

Edmonton Composite Assessment Review Board

**Citation: Colliers International Realty Advisors Inc. v The City of Edmonton, 2013
ECARB 00644**

Assessment Roll Number: 3179348
Municipal Address: 4211 106 Street 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
Larry Loven, Presiding Officer
Brian Hetherington, Board Member
Dale Doan, Board Member

Procedural Matters

[1] The parties indicated that they had no objections to the composition of the Board. In addition, the Board members did not indicate any bias with respect to this file.

Preliminary Matters

[2] At the outset of the hearing, both parties indicated they had no preliminary matters they wished to raise.

Background

[3] The subject property is located at 4211 106 Street, Edmonton, Alberta, constructed in 1987 and consists of five retail/office buildings totaling 93,349 square feet. One building, 25,000 square feet, occupied by Edmonton Public Library is exempt from all taxes.

Issues

[4] Is the assessment of \$22,664,000 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 submitted into evidence a document (C-1) consisting of 42 pages.

[8] The Complainant advised the percent change from the 2012 to the 2013 assessment was an increase of 15%, stating the reason for the increase was unknown, and proposed an assessment of \$21,045,500 as fair and equitable (C-1, p.3).

[9] The Complainant presented the original calculation of the subject property's assessment using a capitalization rate of 6.50% (C-1, p.6).

[10] The Complainant provided a table containing four equity comparables, two with a capitalization rate of 6.5 % and two at 7.5%. The Complainant also provided a table containing eight sales comparables with capitalization rates ranging from 7.03% to 8.88% with an average of 7.56% (C-1, p.7). The Complainant confirmed the four equity comparables had the same owner as the subject property and the sales comparables were not time adjusted (C-1, p.8).

[11] Based on the above, the Complainant requested a capitalization rate of 7%, giving a market value or requested assessed value of \$21,045,500 (C-1, p.8).

[12] In rebuttal to the Respondent's disclosure, the Complainant submitted into evidence a document (C-2) containing 59 pages. The Complainant provided a chart of the Respondent's twelve sales comparables showing the year of construction ranging from 1988 to 2008. The Complainant provided additional charts showing the average capitalization rates of the Respondent's four sales comparables constructed in 2000 or newer with an average of 5.71% and the eight 2000 and older sales comparables with an average of 6.67%. Lastly, the Complainant submitted a table containing the Respondent's eight sales comparables, constructed prior to 2000, averaging to 7.01%, excluding four sales identified as being a 'flip sale', a 'movie theatre' and a 'portfolio purchase'. The Complainant concluded that the requested capitalization rate of 7% is in line with the comparable sales as presented by the Respondent. The Board notes that of the detailed Commercial Investment Building Sales prepared by Network, five of the

Respondent's sales comparables included a comment referencing the presence of a 'shadow' anchor.

[13] The Complainant's rebuttal document (C-2, pp.5-16) contained photos illustrating the limited exposure of the subject property from Whitemud Drive, access to the subject property off 106 Street, versus the exposure of the Respondent's equity comparables to major arterial roadway ways such as Calgary Trail, Gateway Boulevard and 51st Avenue.

Position of the Respondent

[14] The Respondent submitted into evidence a submission (R-1) containing 169 pages.

[15] Photographs of the subject property and maps of its location were presented (C-1, pp.4-8), noting its exposure to Whitemud Drive and proximity to Southgate Shopping Centre. The Respondent confirmed access to the subject property is from 106th Street, with no direct access from Whitemud Drive.

[16] The Respondent provided a table containing the Complainant's eight sales comparables adjusting the 2013 assessment Net Operating Income ('NOI') to fee simple and showing the fee simple capitalization rate (not time adjusted). The fee simple capitalization rates ranged from 3.30% to 7.88%. The Respondent noted that the sales comparables located at 6655 178th Street and 6104 90th Avenue were also used by the Respondent (R-1, p.10).

[17] Regarding equity, the Respondent first listed the subject property with a comment "*Close to Southgate Shopping Centre.*" Second, the Respondent provided a table showing the Complainant's four comparables. Respecting the Complainant's two comparables with a capitalization rate of 7.50% the Respondent's comments stated, "*New account for a shopping centre because of a new addition. Was valued by retail last year and cap rate not updated. Valued by Retail Plaza valuation group*". The Respondent also provided a second table containing sixteen equity comparables, from the Power Centre category, all having capitalization rates of 6.5% (R-1, p.12).

[18] The Respondent provided the rent roll for the subject property noting the Edmonton Public Library as occupying 25, 000 square feet, Sun Life 7,480 plus 1,634 square feet, and Her Majesty the Queen (o/a Film Classification Services) 6,635 square feet, respectively (R-1, pp. 13-14). These three non retail operations accounted for 41.9% of the tenant space in Whitemud Crossing. The Respondent confirmed that the building occupied by the Edmonton Public Library is assessed at \$11 per square foot, approximately 50% of the rate for a retail use.

[19] The Respondent next provided a table containing fourteen sales comparables, noting "*2013 stabilized net operating income was consistently applied to the time adjusted sale price to derive the "fee simple" capitalization rates*" (R-1, p.15). The adjusted capitalization rates ranged from 4.96% to 8.04%, averaging to 6.20% with a median value of 6.18% (R-1, p.15).

[20] The Respondent included the Colliers International Canada *Cap Rate Report, Q4 2012, Investment*, noting the Retail rates for Edmonton ranging from 5.75% to 6.50 % for regional/power (centre), 6.25% to 6.75% for community (centre), and 6.25 to 7.00% for strip mall (R-1, p.34-35).

