

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01874

Assessment Roll Number: 1079268

Municipal Address: 10125 121 S treet NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Shannon Boyer, Presiding Officer

Jasbeer Singh, 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. In addition, the Board members indicated they had no bias on this file.

Preliminary Matters

[2] There were no preliminary issues before the Board.

Background

[3] The subject property is a 26 storey, 249 unit apartment building located at 10125 – 121 Street NW in market area 1C in the Oliver neighbourhood. Built in 1972 on a lot measuring 4,705 square metres, the property has been assessed as being in average condition. It was valued using the income approach applying typical potential gross income (PGI), typical vacancy and typical gross income multiplier (GIM). The 2013 assessment of \$40,030,000 (or \$146,881 per suite) is under complaint.

Issue(s)

[4] The Board heard evidence and argument on the following issues:

- a. Is the Gross Income Multiplier (GIM) used for the 2013 assessment of the subject property too high?

- b. Is the 2013 assessment of \$40,030,000 for the subject property appropriate, fair and equitable?

Legislation

[5] 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

[6] The Complainant filed this complaint on the basis that the subject property assessment was arrived at with a GIM of 11.21 which was in excess of the market, resulting in an excessive assessed value of \$40,030,000. In support of this position, the Complainant presented a 26 page assessment complaint brief (Exhibit C-1) and a six page rebuttal of the Respondent's evidence (Exhibit C-2) and argument.

[7] The Complainant advised the Board that a second issue pertaining to an exemption had been identified at the time of filing the complaint but had since been resolved. The only issue before the Board was the GIM value applied to derive the assessment value of the property using the income approach.

[8] The Complainant described the subject property as having 249 apartment suites plus main floor commercial space of 24,903 square feet. The commercial area assessment of \$3,456,500 is not in dispute.

[9] The Complainant's evidence (Exhibit C-1) included the following seven sales comparables with their respective GIMs and adjusted GIMs. The subject property assessment for 2013 is shown at the bottom of the table below.

	Address	Year Built	# of Suites	Network GIM	Adjusted GIM	SP/per Suite	Avg PGI Suite/mo	Adj SP /Suite
1	10130 - 121 Str	1958	9	9.49	9.49	94,444	864	123,083
2	10227/35 - 119 Str	1965	44	10.67	10.67	110,000	895	138,391
3	11325 -103 Ave	1971	14	10.14	10.14	121,428	1,039	131,596
4	11350 - 104 Ave	2001	305	11.18	8.38	190,163	1,498	142,940
5	10320 - 115 Str	1962	99	10.18	10.18	88,181	752	132,037
6	10240 - 122 Str	66/'64	66	10.44	10.44	104,393	868	135,422

7	12215 - 102 Ave	1968	15	9.46	9.46	93,766	851	124,066
		Average			9.82		967	132,505
		Median			10.14		868	132,037
Sub	10125 - 121 Str	1972	249	11.21		Assessment		146,881

[10] The GIM range is from 9.46 to 11.18 and the adjusted GIM range is from 8.38 to 10.67 with an average of 9.82 and a median of 10.14. From this analysis, the Complainant considered a GIM of 10.00 was appropriate for the subject property.

[11] As additional support for a GIM of 10.0, the Complainant provided a third party market report from Cushman & Wakefield (Exhibit C-1, pages 23 to 26) wherein the average 2012 Gross Rent Multiplier (GRM) is 10.0. The four year average from 2009 to 2012 is also 10.0.

[12] The Complainant noted that the Respondent's assessment model took building type, age and market area into account when estimating the GIM. In this instance, the only variable was age, so, properties older than 1973 had the same multiplier applied. The multiplier increased by 0.1 for each year for properties newer than 1973. In the Complainant's chart of comparables, only one property, built in 2001, was newer than 1973. This property had its GIM adjusted downward by 2.8 ($28 * 0.1 = 2.8$) resulting in the above range of adjusted GIMs.

