

Edmonton Composite Assessment Review Board

**Citation: COLLIERS INTERNATIONAL REALTY ADVISORS INC v The City of
Edmonton, 2013 ECARB 00638**

Assessment Roll Number: 9945145

Municipal Address: 13508 Victoria Trail NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

COLLIERS INTERNATIONAL REALTY ADVISORS INC

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Lynn Patrick, Presiding Officer

John Braim, Board Member

Judy Shewchuk, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties indicated that they had no objection to the composition of the Board. In addition, the Board members each indicated they had no bias in this matter.

Preliminary Matters

[2] There were no preliminary matters for the Board to deal with.

Background

[3] The subject parcel is a triangular shaped lot containing 1.889 acres with 2 panhandles extending from the subject easterly to Victoria Trail between other commercial developed parcels, the panhandles providing legal and actual access to the subject. The result of this subdivision is that there is no frontage on Victoria Trail. The subject contains a 14,797 square foot development named Belmont Town Center which consists of 6 retail shops and 2 restaurants abutting a supermarket building and extending partway through the triangular shaped lot. The effective age of the subject is 1997. There is no anchor tenant in the strip of shops and restaurants, however the subject and the adjoining supermarket share a common wall at the property line.

Issue(s)

[4] Is the capitalization rate used in the assessment correct?

Legislation

[5] **The *Municipal Government Act*, RSA 2000, c M-26, reads:**

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 agrees that the rental rate of \$19.00 per square foot for the 6 retail spaces and the \$26.00 per square foot for the 2 restaurant-good category spaces are the correct typical rental rates for the subject. However, the Complainant contends that the capitalization rate of 6.50% used by the Respondent is not the correct typical rate and that such rate ought to be 7.00%. In support of the 7.00% rate, the Complainant provided a table of equity comparables containing 4 properties, 2 of which are in close proximity to the subject and are assessed with a 6.50% capitalization rate and the other 2 which are located in the west end and south east areas, and each assessed with a capitalization rate of 7.5% and which the Complainant contends bear more similarity to the subject.

[7] In further support of its submission of the 7% rate, the Complainant provided a chart containing 5 sales comparables located throughout the City of Edmonton. The developments range in size from 10,853 square feet to 59,539 square feet; were constructed in a range of years from 1970 to 1990; sold in a range of dates from June 2011 to September 2012; and exhibiting capitalization rates from 7.03% to 7.34%.

[8] The Complainant contends that its evidence supports the submission that the subject is not a Shopping Center as defined by the Valuation Guide but is a strip mall and thus does not qualify for the 6.50% capitalization rate. The presence of a supermarket abutting the subject does not guarantee that as a “shadow” anchor tenant the subject achieves shopping center status. Based upon the rental rates being acceptable to the Complainant and the vacancy and structural factors being in agreement, the application of a 7.0% capitalization rate results in a value of \$4,002,500 rounded which is the requested assessment by the Complainant.

Position of the Respondent

[9] The Respondent contends that it has calculated the assessment of the subject in the same way that it has calculated market values of the total Shopping Center inventory for the City of Edmonton using the Income Approach. The Respondent presented its 2013 Shopping Center Valuation Guide consisting of 22 pages as part of Exhibit R-1 and drew the attention of the Board to the stratification into 6 groups as part of the categorization. The categorization and stratification as set forth on pages 6 and 7 of the Guide are into the following groups: Super-Regional Centre, Regional Centre, Community Centre, Neighbourhood Centre, Power Centres and Box Retail. The Respondent notes that regardless of the content of the various categories, all the inventory falling into those categories is assessed using the capitalization rate of 6.50%. The subject property is categorized by the Respondent as a Neighborhood Centre and thus, it is submitted, qualifies as part of the inventory receiving the application of the 6.50% capitalization rate. The Respondent notes that the typical characteristics of a Neighborhood Center include provision for the sale of convenience goods and personal services for the needs of the immediate neighborhood and that a supermarket is typically the anchor tenant. The Respondent acknowledges that the subject is without an anchor tenant, however submits that the abutting supermarket constitutes a substitute or “shadow” anchor which has the same effect as if it were part of the subject property.

