

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01513

Assessment Roll Number: 2803351

Municipal Address: 11030 St Albert Trail NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
George Zaharia, Presiding Officer
Jasbeer Singh, Board Member
Taras Luciw, Board Member

Procedural Matters

[1] When asked by the Presiding Officer, the parties did not object to the composition of the Board. The Board Members indicated no bias in the matter before them.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject property is an owner-occupied one-storey office building located at 11030 – St. Albert Trail NW in the Westmount neighbourhood of west-central Edmonton. There is one building on site built in 1968, totaling 3,242 square feet of main floor space with an additional 2,713 square feet of basement area. The building is situated on a triangular-shaped lot 12,546 square feet (0.29 acres) in size with site coverage of 26%.

[4] The subject property was valued on the income approach resulting in a 2013 assessment of \$762,000.

Issue

[5] Is the 7.50% capitalization rate (cap rate) used in calculating the assessment of the subject property too low?

[6] Is the rental rate of \$14.25 per square foot for the main floor rent as applied to the subject property excessive and inequitable when compared to neighboring properties?

Legislation

[7] 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

[8] In support of his position that the 2013 assessment of the subject property is excessive, the Complainant presented a 27-page brief (Exhibit C-1) and a two-part rebuttal with Part 1 containing 5 pages (Exhibit C-2), and Part 2 containing 9 pages (Exhibit C-3). The Complainant argued that the lease rate applied to the subject was too high compared to two other properties in the same neighbourhood, and based on an analysis of sales of similar properties the cap rate was too low.

[9] The Complainant stated that the City’s lease rate of \$14.25 per square foot applied to the subject property was excessive and inequitable. In support of this position, the Complainant compared the subject’s rental rate to two neighboring multi-storey office buildings, the Guardian Building and 124 Street Place, properties to which the City applied a \$13.00 per square foot lease rate, stating that these two properties are better located than the subject. Both buildings are located in the same neighbourhood as is the subject property and were described as being in superior condition. (Exhibit C-1, page 1)

[10] To support the request for a higher cap rate, the Complainant provided 10 sales that occurred between October, 2009 and June, 2011. The cap rates ranged from 7.43% to 8.88% while the subject property had a 7.50% cap rate applied in determining its assessment. Based on the range of cap rates, with most weight on sales nos. 3, 5, and 9, the Complainant stated that an appropriate cap rate would be 8.00% (Exhibit C-1, page 2).

[11] The Complainant described the location of the subject property as having difficult access due to its shape and location on a one-way street that resulted “*in very low utility*”.

[12] In Part 1 of the rebuttal, the Complainant challenged the cap rates and income data supplied by the City in its “cap rate comparables” chart gleaned from sales data provided by the Network. These sales reports showed substantially different data from that indicated by the City. The sales reports indicated high vacancies, unknown income, and no cap rates were provided. In absence of any details at the time of sale, the City simply estimated incomes to predict net

operating incomes and cap rates for these four sales. In the Complainant's opinion, it would take a large mental leap to accept the City's information.

[13] In Part 2 of the rebuttal the Complainant presented four equity comparables described as being in similar or better condition than the subject property. These equity comparables had lower 2013 assessment rental rates applied to them than that utilized by the City for the subject property. The rental rates applied to these equity comparables ranged from \$9.50 to \$13.75 per square foot compared to \$14.25 per square foot applied to the subject.

[14] In conclusion, the Complainant requested that the 2013 assessment of the subject property be reduced from \$762,000 to \$675,000, based on a lease rate of \$13.00 per square foot and a cap rate of 8.0%.

Position of the Respondent

[15] The Respondent stated that the 2013 assessment of the subject was fair and equitable. To support his position, the Respondent presented a 100-page assessment brief (Exhibit R-1) that included law and legislation.

[16] The Respondent provided a "cap rate comparables" chart based on four sales that occurred between July 4, 2011 and April 11, 2012. The sales resulted in stabilized cap rates that resulted in an average of 6.32% and a median of 6.33%, supporting the 7.5% rate applied to the subject property (Exhibit R-1, page 9).

[17] The equity assessment rates for main floor rent for comparable properties located in the subject's neighborhood ranged from \$13.00 to \$18.00 per square foot while the cap rates ranged from 7.0% to 7.5%. This supported the subject's typical rent of \$14.25 per square foot and the cap rate of 7.5% (Exhibit R-1, page 14).

[18] The Respondent submitted current market rents for five office buildings that were similar in size to the subject property. Although the addresses of the comparables were not provided due to FOIP, the Respondent stated that all the comparables were located in north Edmonton. The rents ranged from \$13.35 to \$22.00 per square foot with an average of \$18.19 and a median of \$18.00 per square foot. The \$14.25 per square foot rental rate applied to the subject is at the lower end of the range of these market rent comparables (Exhibit R-1, page 19).

