

Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2013 ECARB 00980

Assessment Roll Number: 3009958

Municipal Address: 10245 102 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

Robert Mowbrey, Presiding Officer

Brian Frost, Board Member

Taras Luciw, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties indicated they had no objection to the composition of the Board. The members of the Board stated they did not have any bias in respect of this matter.

[2] The parties presenting evidence in the hearing were either sworn in or affirmed, the choice being up to the individual.

Preliminary Matters

[3] There were no preliminary matters.

Background

[4] The subject property is a free standing parking structure comprising 156 underground parking stalls on two levels and 461 above ground parking stalls on seven levels. It is located at 10245 – 102 Street NW. The structure was originally built in 1975. It was purchased together with the adjacent office building in December 2010 however the price of each of the two properties has not been segregated. They are assessed separately. The 2013 assessment for the parking structure is \$17,787,500.

Issue

[5] What is the appropriate capitalization rate for the subject property?

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 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

[7] The Complainant filed this complaint on the basis that the subject property assessment of \$17,787,500 was inequitable and in excess of market value. In support of this position, the Complainant submitted an evidence package containing 32 pages to the Board (Exhibit C-1) and Rebuttal, containing 30 pages (Exhibit C-2).

[8] The Complainant stated that the issue being addressed is that the capitalization rate (cap rate) is too low when compared to the cap rate from a sale of a parkade and noted that there has been a significant lack of parkade transactions.

[9] The Complainant stated there have been no recent sales of parking structures. The only transaction the Complainant was able to identify occurred in April 2007, wherein a largely underground structure sold to a 7.85% cap rate, or \$9,777 per stall (Exhibit C-1, page 6). Given the age of the sale, the Complainant stated the sale should have very little weight on the 2013 assessment of the subject property.

[10] The Complainant detailed six downtown office building sales comparables (Exhibit C-1, page 7) which sold between January 1, 2009 and December 2011 whose cap rate ranged from 5.85% to 7.58% and averaged 6.86% as compared to the subject property which was assessed using a cap rate of 5.50%.

[11] The Complainant cited the cap rates used in the assessment of seven downtown office building in 2012 and 2013 and noted that the cap rates as used by the City in the office building assessments decreased 0.50%. The cap rate used in the assessment of the subject property decreased 1.00% over that same one year period. Given the 2012 assessment of the subject

property utilized a 5.50% cap rate, the Complainant suggested that a 6.00% cap rate for the 2013 assessment would be appropriate.

[12] The Complainant noted that the condition of subject property was less in line with the condition of a Class A office building and more in line with the condition of a Class B office building. Because the typical cap rate for class B office buildings is 7.00%, the Complainant concluded that the cap rate for the subject parking structure should be 6.50%.

[13] As additional evidence, the Complainant included eight sales comparables (Exhibit C-1, page 11) utilized by the Respondent which sold between November 2010 and February 2012 whose ASR averaged 0.96% which the Complainant described as not equitable.

[14] Based on application of a 6.50% cap rate to the City's income data the Complainant requested that the Board reduce the 2013 assessment of the subject property to \$15,051,000.

Rebuttal of the Complainant

[15] The Complainant submitted evidence in rebuttal to the Respondent's submission (Exhibit C-2, 30 pages) to demonstrate that the submission presented by the Respondent does not support a decision to confirm the current assessment.

[16] The Complainant again detailed the seven sales comparables from Exhibit C-2, page 5, and included a corrected 2013 assessment for the HSBC Building. The original assessment, \$87,012,500, was reduced to \$83,735,500 as per agreement between the City of Edmonton and the Complainant. This lowered the ASR for the HSBC Building from 1.04 to 1.00. The overall average ASR of all properties decreased from 0.96 to 0.95. Again, The Bell Tower was not used in the ASR averaging.

[17] The Complainant stated all comparable sales were superior to the subject property in classification and that all but one was in the financial district. The Complainant stated that the average ASR was 0.95 which was not equitable.

Position of the Respondent

[18] In defending the current years assessment, the Respondent submitted a 138 page brief (Exhibit R-1) and a 22 page sur-rebuttal (Exhibit R-2) in support of the argument that the 2013 assessment is fair and equitable.

[19] The Respondent presented a synopsis of the Downtown Valuation Guide, (Exhibit R-1, pages 106 – 125), specifically referring to page 109, Mass Appraisal; page 113, Downtown Office Districts (which include parking structures); page 121 & 122, Capitalization Rate; and page 126, Summary.

[20] The Respondent noted that under Mass Appraisal properties are stratified into groups of comparable properties, common property attributes are identified for the property in each group and a uniform valuation model is calibrated for each group using market information incorporating the property attributes. Parking Structures fall within the downtown office inventory.

[21] As to Downtown Office Districts, the Respondent noted that there are properties classified as downtown properties even though they are physically located outside the boundaries of the government and financial districts.

[22] The Respondent, in reference to Capitalization Rate, noted that it is the rate that reflects the relationship between single years's anticipated net operating income and the total price or value. A track record of high occupancy, market level lease rates, ability to attract/retain tenants and level of maintenance and most important, low investment risk, all contribute to a property achieving a low cap rate.