[10] In support of the global application of the 6.50% capitalization rate on Shopping Center properties, as distinct from Retail Plaza or Strip Malls which are assessed by a separate group of assessors at 7.50%, the Respondent submitted a Fairness and Equity Chart containing 26 Shopping Center comparables each assessed using the 6.5% rate (R-1, p. 22). The Respondent also noted that 2 of the Complainants’ comparables in the same neighborhood as the subject were assessed at the 6.50% rate thus including them in the Shopping Center inventory. The comparable in the Complainants’ group shown as 3408 99 Street is not considered by the Respondent as a Shopping Center and is valued by the Retail Plaza group assessor thus having a capitalization rate of 7.50% which the Respondent has determined as typical for the Retail Plaza category.

[11] The Respondent further submitted a Shopping Center Capitalization Rate Analysis at page 24 of Exhibit R-1. The sales of 14 Shopping Centers were time adjusted and produced a range of adjusted capitalization rates from 4.65% to 7.92% with a median of 6.32% in support of the universal rate of 6.50% applied to the group by the Respondent. In addition the Respondent submitted capitalization rate reports from CBRE’s and Colliers’ surveys of industry members showing in the CBRE report that shopping centers are in a range of 5.75% to 6.50% and in the Colliers survey a range of 5.75% to 6.75%. CBRE and Colliers are commercial real estate reporting services. The Respondent requests that the assessment of \$4,310,500 be confirmed on the basis that the Complainant failed to satisfy the onus with respect to the correctness of the assessment and that the evidence of the Respondent be considered conclusive of the correctness of the assessment should the Board not accept the question of onus.

Rebuttal

[12] The Complainant submitted a written Rebuttal (C-2, 21 pages) containing comments respecting the validity of the 14 sales comparables submitted by the Respondent in support of the capitalization rate. It also contained 2 charts dividing the 14 properties into 2 categories being pre 2000 and 2000 and later. It was contended that the pre 2000 sales showed an average capitalization rate of 6.66% and the more recent group an average rate of 5.71%. When the

invalid sales are deleted from the chart, the remaining valid sales show an average capitalization rate of 6.98% which the Complainant submits supports the request for a change from 6.5% to 7.0%.

Decision

[13] The assessment is confirmed at \$4,310,500.

Reasons for the Decision

[14] The Board carefully considered the evidence from the parties with respect to whether the subject property fell within the group defined in the 2013 Shopping Center Valuation Guide is therefore a Shopping Center and is correctly assessed using the income approach with a capitalization rate of 6.5%. The Board finds that the Respondent applies a blanket capitalization rate of 6.5% to Shopping Centers as defined in the Guide. The comparables presented by the Respondent to show the application of the rate to various shopping centers in the range of types contained in the Guide provides persuasive support for the contention that such rate is applied equitably and satisfies the requirement for fairness. The question about whether the subject is a Neighborhood Center or a Retail Plaza was addressed by the Respondent in presentation of the Guide and the wording of definition noting that although it is said to have an anchor tenant, typically it is not said that it is mandatory to have an anchor tenant or otherwise it becomes a Retail Plaza which attracts the higher capitalization rate. The Complainant did not provide sufficient evidence to show that there were comparables to the subject that were in the Retail Plaza assessment group with the higher rate and thus did not satisfy the onus..

[15] The Respondent did provide some comparables that illustrated what was meant by “shadow” anchors and that the close proximity of a subject property to a supermarket, for example, would provide the same effect as if an anchor tenant was present in the subject. In this matter the “shadow” anchor was claimed to be the abutting supermarket and the apparently blended parking areas left no definition in the structure to separate the facilities. The Board finds that the presence of an anchor tenant is not mandatory to establish the subject as a Shopping Center and that the presence of a “shadow” anchor, though not defined, in the proximity shown in this case can have and does have an influence on the subject by lessening the risk of vacancy or reduced rental rates. The result is that the Board agrees that the subject has not been shown by the Complainant to be a Retail Plaza or strip mall such that a higher capitalization rate would apply.

Heard on June 18, 2013.

Dated this 16th day of June, 2013, at the City of Edmonton, Alberta.


Lynn Patrick, Presiding Officer

Appearances:

Stephen Cook

Greg Jobagy

for the Complainant

Tracy Ryan

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.