

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 00995

Assessment Roll Number: 10095501
Municipal Address: 11220 109 STREET NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Robert Mowbrey, Presiding Officer
Brian Frost, Board Member
Taras Luciwi, 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.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject property is a three storey office building located at 11220 - 109th Street NW in the 118 Ave District. It is known as the AMA Building. The office building was constructed in 2008 and has 76,388 square feet of office space. It is a class AA building with a 1,433 sq ft storage building on the site as well as a 298 stall two levels above ground parking structure. The 2013 assessment is \$24,685,000.

Issue(s)

[4] A. Should the parking structure be included in the assessment of the subject property?

[5] B. 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 \$24,685,000 was inequitable and in excess of market value. In support of this position, the Complainant submitted an evidence package containing 16 pages to the Board (Exhibit C-1) and Rebuttal, containing 17 pages (Exhibit C-2).

[8] The Complainant stated that the issues being addressed are as follows:

a) The parking structure is fully open to the elements. It should be treated as surface parking because it offers no advantage over surface parking and there is no income attributable to it.

b) The capitalization rate (cap rate) is too low when compared to cap rates from sales of recent properties.

On the issue of the assessment of the parking structure:

[9] The Complainant stated that the parking structure contains 149 stalls on each of two levels as well as 57 surface parking stalls. The upper floor of the parking structure is open, not unlike all surface parking and is reserved for staff, as are 17 of the surface stalls. The main floor of the parking structure is open on all sides and is available for members and visitors at no charge, as are 40 of the surface stalls.

[10] The Complainant provided photographs of the parking structure (Exhibit C-1, page 7). The Complainant stated that were it not for the elevation change, the second floor parking would not be discernable from typical on grade parking. The Complainant added that the parking level over the main floor served as the only protection from the elements for the main floor parking as it is fully open from floor to ceiling on all sides.

[11] The Complainant stated that other properties with similar such parking are not assessed for parking unless the parking is enclosed and/or underground heated parking. The Kingsway Garden Mall, adjacent (east) to the subject property was cited as an example of covered parking that was not included in the assessment.

[12] The Complainant stated that there should be no income applied to the parking structure and noted that had the income not been charged to the parking, the assessment would have reduced from \$24,685,000 to \$22,629,000.

On the issue of the cap rate being too low when compared to cap rates from sales of recent properties:

[13] The Complainant detailed eight sale comparables (Exhibit C-1, page 2) which sold between January 1, 2010 and July 1, 2012. The cap rate ranged from 6.93% to 8.61% as compared to 6.75% as used in the assessment of the subject property. The Complainant added that of the three best comparables, (Numbers 1, 2 & 6), 1 and 6 were similar in age and 2 was a 2008 renovation. Sale 4, while showing the lowest indicated cap rate, was influenced by very secure medical and government leases.

[14] Based on sales 1, 2 & 6, with cap rates of 7.30%, 7.90% and 8.38 %, with support from the remaining 5 sale comparables, the Complainant suggested that a 7.50% cap rate would be appropriate in determining the assessment for the subject property.

[15] In rebuttal, the Complainant provided a summary of 15 sales. The cap rates as determined by the Network were compared with the cap rates determined by the City in its analysis of the same sales. The Complainant stated that Network data is a reflection of how the market perceives value whereas the City data is a reflection of how the City perceives value. The Complainant concluded in saying that the City data is not a true reflection of market value.

[16] On the basis of elimination of parking income and a 7.50% cap rate, the Complainant requested that the Board reduce the assessment of the subject property from \$24,685,000 to \$20,366,000.

Position of the Respondent

[17] In defending the current years assessment, the Respondent submitted a 105 page brief (Exhibit R-1) in support of the argument that the 2013 assessment is fair and equitable.

[18] The Respondent noted that there had been an error in calculation of the number of parking stalls that should be assigned income in the assessment, explaining that the surface parking had been included in the original assessment calculation. Removal of the parking income attributed to the surface parking stalls reduced the assessment from \$24,685,000 to \$24,349,000.

[19] The Respondent asked that the Board confirm the amended assessment of \$24,349,000.

On the issue of the assessment of the parking structure:

[20] The Respondent referred to MGA s. 284(1)(r) and the definition of a property meaning, as it relates to this issue, "a parcel of land and the improvements to it". The Respondent stated

the parking structure is an improvement and that it must be assessed. The Respondent added that the parking structure contributes to the overall market value of the property and that its value would be recognized by a purchaser.