[13] The Complainant's sales comparables ranged in size from nine suites to 305 suites and ranged in year built (age) from 1958 to 2001. Due to a lack of sales of high-rise apartments, only one of the comparables is a high-rise (five storeys) while the other six are low rise apartments. All comparables are located in the same market area, 1C, in the Oliver neighborhood.

[14] The Complainant argued that the significant differences between the subject property and the comparables could be reconciled by applying a market driven adjustment ratio based on the differences in the income producing potential of the subject property and the comparables.

[15] The Complainant described the process of calculation of the adjustment ratios and the resulting adjusted sales price per suite as follows:

- a. Adjustment ratio for each comparable was the ratio between the typical PGI of the subject property, as applied by the City; and the actual income reported by the Network, for each of the comparables.
- b. This ratio, applied to the per suite sales price of the comparable, yielded an 'adjusted sales price per suite' that could be used for comparison to the subject property.
- c. The Complainant stated that this adjustment in per suite sale price addressed all the significant variables between the subject property and each of the comparables.

[16] The unadjusted sales price per suite for the sales comparables, as reported on the Network sales sheets, ranged from \$88,181 to \$190,163. The corresponding adjusted sales price ranged from \$123,083 to \$142,940 with an average of \$132,505 and a median of \$132,037.

[17] The subject property's GIM is 11.21 and the assessment is \$146,881 per suite, both well above the average and median noted above.

[18] The Complainant included a 2011 rent roll for the subject property and noted that while the actual PGI was \$3,469,491, the Respondent based the assessment on an estimated PGI of \$3,363,511. The Complainant found it reasonable to use the Respondent's estimate of typical income to value the subject property.

[19] The Complainant applied the GIM of 10.00 to the Respondent's estimate of typical effective income of \$3,363,511, resulting in a value of \$32,626,050 that was rounded to \$32,700,000. After adding the commercial area assessment of \$3,456,500, the Complainant requested that the total 2013 assessment be reduced from \$40,030,000 to \$36,156,500.

Complainant's Rebuttal

[20] In rebuttal (Exhibit C-2), the Complainant provided third party data sheets from The Network for each of the five sales comparables submitted by the Respondent. The GIMs based on the Network documents ranged from 10.11 to 11.18 and with adjustment for age, ranged from 8.38 to 10.67, as compared to the Respondent's 2013 assessment GIM of 11.21 (Exhibit C-2, page 1).

[21] The Complainant argued that the chart of comparables (Exhibit C-2, page 1) showed that the Respondent's PGIs were lower than the actual income reported by a third-party (the Network) and consequently, the lower PGI figures resulted in higher GIM values. While the difference in the Network values for comparables #2 - #4, was less than 10%, the difference in case of comparable #5 was nearly 25%. That, in the Complainant's opinion, could skew the GIM values unjustifiably higher.

Position of the Respondent

[22] In defending the current year assessment, the Respondent presented an 83 page assessment brief (Exhibit R-1) that included a Law & Legislation brief, a Gross Income Multiplier (GIM) brief (Exhibit R-2), and two previous board decisions that supported the Respondent's position and argument (Exhibits R-3 and R-4).

[23] The Respondent informed the Board that they followed an annual cycle to keep the multi-residential assessment in line with the evolving market conditions. During the period of February – April each year, the city mailed market surveys to owners of residential properties requesting owner information, rent roll for the property and financial statements, including parking information for the previous calendar year.

[24] In response to approximately 1,700 requests mailed out for the current assessment year, the City received nearly 1,200 responses. The Respondent analyzed these survey results to determine the typical PGI, typical vacancy and typical GIM for each market area, for each type of property.

[25] The subject property is a high-rise building with 26 stories and comprised of 149 one-bedroom and 100 two-bedroom suites. 55 of the suites were assessed as having river view (Exhibit R-1, pages 12, 22). The subject property also has some commercial component but the 2013 assessment in respect of this portion is not in dispute.

[26] The complaint form filed by the Complainant indicated that 'Exemption from Taxation' was an issue. However, the Respondent informed the Board that the same had been resolved and was no longer an issue at the hearing.

