

Edmonton Composite Assessment Review Board

**Citation: COLLIERS INTERNATIONAL REALTY ADVISORS INC v The City of
Edmonton, 2013 ECARB 00641**

Assessment Roll Number: 4827655
Municipal Address: 8004 118 Avenue 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 indicated that 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 property comprises a neighbourhood shopping centre known as Parkdale Square located fronting 118 Avenue in the north east quadrant of the city. The project contains 4 buildings with 23,648 sq ft of retail space that includes a bank as the anchor tenant, restaurants and commercial retail units of varying size. The property is zoned DC2 and the buildings were constructed in 1995 providing a site coverage ratio of 22%. The subject property is assessed on the income approach to value and the 2013 assessment of \$7,992,000 equates to a unit rate of \$337.96/ sq ft of building area.

Issue(s)

[4] Is the lease rate of \$26.00/ sq ft for the restaurants correct?

[5] Is the capitalization rate of 6.5% correct?

Legislation

[6] **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

[7] The Complainant filed this complaint on the basis that the assessment of the subject property was much higher than the market value. In particular, the Complainant stated the restaurant lease rates were high and the capitalization (cap) rate for the project was low. With respect to the restaurant rate, the Complainant provided actual lease information for two of the restaurant units in the subject shopping centre (Exhibit C-1, page 8). The leases commenced in March and September 2011; the net leasable areas were 1,246 sq ft and 1,115 sq ft and the rates were \$22.00/ sq ft and \$21.00/ sq ft respectively. These lease rates indicate that the requested rate of \$22.00/ sq ft is realistic and relatively current.

[8] The Complainant provided a graph of assessment cap rates to demonstrate that their requested rate of 7.00% is realistic and comparable to similar shopping centres (C-1, page 9). The two newer shopping centres had capitalization rates of 6.50% whereas the two that were closest to the subject in age had rates of 7.50%. The chart also indicated that a cap rate of 7.00% is realistic and equitable with the assessed cap rates used on other projects.

[9] A similar chart was also provided to demonstrate cap rates that were being achieved in the market place. The 5 property sale dates were relatively current, ranging from June 2011 to September 2011 and provided a cap rate range of 7.04% to 7.34% with an average of 7.14% which clearly supports a cap rate of 7.00%.

[10] In response to questions, the Complainant stated that the size of the project was not a factor that affected the cap rate as cap rate variations are due primarily to the risk associated with respective investments.

Position of the Respondent

[11] The primary contention of the Respondent was that the subject property is a Neighbourhood Shopping Centre anchored by a bank. The contention of the Respondent was that shopping centres comprise two principal categories for assessment purposes, namely General Retail and Retail Plazas that were assessed by one valuation group and Shopping Centres that were assessed by a second valuation group. The Shopping Centre Group was further subdivided into 6 sub categories, namely Super Regional Centres; Regional Centres; Community Centres; Neighbourhood Centres; Power Centres and Box Retail. The subject property was classified as a neighbourhood centre that was less than 250,000 sq ft and was typically anchored by a supermarket. Although the subject property did not have a supermarket as an anchor tenant, it had the benefit of a bank which, although a junior tenant, does constitute an anchor tenant and brings the subject into the definition of a shopping centre as opposed to a retail plaza. In addition the subject property has the benefit of a “shadow” anchor tenant, as there is a Safeway store adjoining the west side of the subject property and the car parks are contiguous. As such the subject property meets the definition of a shopping centre, the net effect of which is that the subject is categorized with other shopping centres that have an anchor tenant.

