

Edmonton Composite Assessment Review Board

Citation: AEC International v The City of Edmonton, 2013 ECARB 00750

Assessment Roll Number: 3044203

Municipal Address: 10040 102 Street NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

AEC International

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Petra Hagemann, Presiding Officer
John Braim, Board Member
Pam Gill, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties before the Board indicated no objection to the Board's composition. In addition, the Board Members indicated no bias with respect to this file.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject property built in 1978 is known as Central Car Park, located at 10040-102nd Street in the financial district of the City of Edmonton. It is located on a 15,000 square foot (sq ft) site with a CCA zoning designation. The improvement is a six level parking garage with a gross floor area of 114,584 sq ft featuring 419 parking stalls as well as 920 sq ft of main floor retail space. The subject is assessed based on the income approach in the amount of \$12,690,500.

Issue(s)

[4] Is the assessment of the subject 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 introduced his expert witness, Brian Gettel of Gettel Appraisals Ltd. outlining his qualifications and numerous years of experience as an appraiser. Mr. Gettel prepared a commentary with an opinion of value (C-1, pg 12-150), not an official appraisal in support of the 2013 appeal of the subject property.

[7] Mr. Gettel submitted his testimony as follows:

- a. The subject had originally been purchased in July 2008 as additional parking space for Scotia Place. However, due to the downturn in the market it was never used for its intended purpose and therefore has been competing with other parkade and surface parking lots. The subject is being operated jointly by Morguard and Impark.
- b. The subject has experienced high vacancy levels since 2009. This likely was attributed to the economic downturn, the opening of the EPCOR tower, LRT extension, and its lack of connection to a high-rise office tower (C-1, pg 22).
- c. The City’s income valuation model has made no specific allowance for vacancy for parkades. A typical expense ratio of 40% which incorporates 35% for expenses and 5% for losses due to vacancy and collection losses is applied across the board to free standing parkades.
- d. Ideally management of the subject would prefer to rent out the parking stalls on a monthly basis, however due to the high vacancy, Impark had been hired to lease out the stalls on a monthly, daily or hourly basis. No actual vacancy statistics had been collected; however actual revenue for the subject has fallen dramatically and this in itself is evidence of the chronic high vacancy (C-1, pg 23).

- e. The subject's assessment for the 920 sq ft of main floor retail space is not being challenged, however the lease rates for the parkade have been assessed in excess of its actual income.
- f. The 419 parking stalls in the subject are comprised as follows: 142 heated underground, 227 energized parkade, 50 un-energized rooftop stalls. The underground stalls have been assessed at \$280/month and the remaining stalls at \$200/month (C-1, pg 20). The actual posted rates for the subject are \$245/month for underground (12% lower than assessed), \$205/month for energized parkade (2.5% higher than assessed) and \$180/month (10% lower than assessed) for the un-energized rooftop parking stalls (C-1, pg 20 and pg 57).
- g. Comparable parking rates (C-1, pg 20-21) were presented for nine high-rise office buildings which ranged from \$275 to \$310 per month, three stand alone parkades which ranged from \$225 to \$275 per month and seven surface/rooftop parking facilities ranging from \$170 to \$225 per month.
- h. It is the opinion of the witness that the posted parking rates for the subject are in line with the market as evidenced by the comparables presented. According to these posted rates assuming full occupancy based on monthly rates, the total potential gross income (PGI) for the subject should be \$1,083,900 (C-1, pg 22). This is 5% below the PGI as per the 2013 assessment.
- i. When comparing the PGI to the actual income of the subject from 2009 to 2012 (C-1, pg 7) it is evident that the subject property has never achieve its potential income. The witness summarized the chronic vacancy (C-1, pg 23) as follows: 2009-31.55%, 2010-33.18%, 2011-24.48% and 2012-30.67% to mid year. These vacancy levels clearly exceed the 5% vacancy loss built into the 40% expense ratio applied to the assessment. In addition the 920 sq ft retail component has been vacant since 2008.
- j. It was further noted that actual expenses have considerably exceeded the 35% forecast by the City. In summary, when recalculating the net operating income (NOI) of the subject (C-1, pg 26), applying a 25% vacancy rate to the parking income, operating expenses of 55%, a 25% vacancy allowance for the retail space as well as a 2% structural and vacancy shortfall, considerably lower values were derived.
- k. By recalculating the assessment using the NOI of \$365,817 and applying the 5.5% capitalization rate used by the City, then adding the retail component with suggested changes, it produced a reduced value of \$6,788,000. It is the opinion of Mr. Gettel that the market value of the subject property is \$6,788,000.

[8] The Complainant informed the Board that the subject property had been purchased July 2008 for \$15,000,000 in conjunction with the acquisition of Scotia Towers I and II (C-1, pg 29) to provide additional parting for the two towers. The project was acquired as insurance to support Scotia Place and the purchaser substantially overpaid for the property. It was suggested the Board place little weight on this evidence.

[9] The Complainant requested the Board reduce the assessment of the subject from \$12,690,500 to \$6,788,000.

Position of the Respondent

[10] The Respondent questioned the witness if he was acting in the capacity of an appraiser for the subject property to which he replied that yes, he was an appraiser however was not presenting an appraisal but merely an opinion of value of the leased fee estate of the subject. The Respondent suggested that as per the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) (R-1, pg 80, section 9.4.2 and pg 116 section 12.49.1) an opinion of value is considered an appraisal. This opinion of value presented by the witness does not meet the appraisal standards as set out in CUSPAP and therefore the Board should place little weight on this evidence.