[27] The Respondent stated that the most significant attributes considered in valuation that are common to High-Rise properties include:

- Average Suite Size
- Balcony
- Building Type (low-rise or high-rise)
- Commercial Component
- Condition
- Effective Year Built
- Elevator
- Gross Building Area
- Laundry Facility
- Market Area (location)
- Parking
- River View Suites
- Stories
- Suite Mix
- Suite Total

[28] The most significant Gross Income Multiplier (GIM) model variables were identified as:

- Building Type
- Effective Year Built
- Market Area (location)

[29] The Respondent stated that the subject assessment and similar assessments were prepared using the income approach that was based on typical PGI, typical vacancy and typical GIM (Exhibit R-1, page 6). The Respondent further stated the typical PGI used to arrive at the 2013 assessment value was not in question but the gross income multiplier (GIM) applied to it, was the only issue before the Board.

[30] The Respondent presented a chart of five sales comparables that supported the GIM value of 11.21 used for the subject assessment (Exhibit R-1, page 26).

	Address	Year Built	# of Suites	Suite Size (sq m)	Sale GIM	Sale Date	Adjusted Sale Pr	TASP /Suite
1	10335 - 123 Str	1968	22	78	11.25	Apr-12	2,486,000	113,000
2	10240 - 122 Str	1969	65	66	11.81	Feb-11	7,099,249	109,219
3	10340 - 117 Str	1966	25	71	11.59	Nov-09	2,694,513	107,781
4	10227/35 - 119 Str	1970	44	70	12.16	Mar-10	5,092,648	115,742
5	11350 - 104 Ave	2002	306	103	14.34	Jun-10	61,027,600	199,437
		Average			12.23			
		Median			11.81			
Sub	10125 - 121 Str	1972	249	88	11.21	Assessment Value	146,881	

[31] The Respondent further stated that:

- a. The sales comparables were from the same market area (location) as the subject.
- b. Other than one sale in respect of a five storey apartment complex, all others were 'low-rise' apartment building sales as there had been no other high-rise property sales in the area.
- c. These sales comparables, except one, were similar in age to the subject property.
- d. The Respondent had taken care to include only the sales with no less than 20 suites, in order to show as strong similarity to the subject as possible.

- e. Three of the Respondent's sales comparables #2, #4 and #5 were also included in the Complainant's chart as sales comparables #6, #2 and #4, respectively (Exhibit C-1, pages 2, 17, 19 and 21).

[32] The Respondent pointed out that the GIM values indicated on the Respondent's and the Complainant's sales comparables charts, even in respect of the same sales, were different because:

- a. The Respondent relied on the time adjusted sales price for each of the sales comparables and the typical PGI applicable for the assessment year.
- b. The Complainant's sales information was obtained from third party (Network) reports that:
 - i. used actual gross income;
 - ii. did not identify the year for which the income was shown;
 - iii. did not apply necessary time adjustment to the sale price; and
 - iv. did not reflect the changes to the incomes from the time of the sale or the reference point chosen for the third party report.

[33] In addition, the Respondent pointed out that the Complainant's comparables' information did not show any adjustments for the type of building, suite sizes, suite mix, suites with river view and type of construction i.e. wood frame versus concrete high-rise tower.

[34] The Respondent stated that the legislated approach to assessments was based on the use of typical incomes and time adjusted sale prices in a consistent manner while the Complainant had used third party information that should not be relied upon. The Respondent illustrated the point with an example of a recent sale. The income figures, the vacancy allowance and the GIM values reported by two third-party agencies varied significantly and hence, could not be relied upon (Exhibit R-2, pages 6-7). The Respondent argued that assessment methodology used by the municipality provided consistent, equitable and reliable outcomes.

[35] The Respondent provided a table of 24 high-rise equity comparables that showed support for the subject assessment of \$146,881 per suite (Exhibit R-1, page 33).

[36] Citing previous Board decisions on the issue (Exhibits R-3 and R-4) the Respondent argued that in both instances, the Boards supported the Respondent's approach of relying on typical income factors applied in a consistent manner; as opposed to the Complainant's process of calculating the GIM values using arguable adjustments to third-party information from unknown sources.

