

## **Edmonton Composite Assessment Review Board**

**Citation: CVG v The City of Edmonton, 2013 ECARB 01514**

**Assessment Roll Number:** 2708907

**Municipal Address:** 10303 124 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**  
**George Zaharia, Presiding Officer**  
**Jasbeer Singh, Board Member**  
**Taras Luciwi, Board Member**

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### **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 one-storey office building located at 10303 124 Street NW in the Oliver neighbourhood of west-central Edmonton. There is one building on site built in 1965, totaling 3,246 square feet of floor space. The building is situated on a lot 7,243 square feet (0.17 acres) in size with site coverage of 45%.

[4] The subject property was valued on the income approach resulting in a 2013 assessment of \$742,000.

### **Issue(s)**

[5] Is the 7.00% capitalization rate (cap rate) used in calculating the assessment of the subject property too low?

[6] Is the rental rate of \$17.50 per square foot 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 23-page brief (Exhibit C-1) and an 11-page Rebuttal (Exhibit C-2). The Complainant argued that the lease rate applied to the subject was too high compared to two neighbouring properties, 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 \$17.50 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. Both buildings are in close proximity to the subject property and were described as being in superior condition. Furthermore, while applying the \$17.50 per square foot lease rate to the subject resulted in an annual net operating income of \$51,942, the actual net operating income was only \$33,845 (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 7.00% 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] In 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. In his rebuttal document, the Complainant also included the 2013 assessments for these comparables.

[12] In closing argument, the Complainant stated that the Respondent's "Equity Assessment Rates" chart did not provide support for the assessment of the subject since many of the properties were better buildings located on Jasper Avenue.

[13] In conclusion, the Complainant requested that the 2013 assessment of the subject property be reduced from \$742,000 to \$475,000, based on a lease rate of \$13.00 per square foot and a cap rate of 8.0%.

### **Position of the Respondent**

[14] The Respondent stated that the 2013 assessment of the subject was fair and equitable. To support his position, the Respondent presented a 103-page assessment brief (Exhibit R-1) that included law and legislation.

[15] 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 7.0% rate applied to the subject property (Exhibit R-1, page 10).

[16] The equity assessment rates for main floor rent for comparable properties located in the subject's neighborhood ranged from \$18.00 to \$19.75 per square foot while the cap rates ranged from 6.5% to 7.0%. This supported the subject's typical rent of \$17.50 per square foot and the cap rate of 7.0% (Exhibit R-1, page 16).

[17] 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 15)

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

[19] In conclusion, the Respondent requested that the Board confirm the 2013 assessment of the subject property at \$742,000.

### **Decision**

[20] The decision of the Board is to confirm the 2013 assessment in the amount of \$742,000.

### **Reasons for the Decision**

[21] 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 neighbouring properties. The Board did not agree that multi-storey buildings were comparable to a small, single storey building. As well, no rental rate study of similar

buildings was provided to support the Complainant's contention that the lease rate applied to the subject was too high.

- b) 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.
- c) 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 7.0% cap rate applied by the Respondent to arrive at the 2013 assessment of the subject property.

[22] 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.

[23] The Board was persuaded by the Respondent's "equity assessment rates" chart of comparable properties. The average rental rate of \$18.82 and median of \$19.00 per square foot supported the \$17.50 square foot applied to the subject. The cap rates of 6.5% and 7.0% supported the 7.0% cap rate applied to the subject property.

[24] 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".

[25] The Board was persuaded that the 2013 assessment of the subject property at \$742,000 was fair and equitable.

#### **Dissenting Opinion**

[26] There was no dissenting opinion.

Heard October 25, 2013.

Dated this 15<sup>th</sup> 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.*