

Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2013 ECARB 00906

Assessment Roll Number: 5213657
Municipal Address: 1150 HOOKE ROAD 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
Shannon Boyer, Presiding Officer
Pam Gill, Board Member
John Braim, Board Member

Procedural Matters

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

Preliminary Matters

- [2] Evidence, argument and submissions regarding the Respondent's Low Rise Brief were carried forward to this file from Roll #2709152, where relevant.

Background

- [3] The Subject is a 147 unit low rise apartment complex comprised of 12, three storey buildings. Located at 1150 Hooke Road NW, Edmonton, it was built in 1978 and is in average condition. There are 3 bachelor units, 48 one bedroom units, 78 two bedroom units and 18 three bedroom units. The 2013 assessment is \$15,126,000.

Issue(s)

- [4] What is the appropriate vacancy rate to be applied to the assessment?

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] In support of the appeal, the Respondent presented written evidence (Exhibit C-1) and oral argument for the Board’s review and consideration.

[7] The assessment for the Subject was prepared using the typical vacancy rate and the Complainant requested that the vacancy rate be increased to recognize chronic vacancy.

[8] The Complainant said that the Subject has suffered from chronic vacancy for a number of years and requested that the vacancy rate be increased to 10%, which would reduce the 2013 assessment to \$14,180,500.

[9] The Complainant produced a vacancy chart to show that the Subject has had an average vacancy rate of 10.96% over a 36 month period ending in June 2012 (Exhibit C-1 page 9). The Complainant also produced an occupancy history chart from January 2009 to April 2013 (Exhibit C-1 page 13).

[10] In support of its vacancy argument, the Complainant submitted the Fall 2012 Rental Market Report - Edmonton CMHC, containing three charts (Exhibit C-1 pages 14-19). The chart entitled Private Apartment Vacancy Rates, showed a vacancy rate for North East Zone 11 properties that are in excess of 100 units, in the amount of 4.8% for the year 2012 and 1.8% for the year 2013. The chart entitled Private Row (Townhouse) and Apartment Vacancy Rates, showed a vacancy rate for North East Zone 11 properties in excess of 100 units. The vacancy rate was 4.5% for 2012 and 1.9% for 2013.

[11] The Complainant said that the multi residential category is the only assessment category that does not make adjustments to vacancy rate for chronic vacancy. He argued that multi residential properties should be treated in the same manner as commercial and industrial properties, whereby a higher vacancy rate is applied where warranted.

[12] The Complainant further argued that an assessment does not represent market value if it does not consider vacancy because in an income generating property, chronic vacancy will affect its market value.

Position of the Respondent

- [13] In support of the assessment, the Respondent presented written evidence (Exhibit R-1) and oral argument for the Board's review and consideration.
- [14] The Respondent carried over evidence, argument and submissions regarding the Respondent's Low Rise Brief from #2709152. This essentially covered mass appraisal and valuation models and variables.
- [15] The Respondent said that it is legislated to determine market value based on mass appraisal using typical rents, typical vacancy rates and typical GIM.
- [16] The Respondent said that the assessment was prepared using a 4% vacancy rate, which is the typical vacancy rate for multi residential properties in market area 11. It was the rate applied to all other properties in the multi residential category in market area 11, including outliers.
- [17] The Respondent has a policy not to apply adjustments to the vacancy rate for properties in the multi residential category. Unlike properties in the commercial and industrial categories, multi residential properties have shorter leases, less predictable lease end dates, fluctuating rents, and significant turn over. The Respondent argued that leasing activity for multi residential properties is very different than for commercial properties.
- [18] The Respondent said that the policy to use typical vacancy rates is consistent with assessment standards and the principles of mass appraisal and referred to the authority, Appraisal of Real Estate in support (Exhibit R-1 page 23). The typical vacancy rate is determined each year for each market area based on market conditions and information collected from multi residential properties in the RFI process.
- [19] The Respondent said that this policy is applied to all multi residential properties in the City, including outliers.
- [20] The Respondent questioned the Complainant's use of a 10% actual vacancy rate and stated that mixing actual rates with typical rates is inconsistent methodology which should be avoided when calculating market value. The Respondent referred to its brief on Use of Appraisals in support (Exhibit R-1 page 46).
- [21] The Respondent provided an equity comparable chart with three properties of similar age, condition, location, suite mix and average suite size (Exhibit R-1 page 21). The Respondent pointed out that the 4% typical vacancy rate was applied to each of the comparables. The assessment per suite ranged from \$97,870 to \$107,110 with the Subject falling in the mid range at \$102,897.

Decision

[22] The Board confirms the application of a 4% vacancy rate and confirms the assessment of \$15,126,000.

Reasons for the Decision

[23] The Respondent has a policy to apply typical vacancy rate to properties within the multi residential category and the vacancy rate is not adjusted for chronic vacancy. For commercial and industrial properties only, chronic vacancy will be recognized if chronic vacancy persists for a period of three years, including the assessment year.

[24] While the Board is not bound by this policy, the Board understands that the Respondent is legislated to determine market value based on mass appraisal. The Board is persuaded that the Respondent's multi residential vacancy policy is grounded in sound assessment theory and technique. The Board agrees that the policy is correctly applied to the Subject's 2013 assessment.

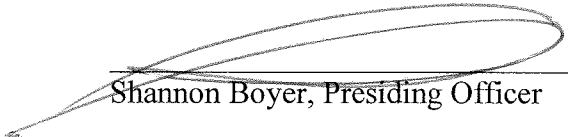
[25] Notwithstanding the Respondent's policy and the historical data on the Subject's vacancy rates, the Complainant has not established that the Subject experienced chronic vacancy in the 2013 assessment year.

[26] Every assessment year is independent of the previous year. Upon examination of the Subject's vacancy rates during the 2013 assessment year, it appears that the Subject's chronic vacancy is a thing of the past. From January 2012 to December 2012, the Subject's average actual vacancy was 4.8%. The monthly vacancy rate on the condition date was 4.1% (Exhibit C-1 page 13).

[27] The Board is satisfied that the assessment is equitable on the basis that the typical vacancy rate was applied to all multi residential properties in market area 11, without exception.

Heard commencing July 25, 2013.

Dated this 15th day of August, 2013, at the City of Edmonton, Alberta.



Shannon Boyer, Presiding Officer

Appearances:

Stephen Cook, Colliers International
for the Complainant

Colleen Kutcher, Assessor, City of Edmonton
Tanya Smith, City of Edmonton Law Branch
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.