[21] The Respondent's submission, R-1, also included The Network Real Estate Intelligence, *2012 Market Overview*, highlighting a paragraph regarding capitalization rates as follows: 5.0% to 7.04% for major office and shopping centres; 5.0% for a half interest in the Southgate Shopping Centre; below 6% for office and shopping centres; and, 6.75% to 7.0% reflective of older small to mid-scale assets (R-1, pp.37-49).

[22] The Respondent provided Retail Valuation Group Definitions, noting the definition for Plaza as "...typically commercial developments with no identifiable major anchor tenants. ...may however contain a junior anchor tenant..." (R-1, p.50).

[23] The Respondent provided MGB Order 045/09, citing under Findings, *"The capitalization rate must be derived in a manner that is consistent with the NOI to which it is applied."* (R-1, p.69).

[24] Citing MGB Order 145/07, the Respondent referenced under findings regarding capitalization rate, *"CAP rates ...should be developed using typical NOI inputs if they are going to be applied to subject properties whose NOI was developed with typical NOI inputs."* (C-1, p.107).

[25] The Respondent further cited MGB Order DL057/10, and referenced under Reasons *"... the need to make appropriate adjustments to ensure consistency of concepts and timing when developing cap rates and applying them to the subject's estimated income."* (C-1, p.131).

[26] The Respondent included the City of Edmonton *2013 Shopping Centre Mass Appraisal Brief*, in which shopping centre categories are defined. The Board heard that the subject property was defined as a Neighbourhood Centre typically anchored by a supermarket and may include pad sites or small free standing buildings. The Gross Leasable Area was given as less than 250,000 square feet. The Board also heard that Neighbourhood Centres, Power Centres and Box Retail were all assessed at a capitalization rate of 6.5% and that some adjustment to the capitalization rate was given to properties with site specific factors such as access, exposure and age. The Board also heard that the subject property was influenced by a "shadow" tenant, namely the Rona (formerly Revy) located adjacent, across a public roadway, immediately east of the subject property.

[27] The Respondent submitted *2013 ECARB 0066* into evidence (R-2) containing 16 pages, noting para. 42 under Reasons for the Decision, *"The Board was not persuaded by the Complainant's capitalization rate analysis. The Complainant's comparables were generally not shopping centres and belonged to a different assessment group."*

Decision

[28] It is the decision of the Board to reduce the 2013 Assessment from \$22,664,000 to \$21,045,500.

Reasons for the Decision

[29] No agreement or evidence was given with respect to the determination of the NOI for the subject property, including such factors as space type, net leasable area, net rent, vacancy, structural and vacancy shortfall. Neither was argument nor evidence given respecting the classification of the subject property. The only issue argued was the capitalization rate.

[30] The Board understands, in part from the argument presented by the parties, that the capitalization rate is an indication of risk; that is, the higher risk the higher the capitalization rate. Furthermore, the consideration of risk includes such factors as age, location, exposure and accessibility.

[31] The Board heard the subject property was classified as a Neighborhood Centre with an assessed capitalization rate of 6.5%, the same rate as for Power Centres and Box Retail. The Respondent provided fourteen equity comparables in support of the assessed capitalization rate. The Board noted that all of these comparables were located with exposure to Calgary Trail or Gateway Boulevard with a majority being south of Whitemud Drive and assessed with a capitalization rate of 6.5%.

[32] The Board finds that a comparison of the assessed capitalization rates to the actual adjusted and unadjusted capitalization rates of the sales comparable of both parties gives little for the Board to rely upon in respect of the capitalization rates of the subject property.

[33] The Board considered the argument that the subject property is somehow positively influenced by the presence of a shadow tenant, namely the adjacent Rona to the east. The Rona occupies most of the width of its site and only the back-side of the building is exposed to the subject property. The Board finds the resulting exposure and potential benefit in relation to the proximity to the Rona store and Calgary Trail/Gateway Boulevard to be limited, if any at all. Similarly, the Board finds little potential benefit to the location of the subject property with respect to its claimed proximity to the Southgate Shopping Centre and its limited exposure to Whitemud Drive.

[34] The Respondent's review of the two comparables used by both parties, located at 6655 Kingsway and 6104 – 90 Ave, having a time adjusted capitalization rate of 6.32% and 7.42% respectively (based on 2013 Assessed or fee simple NOI), versus a non-time adjusted fee simple capitalization rate of 6.66% and 7.51% respectively, form the basis for the Board to place some reliance on the fee simple (not time adjusted) capitalization rates determined by the Respondent using the Complainant's sales comparables.

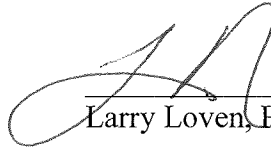
[35] In conclusion, given its consideration of the argument and evidence presented, the Board finds that the 7% capitalization rate requested by the Complainant is reflective of the site specific conditions of the property with respect to: the lack of presence of a major or minor anchor (considering the limited or non-existent benefit attributable to the back-side orientation of the Rona and its location across a public roadway), that approximately 40% occupancy is non-retail tenants such as the Edmonton Public Library, Her Majesty the Queen o/a Film Classification Services and potentially Sun Life; and finally, comparatively limited access from, and exposure to, major arterial roadways such as Whitemud Drive, Calgary Trail, and Gateway Boulevard.

Dissenting Opinion

[36] There was no dissenting opinion.

Heard commencing July 15, 2013.

Dated this 1st day of August 2013, at the City of Edmonton, Alberta.


Larry Loven, Presiding Officer

Appearances:

Stephen Cook
for the Complainant

Cam Ashmore
Frank Wong
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.