[19] The Respondent stated that both the equity and market rents, as provided by the City, supported the \$14.25 per square foot rental rate applied to the subject.

[20] The Respondent provided a review of the Complainant's ten sales comparables used in his cap rate study. One was a multiple parcel sale and therefore not included. The cap rates as provided by the Complainant were taken from the Network's sale reports. These cap rates were derived from sales that occurred between October 26, 2009 and June 27, 2011 that resulted in a median cap rate of 8.10%. However, when the sale prices were time-adjusted to the July 1, 2012 valuation date, the median time-adjusted fee simple cap rate was reduced to 6.86%. (Exhibit R-1, page 73)

[21] The Respondent down-played the Complainant's sales comparables as they were not time adjusted and the effective dates of the leases were unknown.

[22] In conclusion, the Respondent requested that the Board confirm the 2013 assessment of the subject property at \$762,000.

Decision

[23] The decision of the Board is to confirm the 2013 assessment in the amount of \$762,000.

Reasons for the Decision

[24] The Board placed less weight on the evidence and argument put forward by the Complainant for the following reasons:

- a) In support of his position that the typical rental rate applied to the subject property was too high, the Complainant provided the typical lease rate applied to two multi-storey properties in the neighbourhood. The Board did not agree that multi-storey buildings were comparable to a small, single storey building.
- b) Although the Complainant did not provide a rental rate study of similar buildings to support his contention that the lease rate applied to the subject was too high, he had submitted four comparables in Part 2 of his rebuttal that he felt were better located properties in similar or better condition than the subject but all had lower rental rates applied in determining their assessments. The Board concurred that the rental rates that ranged from \$9.50 to \$13.75 per square foot were lower than the \$14.25 per square foot rate applied to the subject. However, the Board noted that the two properties that were up to \$1.00 per square foot lower in rental rate were more similar in age but were assessed with a 7.0% cap rate. The two properties with lower applied rental rates of up to \$4.75 per square foot were up to three times larger than the subject and were up twelve years older. The Board did not agree with the Complainant that these were good comparables that supported a reduction in the applied rental rate of the subject from \$14.25 to \$13.00 per square foot.
- c) The cap rate study provided by the Complainant showed the cap rates based on the net operating incomes and sale prices at the time of sale. The cap rates were not stabilized to the July 1, 2012 valuation date. As well, the third party sales information lacked definitive lease rate and lease term information.
- d) When the Complainant's cap rate study was time-adjusted by the Respondent, excluding the multiple parcel sale, the median time-adjusted fee simple cap rate was reduced from 8.10% to 6.94%, supporting the 7.5% cap rate applied by the Respondent to arrive at the 2013 assessment of the subject property.
- e) Although the Complainant had stated that the "*very irregular triangular-shaped lot*" resulted "*in very low utility*", no evidence was submitted to suggest that the shape of the lot had any negative impact on the income of the property, necessitating any downward adjustment.

[25] Although the Complainant provided ten sales comparables to suggest the cap rate was too low, and provided rental rates of dissimilar buildings to show that the rental rate applied to the subject was too high, the burden lies with the Complainant to provide sufficiently compelling evidence upon which the Board can make a change in the assessment. This, the Complainant did not do.

[26] The Board placed greater weight on the evidence and argument provided by the Respondent for the following reasons:

- a) The Respondent's equity assessment rents applied to five comparable properties with a resulting average of \$15.62 and a median of \$15.75 per square foot supported the \$14.25 per square foot rental rate applied to the subject property. The cap rates for the same five equity comparables with a resulting average cap rate of 7.13% and a median of 7.0% supported the 7.50% cap rate applied to the subject property.
- b) The Board found the Respondent's current market rents being achieved by five comparable office properties that averaged \$18.19 per square foot also supported the \$14.25 per square foot rental rate applied to the subject.

[27] However, the Board was not persuaded by the "Cap Rate Comparables" chart submitted by the Respondent. The third party reports used by the Respondent to substantiate the sales had no income information to support the net operating income from which a cap rate would be derived. Recognizing this shortcoming, the Respondent named the income and cap rate columns as "City Predicted NOI" and "Predicted City Cap Rate".

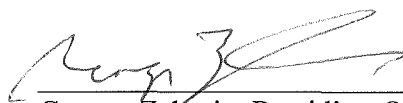
[28] The Board was persuaded that the 2013 assessment of the subject property at \$762,000 was fair and equitable.

Dissenting Opinion

[29] There was no dissenting opinion.

Heard October 25, 2013.

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



George Zaharia, Presiding Officer

Appearances:

Peter Smith
for the Complainant

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.