

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01878

Assessment Roll Number: 10002533

Municipal Address: 10904 102 Avenue 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 said they had no objection to the composition of the Board. The Board members said they had no bias regarding this file.

Preliminary Matters

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

Background

[3] Known as Grande Central Manor III, the subject property is a 157 unit, 17 storey high-rise apartment building located at 10904 - 102 Avenue NW in market area 1B, in the Downtown neighbourhood. Built in 2002, the property is in average condition. The property was valued by the municipality based on the income approach using typical potential gross income (PGI), typical vacancy and typical gross income multiplier (GIM). The 2013 assessment of \$27,913,000 (or \$177,789 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 \$27,913,000 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 Gross Income Multiplier (GIM) of 12.48 which, in its analysis, was in excess of the market, resulting in an excessive assessed value of \$27,913,000. In support of this position, the Complainant presented an assessment complaint brief (Exhibit C-1), a rebuttal of the Respondent’s evidence (Exhibit C-2), a Board Decision (Exhibit C-3) and argument.

[7] The subject is a 17 storey high-rise building comprised of 23 one-bedroom, 71 one bedroom plus den, 59 two-bedroom, and 4 penthouse suites with enclosed non heated parking, and is assessed as being in average condition.

[8] The Complainant stated that the actual income was somewhat higher than the Respondent’s estimated typical PGI of \$2,305,824. The Complainant accepted the Respondent’s typical PGI.

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

	Address	Year Built	# of Suites	Network GIM	Adjusted GIM	SP/per Suite	Avg PGI Suite/mo	Adj SP /Suite
1	11511 - 27 Ave	2003	83	10.63	10.53	145,000	1,183	150,025
2	11350 - 104 Ave	2001	305	11.18	11.28	190,163	1,498	155,380
3	9520 - 103 Ave	1978	27	8.94	11.34	77,000	748	126,000
4	3103 - 137 Ave	2008	94	12.04	11.44	186,170	1,342	169,800
5	10512/22 - 93 Str	1978	23	8.54	10.94	71,846	730	120,465
6	10368 - 92 Str	1979	8	10.06	12.36	82,750	710	142,656
7	3147 - 151 Ave	2002	99	9.81	9.81	101,010	884	139,860

		Average		11.10		1,014	143,455
		Median		11.28		884	142,656
Sub	10904 - 102 Ave	2002	157	12.48	Assessment		177,789

[10] As seen in the table above, the GIM, as reported by the Network, ranged from 8.54 to 12.04 and after adjustment for age, ranged from 9.81 to 12.36, with an average of 11.10 and a median of 11.28. Based on this analysis, the Complainant considered a GIM of 11.50 to be appropriate for the subject property.

[11] As additional support for a requested GIM value of 11.50, the Complainant provided a third party market report from Cushman & Wakefield (Exhibit C-1, pages 17 to 20) wherein the average 2012 Gross Rent Multiplier (GRM) was 10.0. The four year average from 2009 to 2012 was 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, all properties were built after 1973. Therefore, in its analysis all properties had their respective GIM adjusted.

[13] The Complainant's sales comparables ranged in size from 8 suites to 305 suites and ranged in year built (age) from 1978 to 2008. Due to a lack of sales of high-rise apartments, only one of the sales comparables was a high-rise (five storeys), while the other six were low rise apartment buildings located in several market areas, including 1C, 1B, 7 and 11.

[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 calculating 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 \$71,846 to \$190,163. The corresponding adjusted sales prices ranged from \$120,465 to \$169,800 with an average of \$143,455 and a median of \$142,656.

[17] The subject property was assessed with a GIM of 12.48 and assessment value of \$177,789 per suite, was well above both the average and median values noted above.

[18] The Complainant applied the GIM of 11.50 to the Respondent's estimate of effective gross income of \$2,236,649 resulting in a value of \$25,721,464 that was rounded to \$25,500,000. The Complainant requested that the total 2013 assessment be reduced from \$27,913,000 to \$25,500,000.

[19] The Complainant referred to Exhibit C-3 and advised the Board that a previous board accepted the method of analysis applied by the Complainant in this matter.

