

## **Edmonton Composite Assessment Review Board**

**Citation: CVG v The City of Edmonton, 2013 ECARB 00863**

**Assessment Roll Number:** 9981060  
**Municipal Address:** 10155 102 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 before the Board indicated no objection to the Board's composition. In addition, the Board Members indicated no bias with respect to this file.

[2] The parties presenting evidence at the hearing were sworn in.

### **Background**

[3] The subject property is located in downtown Edmonton and is known as Commerce Place. It consists of a high rise office tower along with a retail component. The property is assessed utilizing the income approach to valuation. The assessment district is classed as the financial district by the City of Edmonton and is stratified into the subclass of "AA" which for 2013 utilizes an office rent rate of \$21.00 per square foot, office vacancy rate of 7.5%, a CRU vacancy rate of 5.0%, a structural expense of 2%, an office vacancy shortfall of \$19.00 per square foot, a CRU vacancy shortfall of \$21.00 per square foot and a cap rate of 5.5%.

### **Issue(s)**

[4] Is the 2013 assessment of the subject property at \$268,183,000 fair and equitable?

[5] Is the 5.5% capitalization rate applied to the office and retail components for the 2013 assessment 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 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] The Complainant presented evidence (C-1 & C-2) and argument for the Board's review and consideration.

[9] The Complainant presented a cap rate analysis (C-1, page 3) in support of a request to increase the cap rate for the subject property from 5.5% to 6.5%. 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 "AA" sales was 6.51% and the median was 6.44%. Based on this analysis the Complainant suggested a 6.5% cap rate would be appropriate for the subject property.

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

[11] In summary the Complainant requested the 2013 assessment of the subject property be reduced from \$268,183,000 to \$226,924,000 by utilizing a 6.5% cap rate.

### **Position of the Respondent**

[12] The Respondent presented evidence (R-1) and argument for the Board's review and consideration.

[13] The Respondent outlined the valuation process for office buildings (R-1, pages 27, 71 & 72) and the various attributes considered in determining market value. The properties are initially classed as A, B or C and then further stratified into sub classes by rents and other attributes.

[14] The Respondent presented a critique of the Complainant's cap rate analysis indicating that third party sales reports cannot be relied upon as there is no definitive evidence as to the parameters used to calculate the cap rates. The Respondent advised that the assessment must be based on typical market conditions and prepared using typical market data in lieu of actual income. To illustrate this point, the Respondent presented a Cap Rate Analysis chart (R-1, page 18) with eight sales comparables (seven of which were in common with the Complainant (C-1, page 2)). This analysis utilized the time adjusted sales price of the sales comparables along with a market derived NOI to develop an adjusted cap rate for each property. The median for the "AA" properties was 5.37% whereas the 2013 assessed cap rate for the subject property is 5.5%.

[15] The Respondent also provided a number of past MGB and CARB decisions for reference concerning leased fee vs fee simple sales.

[16] In summary the Respondent requested the 2013 assessment of the subject property be confirmed at \$ 268,183,000.

### **Decision**

[17] The decision of the Board is to confirm the 2013 assessment of the subject property at \$268,183,000 as fair and equitable.

[18] The Board finds that a 5.5% capitalization rate application for the entire complex is correct for the 2013 assessment.

### **Reasons for the Decision**

[19] 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 \$268,183,000 is appropriate.

[20] The Board finds that the 5.5% cap rate applied to the subject property in the 2013 assessment has been applied in an equitable manner when compared to similar high rise office buildings of the same class and sub class. The Respondent has stratified the downtown high rise office buildings based on rents and other attributes as well as having equitably applied market rents, vacancy percentages, vacancy shortfall costs, structural expenses and cap rates to all similarly classed buildings. All "AA" sub class buildings such as the subject share a 5.5% cap rate.

[21] The Complainant's cap rate study (C-1, page 2) presented to support a 7% cap rate request 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-see MRAT (above)) 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%.

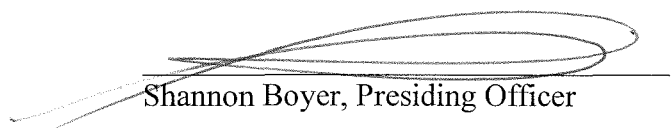
[22] The Board finds the 2013 assessment of the subject property at \$268,183,000 including the assessment cap rate component to be fair and equitable.

### **Dissenting Opinion**

[23] 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.*