

## **Edmonton Composite Assessment Review Board**

**Citation: CVG v The City of Edmonton, 2013 ECARB 01477**

**Assessment Roll Number:** 9947901

**Municipal Address:** 8605 109 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**  
**Harold Williams, Presiding Officer**  
**Martha Miller, Board Member**  
**Mary Sheldon, Board Member**

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### **Procedural Matters**

[1] The Board members stated that they had no bias in regard to this complaint. Parties before the Board indicated no objection to the composition of the Board.

### **Preliminary Matters**

[2] There were no preliminary matters.

### **Background**

[3] The subject property is grouped by the City of Edmonton as a neighborhood shopping centre and is located at 8605 – 109 Street within the Garneau (south – central) area of Edmonton. The subject building was constructed in 1971/1997 and has 8,436 square feet of leasable area. The stabilized net operating income for assessment purposes is \$138,769 as stated by the City. The income capitalization rate used for the assessment is 6.5% resulting in an assessment of \$2,134,500 for the 2013 assessment.

### **Issue(s)**

[4] Is the capitalization rate of 6.5% used by the City for the 2013 assessment of the subject property accurate when considering income and sales of comparable properties?

[5] Is the capitalization rate of 6.5% used by the City for the 2013 assessment of the subject property equitable when considering the capitalization rates used for similar properties?

## **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 provided to the Board an evidentiary document (Exhibit C-1) containing information on the sales and incomes of properties similar to the subject property as well as information on capitalization rates for properties similar to the subject.

[8] Exhibit C-1 page 2 showed a listing of the sales of 11 properties. The sales took place from March 2011 to May 2012 and had a price range of \$1,600,000 to \$38,500,000 in accordance with information on pages 7 to 17 of Exhibit C-1. Building sizes ranged from 139,962 square feet to 5,500 square feet. Net operating incomes ranged from \$30.12 per square foot to \$11.48 per square foot and resulting capitalization rates ranged from 6.54% to 7.23%.

[9] Exhibit C-1 page 2 also contained a listing of 10 properties that the Complainant argued are similar to the subject property. It showed capitalization rates applied by the City for assessment purposes of 7.0% to 7.5% with one property at 6.5%. The Complainant argued that the one property at 10358 -82 Avenue showing a 6.5% rate is much newer and much better located than the subject property and therefore the subject property should have a higher rate of 7.0% to recognize the difference.

[10] The Complainant argued that the information in Exhibit C-1 demonstrated that the capitalization rate used for the 2013 assessment of the subject property should be 7.0 % and not the 6.5% rate used by the City.

[11] The Complainant also provided a document (Exhibit C-2) in rebuttal to the Respondent's evidence. The Complainant argued that the information in Exhibit C-2 page 5 from the real estate service “The Network” showed a capitalization rate for similar property to the subject that is much different than that used by the City for the 2013 assessment of the subject. The Complainant further argued that two of the four sales comparables presented by the City were vacant at time of sale and therefore no reliable capitalization rate could be calculated since there was no income.

[12] The Complainant commented that the City's approach of "blanketing" an area of the City with the same capitalization rate for shopping centres may not be reasonable in that there are many circumstances that can affect these rates such as individual property income performance, location differences, vacancies and property renovations.

[13] The Complainant argued that the actual property income at the time of sale and the sale price are the best indicators for purposes of establishing a capitalization rate. In summation, the Complainant argued that their information on income for comparables at the time of sale is much more reliable than the "hypothetical" (fee simple) income information used by the City.

[14] Finally the Complainant asked the Board to change the capitalization rate for the subject property to 7.0% for the 2013 assessment and to reduce the assessment to \$1,980,000.

### **Position of the Respondent**

[15] The Respondent provided to the Board an evidentiary document (Exhibit R-1) containing an analysis of the Complainant's sales and income comparables, information on the sales and income of 4 comparable properties and capitalization rates for 11 comparable properties. It also contained a previous Edmonton Composite Assessment Review Board decision and a previous Municipal Government Board decision, as well as definitions and examples of terms and methods used by the City in assessing income producing properties. The Respondent also provided an evidentiary document (Exhibit R-2) showing excerpts of law and legislation that the City of Edmonton follows to perform property assessments.