Complainant's Rebuttal

[20] In rebuttal, the Complainant provided third party data sheets from The Network for each of the four sales comparables submitted by the Respondent (Exhibit C-2). The GIMs as detailed by the Complainant, based on the Network documents, ranged from 11.18 to 13.12 and with adjustment for age, ranged from 11.18 to 13.12, as compared to the assessment GIM of 12.48 (Exhibit C-2, page 1).

[21] The Complainant argued that this chart showed that the Respondent's PGIs were lower than the actual income reported by the Network and consequently, the lower PGI figures resulted in higher GIM values. While the difference in the Network values for comparables #3 and #4, was approximately 10%, the difference in case of comparable #1 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 assessment brief (Exhibit R-1) that included a Law & Legislation brief, a 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 the Respondent 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 Respondent stated that the most significant attributes considered in valuation that are common to High-Rise properties include:

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

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

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

[27] 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 agreed that the gross income multiplier (GIM) applied to the assessment was the only issue before the Board.

[28] The Respondent presented a chart of four sales comparables that supported the GIM value of 12.48 used for the subject assessment (Exhibit R-1, page 29).

	Address	Year Built	# of Suites	Suite Size (sq m)	Sale GIM	Sale Date	Adjusted Sale Pr	TASP /Suite
1	11230 - 104 Ave	2002	306	103	14.34	Jun-10	61,027,600	199,437
2	10305 - 114 Str	1998	6	110	14.41	Mar-11	1,027,280	171,213
3	3103 - 137 Ave	2008	94	109	14.33	May-11	17,870,125	190,108
4	17103 - 94A Ave	2002	163	91	14.70	Jun-12	32,100,000	196,933
Average								
Median					14.38			
Sub	10904 - 102 Ave	2002	157	96	12.48	Assessment	177,789	

[29] The Respondent further stated that:

- a. The sales comparables were from similar market areas 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's sales comparable #3 was also included in the Complainant's chart as sales comparable #4.

[30] 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 (The 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.

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

[32] 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 provided consistent, equitable and reliable outcomes.

[33] The Respondent produced the sale sheet and corporate registry searches for the seller and buyer of Complainant's sale comparable #5 to show that the seller and buyer is the same person (Exhibit C-1, pages 36 to 40). The Respondent advised the Board that the Respondent deemed this sale to be non-arms length and asked the Board to put little weight on this comparable.

[34] The Respondent provided a table of 22 high-rise equity comparables to show support for the subject assessment of \$177,789 per suite (Exhibit R-1, page 35).

[35] Citing previous Board decisions on the issue, the Respondent argued that 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 (Exhibits R-3 and R-4).

[36] The Respondent concluded by stating that:

- a. The Complainant's sales were not verified, were not reliable, it wasn't clear which year's income was reported nor if the parking and laundry income were included.
- b. The Complainant's adjustment ratios were not supported by any authorities, text books or assessment guidelines.
- c. 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.

[37] The Respondent requested the Board to confirm the 2013 assessment of \$27,913,000.

Decision

[38] The decision of the Board is to confirm the 2013 assessment of \$27,913,000.

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 11.50 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, age, 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 an eight suite 1979 property with an adjusted GIM of 12.36 and a newer, 2003 built, 83 suite apartment building with an adjusted GIM of 10.53.

[44] The Board is satisfied with the Respondent's equity evidence that showed that the GIM value of 12.38 had been equitably and fairly applied.

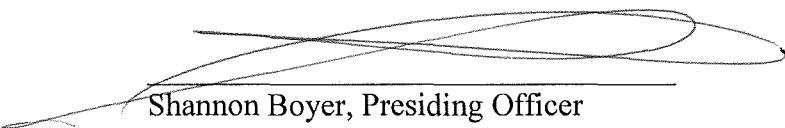
[45] Jurisprudence has established that the burden of proof of demonstrating an assessment is incorrect rests with the Complainant. The Board finds that the Complainant's evidence, testimony and argument did not provide sufficient and compelling reasons for the Board to reduce the assessment. Accordingly, the Board finds the subject 2013 assessment of \$27,913,000 is appropriate, fair and equitable.

Dissenting Opinion

[46] There was no dissenting opinion.

Heard on November 21, 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
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.