[37] The Respondent concluded by stating that the Complainant's sales were not verified, were not reliable, it wasn't clear as to which year's income was reported and whether or not the parking and laundry income were included. The Complainant's adjustment ratios were not supported by any text books or guidelines. The Cushman Wakefield GIM report covered various types of property from all areas of the city and could not be applied to the subject assessment without clearly knowing and understanding the supporting information leading to the reported

conclusions. The Respondent requested the Board to confirm the 2013 assessment of \$40,030,000.

Decision

[38] The decision of the Board is to confirm the 2013 assessment of \$40,030,000.

Reasons for the Decision

[39] The Board is convinced by the Respondent's detailed explanation of the problems and inconsistencies that can arise from the use of unverifiable third-party reports, as such reports tend to be all inclusive and do not identify the sources of input or the methodology used to arrive at the conclusions.

[40] The Board notes the third-party documents presented for its consideration. Although third party documents can be used to test an assessment or support a detailed analysis, they should not be used to establish an assessment. The MGB in a decision (MGB 018/10) said:

"Third party publications are problematic evidence for many reasons. In particular, the market data used to construct the reports was not in evidence, without which the MGB cannot determine the reliability or applicability of these reports to the subject property."

[41] The Board finds the Cushman Wakefield Report in support of the Complainant's desired GIM value of 10.0 to be of little assistance, as it included sales of different types of property from all areas of the city and was not specific to a neighbourhood or to a type of property similar to the subject in significant attributes.

[42] The Board understands the Complainant's innovative approach used to determine adjusted sales prices in respect of the direct sales comparables. However, in the absence of any evidence of its acceptance and use in industry or for mass appraisal by a municipality, the Board places little weight on this methodology.

[43] The Board finds that the Complainant's analysis of the seven direct sales comparables exposed several areas of concern:

- a. The Complainant acknowledged that the rents had increased in the past 3 years but this was not reflected in the income figures used by the Complainant.
- b. The adjustment ratio was derived by using the 'typical' income used by the City for its 2013 assessment valuation and the unadjusted income shown on the Network reports.
- c. The Board is unable to see the appropriateness of using two income figures from different sources to determine an adjustment factor to address all differences like age, location, building type, levels of amenities, type of construction, building and suite sizes and configurations and income elements like parking and laundry, between the subject property and the sales comparables.
- d. The Board finds inconsistency in the Complainant's chart that showed a nine suite 1958 property with an adjusted GIM of 9.49 and a modern, 2001 built 305 unit apartment complex with an adjusted GIM of 8.38.

[44] The Board is satisfied with the Respondent's equity evidence that showed that the GIM value of 11.21 had been equitably and fairly applied.

[45] The Board notes that the Complainant's actual 2011 income of \$3,469,491 is higher than the typical PGI used for the 2013 assessment. Had the subject assessment been based on the actual income, the assessment would have been \$1,152,500 higher. Conversely, the subject's assessment of \$36,573,500 for the residential component, when viewed in terms of the higher actual income, would indicate a GIM of 10.225, close to the requested GIM of 10.0.

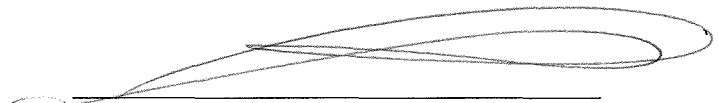
[46] Jurisprudence has established that the burden of proof of demonstrating an assessment is incorrect rests with the Complainant. The Board finds that the Complainant's evidence, testimony and argument did not provide sufficient and compelling reasons for the Board to reduce the assessment. Accordingly, the Board finds the subject 2013 assessment of \$40,030,000 is appropriate, fair and equitable.

Dissenting Opinion

[47] There was no dissenting opinion.

Heard on November 19, 2013.

Dated this 10th day of December, 2013, at the City of Edmonton, Alberta.


Shannon Boyer, Presiding Officer

Appearances:

Tom Janzen
for the Complainant

Amy Murphy
Karen Perry
Terry Youn (Observer)
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.