[16] Exhibit R-1 page 15 shows a chart that re-creates the Complainant's information on sales and income comparables and adds time adjusted sale prices as well as what is described by the Respondent as "fee simple net operating income". Capitalization rates from this re-created chart show a range of 5.39% to 7.42%. The Respondent provided examples of information from two different real estate publications (Exhibit R-1 pages 16 and 17) that showed differing reported capitalization rates for the same sale of the same property. The Respondent argued that this demonstrated the unreliability of third party information in determining capitalization rates.

[17] The Respondent provided information on the sales of five comparable properties (Exhibit R-1 pages 18 to 23). These comparables ranged in building size from 5294.94 square feet to 8999.705 square feet. Sale prices ranged from \$491,103 to \$1,681,700. Net operating income ranged from \$29,715 to \$104,863 and capitalization rates ranged from 6.05% to 6.79%.

[18] The Respondent also provided a map and property detail sheets (Exhibit R-1 pages 24 to 36) showing twelve assessment comparables to the subject property. All the comparables showed a capitalization of 6.5% used for purposes of calculating 2013 assessments.

[19] The Respondent stated verbally that capitalization rates used for the previous years assessments of the subject and similar properties was 7.0% although some City documents may have shown 7.5%. The Complainant accepted this information and had no issue with the explanation.

[20] The Respondent then explained that the City uses a "fee simple" stabilized income, that is time adjusted along with time adjusted property sales information for purposes of establishing capitalization rates used for assessment of income producing properties. The Respondent argued that this fee simple approach provides more equitable assessments for similar properties by removing the effect of differing individual property circumstances. The Respondent explained

that some of these circumstances may be those such as vacancy at time of sale, differing ages of leases, and different types of interest between owners and lessees.

[21] The Respondent asked the Board to not alter the capitalization rate used for the 2013 assessment of the subject property and to confirm the assessment at \$2,134,500.

### **Decision**

[22] The decision of the Board is to confirm the 2013 assessment for the subject property at \$2,134,500.

### **Reasons for the Decision**

[23] The Board first reviewed the positions of the parties relative to the use of individual property income information at the time of sale vs the use of fee simple stabilized income that is time adjusted. The Board is guided by Alberta Regulation 220/2004, *Matters Relating to Assessment and Taxation Regulation* Sec (2) which directs that:

“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.”

[24] In accordance with this guidance, the Board finds that the method used by the Respondent in determining a fee simple stabilized income that is time adjusted along with time adjusted sales information is supported by the Regulation.

[25] Therefore the re-creation of the Complainant's sales comparables chart by the Respondent (Exhibit R-1 page 15) showing time adjusted fee simple income and property sales is appropriate and supports the 6.5% capitalization rate used by the City for 2013 assessment of the subject property.

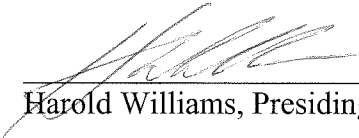
[26] In terms of assessment equity comparables relating to capitalization rates presented by both parties, the Board placed greater weight on the comparables presented by the Respondent (Exhibit R-1 pages 24 to 36). Although the buildings for the twelve comparables are of differing sizes, the income per square foot of the buildings is, for the most part, in a reasonable range of \$15.25 to \$23.75 vs the subject's income per square foot of \$18.75. Comparable 3 at \$28.00 per square foot and comparable 9 at \$10.00 per square foot are exceptions to the range. The comparables are all very close in location and all show a capitalization rate used for assessment purposes of 6.5%.

### **Dissenting Opinion**

[27] There was no dissenting opinion.

Heard October 10, 2013.

Dated this 24<sup>th</sup> day of October, 2013, at the City of Edmonton, Alberta.



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Harold Williams, Presiding Officer

**Appearances:**

Peter Smith  
for the Complainant

Steven Radenic  
Tim Dueck  
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.*