

Edmonton Composite Assessment Review Board

**Citation: Colliers International Realty Advisors Inc. v The City of Edmonton, 2013
ECARB 00645**

Assessment Roll Number: 9941119
Municipal Address: 3841 34 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 objection to the composition of the Board. In addition, the Board members indicated that they had no bias on this file.

[2] The parties requested the evidence and argument presented in this file be carried forward to roll #9996863, where applicable.

Preliminary Matters

[3] There were no preliminary issues on the file.

Background

[4] The subject property is a free-standing 3,550 square feet McDonald's restaurant located at 3841 34 Street in the Meadowbrook area of south-east Edmonton. It is located within the Meadowbrook shopping centre development, which contains a Husky gas station to the north, a Shoppers Drug Mart to the northeast, a Sobeys grocery store to the east and a former video store to the south. The effective year built is 2006.

Issues

[5] Is the assessment of \$1,555,500 correct?

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

Legislation

[7] **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

[8] The Complainant submitted into evidence a 34 page brief (C-1) outlining the basis of the complaint and request for a capitalization rate of 7%.

[9] The Complainant informed the Board that the City’s 2013 assessment of the subject property showed a 19.2% increase from the prior year’s assessment of \$1,305,000 and requested an assessment of \$1,444,500, based on a 7% capitalization rate.

[10] The Complainant presented two tables, one containing four McDonald’s equity comparables located in south Edmonton and the second containing three McDonald’s equity comparables located in north Edmonton, highlighting the following: the year of construction ranging from 2000 to 2004 for the south and 2002 to 2011 for the north versus 2006 for the subject property; net leasable areas ranging from 2,652 square feet to 5,763 square feet versus 3,550 square feet for the subject property; assessed rental rates of \$30.00 per square foot for all of the equity comparables, as well as the subject property; and, assessed capitalization rates of 7.00% for three of the south comparables, and 7.50% for one of the south and all three of the north comparables versus 6.50% for the subject property (C-1, p. 6). Based on the equity comparables given, the Complainant requested a capitalization rate of 7.00%.

[11] The Complainant included the City of Edmonton Assessment Detail Reports for all seven of the equity comparables. The Board noted that the capitalization rate given on page one of each Assessment Detail Report was consistently 1% higher than the overall capitalization rate used to calculate each property assessment. The Complainant was unable to explain the variance, nor was any explanation offered by the Respondent.

[12] The Complainant referred to a map of southeast Edmonton (C-1, p. 7), which highlighted the locations of the subject property and the four south Edmonton equity comparables. The Complainant stated that the comparables were all located on busier roads than the subject property and all were assessed at a higher capitalization rate than the subject property (C-1, p. 7).

[13] Using the Income Approach with the requested capitalization rate of 7.0%, the Complainant determined the market value of the subject property to be \$1,444,875 and requested a new assessment of \$1,444,500.

[14] In rebuttal, the Complainant submitted a document (C-2) containing 13 pages showing birds-eye view aerial photographs and the 2013 Assessments of the Respondent's five equity comparables, as well as an aerial photo of the subject property. The Complainant highlighted that all were stand alone buildings located within neighbourhood shopping centres. However, only the Tim Hortons in the Mill Woods Town Centre at 5204 23 Avenue, was shown to be assessed as a separate property whereas the other four had been assessed as part of the neighbourhood shopping centre in which they were located.

Position of the Respondent

[15] To support their position that the 2013 Assessment of the subject property is correct, the Respondent presented a fifty-three page brief (R-1) containing, pictures, aerial photographs and maps, proformas, complaint issues, cap rate study, and shopping mass appraisal, retail and law briefs.

[16] Using a map and aerial photograph showing the location of the of the subject property (R-1, p.9), the Respondent argued that the subject property, while separately titled, operates as part of the surrounding neighbourhood shopping centre development, sharing access, parking and amenities with a Husky gas station, a Shoppers Drug Mart pharmacy and a Sobeys grocery store.

[17] The Respondent provided the Board with the Neighbourhood Shopping Centre Valuation for the 2013 Assessment of the subject property showing market value of \$1,555,500, derived using a capitalization rate of 6.5% (R-1, p. 11).

