

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01903

Assessment Roll Number: 9986028

Municipal Address: 14503 Miller Boulevard NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Willard Hughes, Presiding Officer

James Wall, Board Member

Randy Townsend, Board Member

Procedural Matters

[1] The parties to the hearing stated that they had no objection to the composition of the Board. The members of the Board indicated they had no bias with respect to this file.

[2] Where relevant, arguments are carried forward to this file from roll 9993392.

Preliminary Matters

[3] There were no preliminary matters.

Background

[4] The subject property is a low-rise, two building apartment complex known as "Miller Ridge", located in the Miller neighbourhood, Market Area (MA) 11, in northeast Edmonton. Built in 2002, the subject contains 122 suites, including 37 one bedroom suites and 85 two bedroom suites; municipally known as 14503-Miller Boulevard NW. The subject property's 2013 assessment is \$17,480,500 based on the Income Approach, using typical potential gross income (PGI), typical vacancy, and typical Gross Income Multiplier (GIM) (12.48). The assessment per suite of the subject is \$143,202.

Issue(s)

[5] Does the application of a Gross Income Multiplier (GIM) by the Respondent reflect the Market Value of the subject property?

[6] Is the subject property's 2013 assessment fair, equitable and correct?

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.

[8] The *Matters Relating to Assessment and Taxation Regulation*, Alta Reg 220/2004, reads:

s 2 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.

s 3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

Position of the Complainant

[9] There was some discussion between the parties and the Board prior to the Complainant's presentation of evidence. The discussion centered around the word Revised on the front page of the evidence to be submitted. With full agreement from the Respondent and the Board's concurrence the Complainant submitted his evidence which replaced page 2 of that evidence. The Respondent agreed that the revised disclosure was the disclosure which they had received.

[10] The Complainant provided evidence (Exhibit C-1, 17 pages) and argument for the Board's review and consideration.

[11] The Complainant argued that the GIM applied to the subject property's Potential Gross Income (PGI) was excessive, resulting in an incorrect assessment.

[12] The Complainant provided evidence that the subject property's 2013 assessment had increased 7.14% from 2012. The Complainant noted that the Respondent's Multi-Residential

Time Adjustment Factors (Exhibit C-1, page 5) show an increase of only 1.505% between July 1, 2011 and July 1, 2012 (respective valuation dates).

[13] The Complainant argued that the GIM of 12.48 applied by the City to the subject property is incorrect, and suggested a GIM of 10.00 is more realistic.

[14] The Complainant provided the Board with five sale comparables (Exhibit C-1, pages 6 - 10). These sales were located in various market areas of the city including Complainant's sales #2 and #4 which were located in Market Area 11, the same as the subject property. Sales #1 and #3 are located in the Northwest quadrant of the city. Sale #5 is located in Market Area 10. The Complainant confirmed that the size of the apartment complexes ranged from 12 to 150 suites, and they sold between September 2009 and July 2011 at Time Adjusted Sale Prices (TASP) of \$84,829 per suite to \$116,115 per suite. The Complainant stated that these sales suggested a GIM of 10.00, a Capitalization Rate of 6.5% and a TASP of \$125,000 per suite. The Complainant indicated that their sale #1 is the most similar in age to the subject property.

[15] The Complainant applied their suggested GIM of 10.00 to the City's estimated effective PGI of \$1,400,719 for a value of \$14,007,000, the application of the 6.5% Capitalization Rate to a Potential Net operating Income (NOI) of \$951,027 would result in a value of \$14,631,000. The Complainant suggested to the Board that the value of the subject property by Direct Comparison Approach to Value, utilizing \$120,000 per suite would result in a value of \$14,640,000.

[16] In answer to questions from the Respondent, the Complainant confirmed that all of their sales information had been taken directly from a third-party source (The Network) and verification of its accuracy had not been carried out. In addition, the Complainant confirmed that they had applied their GIM to the City's estimated PGI.

