

## **Edmonton Composite Assessment Review Board**

**Citation: CVG v The City of Edmonton, 2013 ECARB 00861**

**Assessment Roll Number:** 3069051  
**Municipal Address:** 10040 103 Street NW  
**Assessment Year:** 2013  
**Assessment Type:** Annual New

Between:

**CVG**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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**DECISION OF**  
**Shannon Boyer, Presiding Officer**  
**Jack Jones, Board Member**  
**Robert Kallir, Board Member**

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### **Procedural Matters**

[1] Upon questioning by the Presiding Officer, the parties had no objection to the Board's composition. As well, the Board Members had no bias with regard to this file.

[2] The witnesses were sworn under oath.

### **Preliminary Matters**

[3] There were no preliminary matters.

### **Background**

[4] Known as the Hudson Bay Parkade, the subject is an above ground parking structure situated on a corner lot at 100 Avenue and 103 Street. The subject was built in 1968 and is comprised of 562 aboveground stalls. There is no retail space. It is assessed using the income approach to valuation and it is classed as the Financial District. The park has a 2013 assessment of \$14,714,000 using cap rate of 5.5%.

### **Issue(s)**

[5] Is a 5.5% cap rate applied in the parking stall assessment appropriate, fair and equitable considering the large scale ongoing repairs to the subject?

## 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 289(1) Assessments for all property in a municipality, other than linear property, must be prepared by the assessor appointed by the municipality.

(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) the valuation and other standards set out in the regulations for that property.

s 293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,

(a) apply the valuation and other standards set out in the regulations, and

(b) follow the procedures set out in the regulations.

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.

[7] The *Matters Relating to Assessment and Taxation Regulation*, Alta Reg 220/2004 (MRAT) reads:

s 2 An assessment of property based on market value

(a) must be prepared using mass appraisal,

(b) must be an estimate of the value of the fee simple estate in the property, and

(c) must reflect typical market conditions for properties similar to that property.

S 3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

### **Position of the Complainant**

[8] In support of the appeal, the Complainant presented written evidence, rebuttal evidence and oral argument for the Board's review and consideration (C-1 and C-2).

[9] The Complainant accepts the Respondent's typical rental rate of \$200, calculation of typical potential gross income of \$1,348,800, and typical expense ratio of 40%.

[10] The Complainant argued that the cap rate of 5.5% applied to the parking stall income is too low. He pointed out that class AAA and AA financial district high rise buildings share the same cap rate as the subject (C-1).

[11] The Complainant said that parkade income, which is generated on an hourly and monthly basis, is more variable than income from long term leases that are typical of AAA and AA office buildings. Further, deterioration from exposure to the elements and excess water leads to more frequent and significant maintenance than other buildings with similar cap rates. Unlike, office buildings, the increased maintenance costs cannot be deferred to tenants.

[12] The Complaint informed the Board that the subject is under substantial surface repair that will cost \$3,577,234. The general ledger account was submitted to show the amount spent on this project to date: in 2011 the owner spent \$1,977,790; in 2012 it spent \$826,368; and thus far in 2013 it spent \$773,076 (C-1, p.16-18). The Complainant argued that a purchaser looking at this property in 2012 would need to spend \$1,599,444 to complete repairs and would, therefore, expect this amount to be deducted from the sale price. Accordingly, the Complainant submitted that one indication of value is to deduct \$1,599,444 from the full value arrived at by the Respondent (C-1, p.1).

[13] Under questioning, the Complainant agreed that there was no specific evidence regarding income variability. With respect to increased maintenance costs, he agreed that above ground parkades typically require repairs due to delaminating every 10-20 years and that resurfacing and restoration is a significant cost. The general ledger account only identified the cheque entry and there was no documentation produced regarding the details of the repair, completions dates and what work remains outstanding.

[14] The Complainant requested the 2013 parking stall assessment be revised to \$12,450,143 by utilizing a 6.5% cap rate. Alternatively, a 7% cap rate was requested which would result in an assessment of \$11,561,143.

[15] The Complainant presented a cap rate analysis and sales data in support of a request to increase the cap rate from 5.5% to 6.5% - 7% (C-1, p. 2 and p. 9-16). The Complainant presented seven sales of "AA", "AH" & "AL" properties which occurred between April, 2010 and February, 2012 with cap rates ranging from 5.85% to 7.58%. The average cap rate of the "AH" sales was 6.89% and the median was 6.98%. Based on this analysis and the substantial ongoing repairs, the Complainant suggested a 6.5% - 7% cap rate would be appropriate for the parking stall assessment.

[16] In rebuttal, the Complainant presented a sales comparison chart to illustrate the variance between the net operating income (NOI) and cap rates reported by the Network at the date of sale and the City derived NOI's and cap rates utilizing market rents (C-2, p. 2).