[23] In summary, the Respondent stated downtown office properties are assessed using the Income Approach to value, the resulting assessments were tested and that they meet Provincial Quality Standards under MRAT AR220/2004. Further, the Respondent stated the assessment models, the process utilized and the results are submitted to the Assessment Services Branch of Municipal Affairs for audit and that the City of Edmonton has met all governing legislation including regulations and quality standards.

[24] The Respondent stated that office properties (including parking structures) are stratified into sub classifications (Exhibit R-1, page 153) which in themselves are supplied with typical rent, vacancy, operating costs and cap rates. They are determined annually, using data obtained from returned Requests for Information, (RFI) as supplied by building owners and/or managers. The subject property is classified as AA and the typical cap rate for AA is 5.50%. A table of Downtown valuation rates including cap rates for AH, AL and BH class office buildings was provided (Exhibit R-1, page 35 - 37).

[25] The Respondent provided sales information for Central Cap Park which occurred in July 2008, reflecting a cap rate of 4.65% on a fee simple basis (Exhibit R-1, page 38). This was deemed a valid sale. Notwithstanding the indicated 4.85% cap rate for a downtown parking structure the Respondent stated that a 5.50% cap rate was used as it was deemed inappropriate to apply a cap rate less than that used for AA class office buildings.

[26] The Respondent stated the Complainant's sole parking structure sale was not arms length and provided evidence to that effect (Exhibit R-1, page 39).

[27] The Respondent expanded on the cap rate argument with charts summarizing the Complainant's Cap rate analysis, (Exhibit R-1, page 32), the Respondent's own Downtown Cap Rate Analysis (Exhibit R-1, page 33), Downtown 2013 Valuation Rates (Exhibit R-1, page 43, and Downtown AA class Office Buildings (Exhibit R-1, page 45).

[28] The Respondent restructured the Complainant's Cap Rate Comparables to account for adjusted sale price, (for lease adjustment etc.) and adjusted Net Operating Income (NOI), (to reflect typical lease rates). The six comparable sales reflected cap rates of from 5.08% to 6.02%. The six comparable sales averaged 5.59% and reflected a median of 5.63%

[29] The Respondent's Downtown Cap Rate analysis documented three sales of three AA office buildings in the financial district and five AL and AH buildings in the government district. The range was 4.13% to 5.63% and 5.62% to 7.43% respectively and the medians were 5.37% and 6.02%.

[30] To demonstrate equity, the Respondent, with its Downtown Valuation rates and Freestanding Parkade 2013 Assessments charts, showed that a 5.50% cap rate was used for all downtown parking structure assessments.

[31] In response to the Complainant's argument regarding ASR, the Respondent stated that for an ASR analysis to be meaningful, the ASR must be calculated for each property in the analysis, not just a chosen few. The Respondent added that just because an average ASR of several sales is not 1.00, it doesn't mean the assessments are incorrect or inequitable, it just means the assessments do not precisely match the sale prices.

[32] The Respondent added that ASR is used by the Government of Alberta to measure the quality standards for the statistical testing of assessments, and that the City of Edmonton has met those standards.

The Respondent stated the Complainant had not provided sufficient evidence to justify a change to the cap rate for the subject property and the Complainant had not met the onus of the burden of proof. The Respondent requested that the Board confirm the 2013 assessment of \$17,587,500.

Decision

[33] The decision of the Board is to confirm the 2013 assessment of \$17,787,500.

Reasons for the Decision

[34] The Complainant utilized third party documentation to support the initial argument on the capitalization rate used in the assessment being increased from 5.50% to 6.00%. The Board accepts the Respondent's argument that third party documentation is difficult to evaluate as it is unclear what parameters were used in establishing the cap rates and in particular that the third party documents are reflective of leased fee and not fee simple as is required in mass appraisal.

[35] The Board is not persuaded by the Complainant's secondary argument regarding a 6.50% capitalization rate for the subject property as opposed to the assessed 5.50% capitalization rate. The Complainant provided no evidence to the effect that the subject property should be assessed using a cap rate that would be used in the assessment of a class BH office building.

[36] The Board considered the Respondent's analysis of the Complainant's cap rates. Both the average adjusted cap rate of 5.59% and the median adjusted cap rate of 5.63% support the assessment cap rate of 5.50%. The Board was further persuaded by the Respondent's AA class cap rates average of 5.37 that the Respondent is correct in use of a 5.50% cap rate for the subject property assessment.

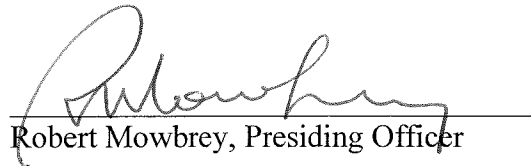
[37] The Board weighed the evidence regarding the ASR and found that it was not appropriate given ASR was not identified as an issue in this hearing. Furthermore, there was no sales information on the subject property to allow the Board to determine the correctness of the ASR.

Dissenting Opinion

[38] There was no dissenting opinion.

Heard commencing September 24, 2013.

Dated this 4th day of October, 2013, at the City of Edmonton, Alberta.



Robert Mowbrey, Presiding Officer

Appearances:

Stephen Cook
for the Complainant

Amy Cheuk, Legal Counsel
Vasily Kim, Assessor
Cameron Ashmore, Legal Counsel
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.