[21] The Respondent added that the parking structure is not valued based on the cost approach, where a value of about \$6,200,000 would be reflected. It is based on the income approach, where typical market rent must be applied and capitalized to determine the benefit of the parking structure to the overall value. The Respondent stated that the parking structure contributes \$2,208,888 to the value of the subject property.

[22] In response to a question from the Board, the Respondent estimated that the subject office building would be required under City bylaws to have about 280 parking stalls and that the site based on site coverage norms was likely of sufficient size to accommodate this requirement without the parking structure.

[23] The Respondent stated that Kingsway Garden Mall, as a shopping centre, is assessed in a different manner than the subject property. While being unable to confirm that parking was not assessed in the shopping center assessments, the Respondent suggested it was a moot point given the different assessment method for each property type.

[24] The Respondent provided an aerial photograph of an equity comparable with an assessed parking structure (Exhibit R-1, pages 14 & 15), noting that all parking stalls are assessed equally, regardless of location of the stall in the parking structure.

On the issue of the capitalization rate (cap rate) being too low when compared to cap rates from sales of recent properties:

[25] The Respondent stated that the City is legislated to use Mass Appraisal, meaning that typical income parameters should be developed. Typical income becomes the basis for calculation of capitalization rates used in assessment, but only after the validation process has been completed.

[26] The Respondent provided a Suburban Capitalization Rate Analysis (Exhibit R-1, page 25) that showed cap rates for 15 Class A and AA suburban office ranging from 4.25% and 9.10%. The median was 6.60%.

[27] The Respondent duplicated the Suburban Cap Rate Analysis and added the Complainant's comparable sales (Exhibit R-1, page 26). The Respondent identified 10 valid sales not used by the Complainant as well as five Class A and AA buildings that the Complainant used. Of those five, the Complainant's cap rate as derived from the Network was in all cases greater than the City data, varying by from 0.31% to 1.68%. The Respondent also charted the complainants remaining three sales comparables, all Class B buildings and stated they were not comparable to the subject's class AA status.

[28] The Respondent expanded on the Complainant's cap rate argument with charts summarizing the Downtown 2013 Valuation Rates (Exhibit R-1, page 45, and Suburban 118 AA class Office Buildings (Exhibit R-1, page 46), both of which were used to display equity, noting that the 6.75% cap rate was utilized throughout.

[29] The Respondent requested the Board to confirm the amended reduced assessment of \$24,349,000.

Decision

[30] The 2013 assessment is reduced from \$24,685,000 to \$22,629,000.

Reasons for the Decision

On the issue of the assessment of the parking structure:

[31] The Board was convinced by the Complainant's argument that the parking structure is necessary in order for the property to meet bylaw requirements. The Board found the photographs (Exhibit C-1, page 7 and Exhibit R-1, pages 5 and 11-13) to be very persuasive in its consideration of the assessment of the parking structure. It is clear to the Board when viewing the aerial photos that the site has been developed to its fullest potential. Had the second level of the parking structure not been constructed, the site would have been able to accommodate the current 57 surface parking stalls plus the lower level of parking (149 stalls) for a total of 206 parking stalls, less than the 280 stalls estimated by the Respondent to be a requirement for the subject site. The Board concluded the parking structure was likely built out of necessity to obtain development approval and determined that a purchaser would be unlikely to consider the parking structure as added value.

[32] The Board considered the Respondent's equity comparable and observed that beyond the photograph, there was no evidence in support of the assessment of the parking structure as a separate entity.

On the issue of the capitalization rate (cap rate) being too low when compared to cap rates from sales of recent properties:

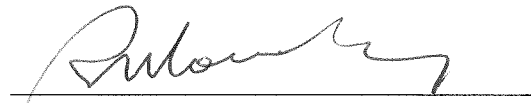
[33] The Board is not persuaded by the Complainant's argument regarding a 7.50% capitalization rate for the subject property as opposed to the assessed 6.75% capitalization rate. The Complainant utilized third party documentation to support his argument on the capitalization rate. The Board was swayed by 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.

[34] The Board is persuaded by the Respondent's analysis of the Complainant's cap rates. The median adjusted cap rate of 6.60% supports the assessment cap rate of 6.75% and the equity comparables confirm that a 6.75% is used for the assessments of all similar properties.

[35] The Board concludes that the assessment should be reduced to account for removal of the parking income from the assessment and that Respondent is correct in its application of a 6.75% cap rate in the assessment calculation.

Heard commencing September 27, 2013.

Dated this 18th day of October, 2013, at the City of Edmonton, Alberta.


Robert Mowbrey, Presiding Officer

Appearances:

Tom Janzen
for the Complainant

Tanya Smith, Legal Counsel
Vasily Kim, Assessor
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.