[17] In conclusion, and as a result of the Complainant's reconciliation of the three value estimates previously stated, the Complainant requested the Board reduce the subject property's 2013 assessment to \$14,250,000.

Position of the Respondent

[18] The Respondent provided an assessment brief (Exhibit R-1, 51 pages) and oral argument to the Board in support of the 2013 assessment on the subject property. The brief contained information on mass appraisal, photographs and maps related to the subject property, and sales and equity comparables.

[19] The Respondent informed the Board that they are legislated to utilize Mass Appraisal (Exhibit R-1, page 3), which requires the use of estimated potential market rents, typical vacancy rates and GIM be applied to all Multi-Residential properties based on their individual characteristics. No consideration is given to the Direct Comparison Approach to value nor is Capitalization of the Net Operating Income (NOI) a part of the process. Therefore no evidence other than the GIM is used in valuing the subject property for assessment purposes.

[20] The Respondent confirmed to the Board that the most important variables in determining the appropriate GIM are the building type, effective year built, condition and the Market Area / location (Exhibit R-1, pages 8 and 9).

[21] The Respondent provided four sale comparables with data sheets (Exhibit R-1, pages 26-29). The sale comparables were located in various market areas of the city including two of them

in MA11 the same as the subject. The effective year built for the four comparables ranged from 1976 to 2008. The subject was constructed in 2002. Total number of suites ranged from 9 to 306, whereas the subject has 122 suites. The sales took place between June 28, 2010 and May 18, 2011 at overall time adjusted sale prices (TASP) between \$1,063,701 and \$61,027,600. In answer to questions from the Board, the Respondent stated that their best sales comparable is #3.

[22] The GIMs for the Respondent's sales comparables ranged from 11.42 to 14.34. The Respondent argued that this supported the subject GIM at 12.48. The time adjusted assessment per suite ranged from \$116,115 to \$199,437. On this basis, the Respondent argued that the subject's assessment at \$143,282 per suite is towards the lower end of the range.

[23] The Respondent's four equity comparables are all low rise buildings of average condition, and are located in the same Market Area (11) as the subject (Exhibit R-1, page 41). The GIM applied to all four comparables was between 12.18 to 13.48, compared to the subject's GIM of 12.48. The assessment per suite ranged from \$138,294 to \$173,547, compared to the subject at \$143,282. The effective ages of the equity comparables ranged from 1999 to 2008, compared to the subject with an effective year built of 2002. The Respondent stated that the equity comparables demonstrate that the subject has been assessed fairly and equitably.

[24] The Respondent stated that mass appraisal methodology is used to determine the assessment base for property in accordance with legislative requirements (Exhibit R-1, pages 3-13). In addition, the Respondent elaborated on widely accepted principles of appraisal, including the importance of applying adjustments to comparables to ensure consistency in comparability. Two computer models, the PGI and GIM, working in tandem are used to arrive at the assessment.

[25] The Respondent was critical of the Complainant's methodology of mixing and matching data. The Complainant was using a PGI based on the City's typical income and vacancy and, at the same time, applied GIMs from third party documents which were calculated from unadjusted actual income and sale price at the time of sale.

[26] The Respondent cautioned the Board about potential inaccuracy in the use of third party documents.

[27] Regarding the year-by-year percentage increase issue suggested by the Complainant, the Respondent referred the Board to Exhibit R-1, page 48. This section of the Respondent's Law and Legislation brief suggests that "Boards have held that each year's assessment is independent of previous assessments, and the mere fact of a large percentage increase without more evidence, is not enough information to draw the conclusion that an assessment is too high".

[28] In conclusion, the Respondent asked the Board to confirm the 2013 assessment for the subject at \$17,480,500 based on a GIM of 12.48.

Rebuttal

[29] The Complainant provided the Board with a 9 page rebuttal document under Exhibit C-2. This document included third-party (The Network) sales data sheets on three of the Respondent's four sales comparables (Exhibit R-1, page 25) together with their 2013 assessment sheets. The Complainant pointed out to the Board that the GIMs as stated by The Network were different than the GIMs applied by the city assessors to the same properties in calculating their assessments.