[18] The Respondent drew the Board's attention to a building permit (R-1, p. 12), which had been issued by the City for a \$1,000,000 major renovation of the subject property, pointing out that the total assessment after the renovations was for only a little more than 50% of the renovation cost. The Respondent added that, while the original building dated from 1996, the new effective date of the subject property is 2006 (R-1, p. 13).

[19] The Respondent directed the Board to definitions of Community Centre and Box Retail under Shopping Centre Categories (R-1, pp. 34-35) contained in its *2013 Shopping Centre Valuation Guide*, as well as definition of Plaza (R-1, p. 39) contained in its *Commercial Retail Property 2013 Assessment Brief*.

[20] As justification for the 6.5% capitalization rate applied to the subject property, the Respondent presented the Board with a chart, entitled *Capitalization Equity Comparison*, containing the assessment capitalization rate used for six fast food operators located in or on southside Edmonton shopping centres (R-1, p. 14). All six, which included two Tim Hortons; a Harvey's; an Arby's & Burger King; a McDonald's; and a Panda & Tokyo Express, were assessed at a capitalization rate of 6.5%.

[21] The Respondent also provided the Board with Edmonton Composite Review Board decisions, 2013 ECARB 00639 (R-2) and 00640 (R-3) both containing 5 pages each. First, the Respondent directed the Board to: R-2 at para. 3, describing the subject restaurant as part of Belmont Town Centre; para. 12, supports the Respondent's 6.5% capitalization rate applied to

shopping centres; and, para. 16, the finding that the 6.50% capitalization rate was correct. Second, the Respondent directed the Board to R-3 at para. 18, regarding the finding that a blanket capitalization rate of 6.5% applied to shopping centres was applied equitably and fairly; and, para. 19, the finding that regardless of the classification as a Power Centre or a Neighbourhood Shopping Centre, both are assessed at the same capitalization rate.

[22] In summation, the Respondent argued that as the subject property is located within a neighborhood shopping centre, it is correctly and equitably assessed using a capitalization rate of 6.5%. The Respondent requested the Board to confirm the 2013 assessment of \$1,555,500.

Decision

[23] The assessment of the subject property is confirmed at \$1,555,500

Reasons for the Decision

[24] No sales comparables were provided by either party.

[25] No evidence or argument was given by either party with respect to factors such as, area, market rent, structural allowance, or vacancy shortfall used to determine net operating income.

[26] The Respondent's five equity comparables, all assessed using a 6.5% capitalization rate, were assessed as a part of a neighbourhood shopping centre development. The Board notes one of the 2013 assessments for the Respondent's equity comparables appears to be separately titled; whereas, the Complainant's equity comparables were all (with the sole exception of the one located at 10520 111th Avenue) assessed as standalone properties, not part of a retail plaza nor a neighbourhood shopping centre.

[27] The Board finds, based in part on the photographs and maps provided, the subject property, notwithstanding it is separately titled, appears to be a part of the surrounding neighbourhood shopping centre development in terms of shared access, parking, amenities and presence of an anchor, such as a food or drug store. Similarly, all of the Respondent's equity comparables appear to be part of the surrounding neighbourhood shopping centre development; whereas, only one of the Complainant's equity comparables seemed to part of a neighbourhood shopping centre development.

[28] No argument or evidence was presented that the shopping centre development surrounding the subject property was negatively influenced with such factors as restricted access, inferior location or contamination.

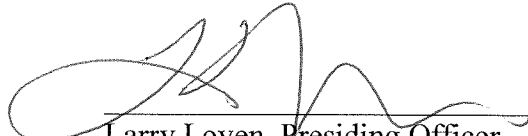
[29] Based on the above reasons, the Board finds the subject property to be fairly and equitably assessed using a capitalization rate of 6.50% that is consistent with the assessed rate typically applied to neighbourhood shopping centres.

Dissenting Opinion

[30] There was no dissenting opinion.

Heard commencing July 17, 2013.

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


Larry Loven, Presiding Officer

Appearances:

Greg Jobagy
for the Complainant

John Ball
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.