[17] In summary the Complainant requested the 2013 assessment of the subject property be reduced from \$14,714,000 to \$12,400,000 or for a lump reduction of \$1,599,444 representing the repair costs undertaken in 2012.

### **Position of the Respondent**

[18] In support of its assessment, the Respondent presented written evidence and oral argument for the Board's review and consideration (R-1).

[19] The Respondent produced a chart of all down town freestanding parkades illustrating that a common cap rate of 5.5% is applied to the group, without exception (R-1 p. 27). As a freestanding parkade within the down town area, the subject is also assigned a 5.5% cap rate.

[20] The Respondent produced a sales analysis sheet showing the most recent downtown above ground freestanding parkade sale establishing a cap rate of 4.65% (R-1 p. 30).

[21] The Respondent said that the 40% typical expense ratio that is applied to the parking stall income, accounts for the portion of income that a prudent owner would set aside for future repairs and maintenance (R-1, p. 16).

[22] The Respondent informed the Board that the City does have a policy to allow deductions for abnormal repair costs. This exemption requires the Owner to submit an engineering report identifying the abnormal deterioration, the necessary repairs, and the cost to repair. Typical repairs, such as delamination over a lifetime, do not qualify for the exemption.

[23] The Respondent stated that the assessment must be based on typical market conditions and prepared using typical market data in lieu of actual income (R-1 p.14). The Respondent explained that when actual rents and income are used to derive a cap rate, the cap rate is more reflective of a leased fee interest, not the legislated fee simple interest.

[24] The Respondent stated that the Complainant's method of assessment is based on the leased fee estate using contract rents. The Respondent reviewed the legislated requirement for mass appraisal (R-1, p. 61 and 62) and provided a number of past MGB and CARB decisions for reference concerning leased fee vs. fee simple sales.

[25] The Respondent critiqued the Complainant's cap rate analysis cautioning that third party sales reports cannot be relied upon because there is insufficient evidence as to the parameters used to calculate the cap rates.

[26] In summary the Respondent requested the 2013 assessment of the subject property be confirmed at \$ 14,714,000.

### **Decision**

[27] The Board confirms the 2013 assessment of the subject at \$14,714,000. The cap rate of 5.5% applied to both the parking stall and retail income is appropriate, fair, and equitable.

### **Reasons for the Decision**

[28] After review and consideration of the evidence and argument presented by both parties the Board finds that the 2013 assessment of the subject property at \$14,714,000 is appropriate.

[29] A lump reduction of \$1,599,444 is not warranted. The Complainant did not file for an exemption or submit an engineering report identifying abnormal deterioration. The delaminating and necessary resurfacing appears, on the evidence presented, to be a typical and expected routine repair over the course of the lifespan of the subject. There is no evidence that it suffers from abnormal deterioration. The Subject is already credited with a 40% typical expense ratio for the 2013 assessment year.

[30] The Board is not persuaded that the resurfacing repairs warrant an adjustment in the cap rate. The Board finds that the 5.5% cap rate applied in the parking stall assessment has been applied in an equitable manner when compared to similar downtown above ground parkades. All downtown above ground parkades such as the subject, share a 5.5% cap rate.

[31] The Complainant's cap rate study of high rise buildings (C-1, page 2) presented to support a 6.5% cap rate request compares the parkade with dissimilar office buildings and relies on third party data which may or may not be an accurate representation of the NOI utilized in conjunction with the sale price to determine the cap rate at the date of sale. The Respondent has utilized market rents, as required by legislation, along with time adjusted sales prices to derive an adjusted cap rate for the sales comparables which supports the assessed cap rate of 5.5%.

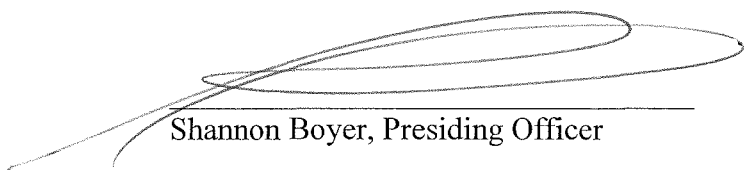
[32] The Board finds the 2013 assessment of the subject property at \$14,714,000 and 5.5% cap rates to be fair and equitable.

#### **Dissenting Opinion**

[33] There was no dissenting opinion.

Heard commencing August 26, 2013.

Dated this 11<sup>th</sup> day of September, 2013, at the City of Edmonton, Alberta.



Shannon Boyer, Presiding Officer

#### **Appearances:**

Tom Janzen, Canadian Valuation Group  
for the Complainant

Cam Ashmore, Law Branch- City of Edmonton  
James Cumming, Assessor, City of Edmonton  
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.*