[30] Based on the Rebuttal document the Complainant concluded that the Respondent's GIM's attached to the sale properties were not based on actual market or sales data but rather they were hypothetical.

[31] The Respondent stated that the information in the Complainant's Rebuttal document supports the correctness of the sale property's assessments. Further the Respondent re-stated that legislation requires the PGI and the resultant GIM to reflect typical.

Decision

[32] The Board confirms the 2013 assessment of the subject property at \$17,480,500.

Reasons for the Decision

[33] The Board agrees with the Respondent that each year's assessment is determined independently; therefore, the history of an increasing GIM, without more evidence, is not sufficient to overturn an assessment.

[34] The Board agrees with the Respondent that the PGI and the GIM for the subject should be derived and applied in a consistent manner.

[35] The Board accepts the Respondent's argument that there is increased potential for error when totally relying on third party documents for income or GIM. Particular concern is expressed by the Board that the sales data and information presented by the Complainant to derive its requested GIM and Capitalization Rate might not be reliable, as it was from a third-party source without benefit of further verification.

[36] The Board agrees with the Complainant that the capitalized income method of valuation is a valid approach, as it represents the analysis and capitalization of an individual property's NOI. However, the Board accepts that the municipality uses the GIM method to value this type of property for assessment, and not the capitalized income method or direct comparison. The Board notes that the Capitalization Rate and GIM suggested by the Complainant were derived from actual sales data from a third-party and then applied to income data which was derived from typical data used by the municipality in their assessment process.

[37] The Board finds the Respondent's sales comparables (Exhibit R-1, page 25), particularly sales #3 and #4 with effective years built of 2008 and 2002 (the same year as the subject), to be persuasive evidence of value. The Board notes, and is persuaded by these two properties suite mix of 34% and 92% two bedroom suites, respectively, compared to the subject which has 70%. The Board notes that the GIMs from the Respondents sales comparables ranged from 11.42 to 14.34 which compares favorably to the subject's GIM of 12.48.

[38] The Board reviewed the Complainant's sales comparables, particularly sales #1, #2 #4 and #5. The Board finds that sale #1, the Complainant's best comparable, is inferior to the subject in that it is smaller (61 suites versus 122 suites), and it represented a dated sale. Sales #2, #4 and #5 are smaller in size than the subject, and in addition sales #2 and #5 are approximately 34 years older. As previously indicated the Board is concerned with the accuracy and the reliability of third-party researched sales with no additional verification undertaken. For these reasons the Board places very little weight on the sales comparables presented by the Complainant. The Board agrees with the Respondent as to the importance of variables in building type, effective age, condition suite mix and location in comparing sale properties to the subject.

[39] The Board reviewed photographic evidence presented by both parties and is of the opinion that all sale properties with the exception of Respondent's sales comparables #3 and #4 are inferior to the subject in overall quality

[40] The Board examined the Respondent's equity comparables. In the Board's opinion, the Respondent's equity comparables support the appropriateness of the GIM applied to the subject. Further, the Board is satisfied that the GIM has been fairly and equitably applied to the subject.

[41] The Board concludes that the 2013 assessment of the subject is fair, equitable and correct.

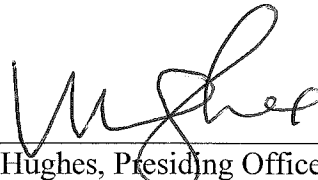
[42] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. The Complainant did not provide sufficient and compelling evidence for the Board to conclude that the assessment was incorrect. Accordingly, the Board accepts the recommendation of the Respondent and confirms the 2013 assessment of the subject at \$17,480,500.

Dissenting Opinion

[43] There is no dissenting opinion.

Heard commencing September 23, 2013.

Dated this 17th day of October, 2013, at the City of Edmonton, Alberta.



Willard Hughes, Presiding Officer

Appearances:

for the Complainant

Allison Cossey

Peter Smith

Tanya Smith

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.