[12] The Respondent provided a copy of the assessment summary in support of which a graphical summary and scatter chart of rental rates for 148 restaurants to demonstrate that rental rates varied from \$13.00/ sq ft to \$42.00/ sq ft with a median of \$26.58/ sq ft and a mean of \$26.98/ sq ft (Exhibit R-1, pages 26/27). The rental rates were further broken down into two age groups. In the second graph there were 19 restaurants newer than 2003 with lease rate ranging from \$17/ sq ft to \$42.00/ sq ft and producing a median of \$30.00/ sq ft and a mean of \$30.04/ sq ft. The third graph related to 129 restaurants older than 2002 where the lease rates ranged from \$13.00/ sq ft to \$42.00/ sq ft with a median of \$26.00/ sq ft and a mean of \$26.52/ sq ft.

[13] The Respondent provided a “fairness and equity map” (R-1, page 28) to demonstrate that all properties in the Shopping Centre Group were assessed with a cap rate of 6.5%. A “fairness and equity chart” was also supplied (R-1, page 29) with 6 retail stores in the general area of the subject property. They ranged in age from 1989 to 2005 and the assessed cap rates were all 6.5%. The Complainant’s 4 comparables were also included on the same chart. As the subject property meets the definition of a shopping centre, the 6.5% cap rate applies.

[14] In support of the cap rate of 6.5%, the Respondent also provided a chart of cap rates resulting from 14 sales of shopping centres and retail units in various locations throughout the city. The sales were transacted between August 2010 and April 2012 were time adjusted to valuation day and produced cap rates ranging from 4.65% to 7.92% with an average of 6.34% and a median of 6.32%.

[15] The Respondent also provided a reproduction (R-1, page 48) of the Complainant’s cap rate sales, from C-1, page 9, using stabilized rental rates rather than actual rental rates. This resulted in revised cap rates for the 5 sales that ranged from 3.30% to 7.51% with particular reference to the 7.5% cap rates arrived at by the Complainant that were now revised to 3.3% and 7.03%. It was noted that the sale producing a cap rate of 3.30% was in a different category of shopping centre, namely, Retail Plazas and this sale has a gas station and the literage factor affected the cap rate quite substantially.

Decision

[16] The decision of the Board is to confirm the 2013 assessment at \$7,992,000.

Reasons for the Decision

[17] With respect to the lease rate for the restaurant portions, the Board was not persuaded by the evidence of the Complainant as the two lease rates provided were actual rates from the subject property and were effective for 2011, a year earlier than valuation day. No evidence was provided as to whether they were new leases or lease renewals. Furthermore, they were unsupported by any lease information from the market place relative to valuation day. In addition, the Board finds that two transactions without additional support are not sufficiently convincing to shift the onus to the Respondent. With respect to the Respondent's rate of \$26.00/ sq ft, the Board placed little weight on the evidence supporting the \$26.00/ sq ft as it comprised summary information only.

[18] The Board concluded that the subject property is a Shopping Centre as distinct from a Retail Plaza due to the presence of the bank as an anchor tenant. The additional support provided by the "shadow" anchor reinforces this finding by the Board.

[19] With respect to the cap rate issue, the Board finds the Complainant had provided an insufficient number of both equity and sale comparables to support their contention the cap rate was incorrect. In reviewing the equity comparables the two sales closest in age to the subject property do provide support for the cap rate to be increased. However one of these sales is categorized as a Retail Plaza which is normally assessed with a cap rate of 7.5%. The other sale has only recently been reclassified in the Shopping Centre Group and the cap rate has not yet been updated to 6.5%. However the Board noted there was no information to substantiate that the rental rates had been stabilized and, none of the sales cap rates were time adjusted to the valuation date.

[20] In reviewing the Respondent's evidence, the Board finds the sheer weight of evidence supporting the assessment was convincing in spite of a movie theatre sale that appeared to belong to another group of properties. The Board also finds the income from these property sales was stabilized and the fact that all the sales had been time adjusted to valuation day was also more meaningful to the Board.

Heard on June 18, 2013.

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



Lynn Patrick, Presiding Officer

Appearances:

Stephen Cook
Greg Jogaby
for the Complainant

Tracy Ryan
Ken Eliuk
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.