of the buildings. The Respondent acknowledged that the comparable property's assessment as 'fair' was an error that would be corrected for the next assessment cycle.

[21] The Respondent stressed that the Complainant could not, in all fairness, ask the Board to extend the acknowledged error to the subject property. Additionally, the Complainant had not provided any evidence to support the request to place the subject in 'fair' condition for the 2012 assessment.

[22] The Respondent argued that the evidence and the argument presented to the Board, even the Complainant's sales comparables, supported the current assessment, and requested the Board to confirm the 2012 assessment at \$2,419,000.

Decision

[23] The Board confirms the 2012 assessment at \$2,419,000.

Reasons for the Decision

[24] 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.

[25] The Board found that the Complainant's approach of relying on the gross income multiplier or the capitalization rate from any one of the industry sources and using it in conjunction with the City's income figures could not be relied upon to provide guidance in establishing value.

[26] 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. Four of 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 (12615 – 152 Avenue) was shown to be a motivated sale and hence, of little assistance in examining the subject's assessment.

[27] The Board was persuaded by the Respondent's sales evidence that showed the subject's assessment of \$80,633 per suite was consistent with the actual market conditions on the valuation date.

[28] The Board also found that the Respondent's equity argument supported the 2012 assessment with a set of 30 equity comparables from the same market area and in respect of similar low-rise apartment properties. The Board noted the Respondent's testimony during cross examination that he had conducted an actual inspection of the subject and the adjacent property, cited by the Complainant. The results of this inspection indicated that the neighboring property's 2012 assessment in 'fair' condition was an error that would be corrected to 'average' condition for next year's assessment. The Respondent provided photographs of the common areas that showed similarities in the condition of the two properties.

[29] The Complainant failed to provide sufficient and compelling evidence in support of an argument to extend the 'fair' condition assessment of an adjacent property to the subject. The Board found that the Respondent's equity comparables and photographs fully supported the subject properly being categorized as in 'average' condition.

[30] 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 \$2,419,000.

Dissenting Opinion

[31] There was no dissenting opinion.

Heard October 1, 2012.

Dated this 19 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.