[11] The Respondent submitted a brief (R-1) in defense of the assessment of the subject property. This evidence included photos and aerial maps of the subject as well as detailed assessment calculations.

[12] In support of the market rent applied to the parking stalls in the subject, the Respondent provided a parking rate survey dated May 2012 of Edmonton downtown parkades (R-1, pg 19-27). The summary of the free standing parkade properties ranged from \$245/month to \$400/month with a median of \$280/month and an average of \$296/month. Therefore the City utilized \$280/month as the rate to apply to the assessments of all parkades in the downtown area.

[13] The Respondent further submitted a 2012 parking rate survey published by Colliers International (R-1, pg 29-33) which listed Edmonton as having monthly unreserved median parking rate of \$295.00 and reserved rates of \$285.00.

[14] The Respondent critiqued the Complainant's comparable parkade properties (R-1, pg 34). Only one property located at 10245-102 Street is a free standing parkade, all others are attached to either office or apartment buildings and are therefore not comparable to the subject. As for the comparables for the rooftop parking on the subject, six of the seven properties shown are paved surface parking lots. The property at 10041-102 Street across the street from the subject is the Royal Bank parkade.

[15] The Respondent provided their expense ratio analysis for parkades (R-1, pg 35) showing a median of 36.16% and an average of 36.48% which supports the 40% expense ratio applied in the assessment of the subject.

[16] The Respondent included a Downtown Capitalization Rate Analysis (R-1, pg 36-44) however as this issue was not contested by the Complainant, no discussion took place.

[17] The Respondent requested the Board confirm the 2013 assessment of the subject property.

Decision

[18] The decision of the Board is to reduce the 2013 assessment of the subject property from \$12,690,500 to \$10,087,000.

Reasons for the Decision

[19] In regards to the Respondent's challenge of the validity of Mr. Gettel's evidence, although not a full appraisal as per CUSPAP, the Board accepts the witness as having expertise in developing an opinion of value and has no reason to disbelieve the information presented within the report.

[20] After reviewing and evaluating all the evidence provided by the parties the Board found that the assessment of the subject may be excessive.

[21] In respect to the parking rates, the only rooftop parking comparable presented by the Complainant is the Royal Bank parkade across the street from the subject. The monthly rate is \$189 for Royal Bank tenants, no other information was made available and therefore this was not a good comparable. The only stand alone parkade provided by the Complainant is located at 10245-102 Street in the centre of the City with access to pedways. The Board finds that this parkade is much superior to the subject in location and its \$275/month rate is evidence that the subject's assessment at \$280/month is excessive and its actual rate of \$245/month may be more representative of a fair market rate.

[22] The Board examined the Respondent's Free Standing Parkade Rate Study (R-1, pg 19) which was derived from the Parking Survey (R-1, pg 20-27) and noted that only six parkades were used to derive the typical rate of \$280/month applied to the assessment of the subject. Although the subject was included in this study (being the lowest), no other properties south of Jasper Avenue especially the Hudson Bay, Club and Royal Bank parkades all in close proximity to the subject were included. It is the Board's opinion that the Respondent's parking survey is not a good representation of typical market rates for this area and therefore places little weight on this evidence.

[23] The Board finds that the subject's location several blocks from the heart of downtown is likely a contributing factor in preventing it from achieving typical rates. Another example of this is the Hudson Bay parkade, located only one block west of the subject. It has better access yet its rate is only \$220/month. The Board therefore finds that the actual rates of the subject are more representative of market than the typical rates applied in the assessment.

[24] The Board heard the witness explain that the subject has experienced chronic vacancy since 2009 (C-1, pg 23). Although vacancy is not being tracked, it is however evident in the low revenue achieved by the parkade. The Board understands that vacancy is not used in the valuation for parkades, however, the 40% expense ratio applied in the assessment includes a 5% vacancy allowance.

[25] The Board is of the opinion that the location of the subject parkade contributes to its high vacancy. Furthermore, the parkade not being open evenings and weekends, may be a contributing factor or a result of the high vacancy. Nevertheless, the Board finds that a 5% vacancy allowance is not sufficient to account for the high vacancy which is evidenced in the low gross revenue of the subject and therefore applies an additional 10% vacancy allowance.

[26] In respect to the issue regarding the high operating expense ratio of the subject, the Board recognizes that expenses have been high in comparison to the income generated by the subject, however is not certain whether the cause is due to low parking rates, high vacancy and or due to management decisions. The Board is therefore reluctant to adjust the expense ratio in addition to the parking rate and vacancy allowance. The Board is persuaded by the Respondent's expense

ratio analysis (R-1, pg 35) and accepts the 35% expense ratio as applied to the assessment of the subject.

[27] The Board considered the July 2008 sale of the subject and agrees with the witness that in light of the lower than expected revenue, the purchaser likely overpaid for the property. Little weight was given to this evidence to establish its market value.

[28] The Board reduces the assessment of the subject by calculating its Potential Gross Income based on the actual posted rental rates, then deducting an expense ratio of 50% (which includes a 15% vacancy allowance), then capitalizing this at 5.5% and adding the \$233,500 market value of the retail space. This results in a new value of \$10,087,000. The Board therefore reduces the 2013 assessment of the subject to \$10,087,000.

Dissenting Opinion

[29] There was no dissenting opinion.

Heard commencing November 12, 2013.

Dated this 28th day of November, 2013, at the City of Edmonton, Alberta.



Petra Hagemann, Presiding Officer

Appearances:

Brian Gettlel

Brock Ryan

for the Complainant

Cam Ashmore

Darren Davies

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.