

## **Edmonton Composite Assessment Review Board**

**Citation: Jan Goresht, Cushman & Wakefield Ltd v The City of Edmonton, 2014 ECARB 00264**

**Assessment Roll Number:** 4315305  
**Municipal Address:** 11820 88 STREET NW  
**Assessment Year:** 2014  
**Assessment Type:** Annual New  
**Assessment Amount:** \$1,796,000

Between:

**Jan Goresht, Cushman & Wakefield Ltd**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

---

### **DECISION OF**

**Lynn Patrick, Presiding Officer**  
**Joseph Ruggiero, Board Member**  
**Randy Townsend, Board Member**

---

#### **Procedural Matters**

[1] Upon questioning by the Presiding Officer the Respondents indicated they did not object to the Board's composition. In addition, the Board members stated they had no bias with respect to this file.

#### **Preliminary Matters**

[2] There were no preliminary matters.

#### **Background**

[3] The subject property is a 2.5 story walk up apartment structure situated at 11820 88 Street in market area 10 in the Eastwood neighborhood. The effective year built for the property is 1981. There are 18 suites made up of 1 bachelor, 12 one bedroom and 5 two bedroom suites. The average suite size is 796.5 square feet. The property is assessed under the income approach using a Gross Income Multiplier of 10.63 and a vacancy rate of 3%. The assessment for the subject is \$1,796,000.

#### **Issue**

[4] What is the correct market value of the subject for the 2014 taxation year?

### **Position of the Complainant**

[5] The Complainant contends the correct market value for the subject is \$1,630,000. In support of this contention the Complainant provided a 56 page submission electronically in the absence of any actual personal representation. The submission contained a 54 page appraisal dated June 21, 2012 with an effective date of value of May 17, 2012. The balance of the submission is made up of a cover page entitled Disclosure of Evidence and an Assessment Notice pertaining to Roll No. 4828810, not the subject. An email directed to the Board requested that the Board accept into evidence the submission notwithstanding the absence of personal representation on behalf of the Complainant at the hearing. The Board accepted the submission in evidence as Exhibit C-1. The cover page of the submission stated that the correct market value, found through the appraisal component of the submission, is the sum of \$1,630,000.

[6] The Appraisal contains a cover letter addressed to Nexus Asset Group Inc. which states that the estimated value of the subject property is \$1,630,000. The Executive Summary appearing on the seventh page of the submission under the heading of VALUE ESTIMATE states that by the use of an Income Capitalization Method the value estimate is \$1,630,000 and by the Direct Comparison Approach the value estimate is \$1,620,000 based upon 17 suites.

[7] The Appraisal provides rental information attributed to one and two bedroom apartments in the market area and arrives at a rental rate of \$850.00 per month for the one bedroom suites and \$1,000.00 per month for the two bedroom suites which results in an Effective Gross Income of \$169,200. The Appraisal suggests that the CMHC report for a point in time relevant to the date of the Appraisal supports a vacancy rate of 3%. The Appraisal states that an analysis of operating statements of similar developments led to the establishment of a stabilized expense total of \$63,301 and thus a Net Operating Income (NOI) of \$101,587. The Appraisal provides a capitalization rate (cap rate) study based on examination of 5 comparables. The analysis of those sales which occurred from October 2011 to March 2012 shows a range of cap rates of 5.14% to 6.21%. There is an indication of below market rents therefore a cap rate of 6.25% is selected. This results in a value of \$1,630,000.

[8] The Appraisal also contains an analysis of the market based upon the direct comparison approach. The analysis is of the 5 sales from the cap rate analysis and of which 2 sales are in the subject market area. The Appraisal notes that the sales utilized involve the transfer of the leased fee interest and as such the subject is appraised upon the leased fee basis, therefore, no adjustments were necessary. At pages numbered 34 of the 43 page numbered section of the Appraisal the Complainant applied the NOI of the subject of \$101,587 to the individual suites. The chart shows a resulting NOI of \$5,976 per suite which is then used to provide the analysis of the per suite value for direct comparison purposes.

### **Position of the Respondent**

[9] The Respondent presented their submission in two parts. The first part consists of a number of comments upon the use of the appraisal by the Complainant and the errors in the calculations as a result of applying the incorrect number of suites in the subject to the information.

[10] The Respondent's issues with the submission of the Complainant are as follows: (a) the date of the Appraisal is May 17, 2012 which is more than a year prior to the legislated date of valuation for the 2014 taxation date of July 1, 2013; (b) it was prepared for a third party, not the Complainant and no consent by the third party to its use before the Board was provided; (c) the

purpose of the appraisal is expressed to be for financing, not assessment; (d) the valuation being made is based upon a leased fee basis and not fee simple as required by the legislation; (e) comparable sales are not all from the subject market area; (f) the capitalization rate used is outside the range of comparables; (g) the number of units used in calculations is incorrect resulting in skewed numbers being calculated; and (h) no expense estimate analysis sources are disclosed. The Respondent took issue with the absence of the Appraiser and the lack of representation of the Complainant at the Hearing in that no opportunity was presented to question the contents of the Appraisal submitted by the Complainant.

[11] The Respondent submitted a 65 page brief entered as Exhibit R-1 in support of a value based upon the income approach using typical potential gross income (PGI), typical vacancy and a typical gross income multiplier (GIM). The Respondent stated that the income data from the request for information process has been analyzed to establish the PGI to which has been added typical parking and laundry income. The typical vacancy rate of 3.00% is similarly derived from an analysis of reported vacancies from the income and expense statements in the responses to the requests for information. The GIM rate of 10.63 was derived from market analysis of sales.

[12] The Respondent submitted a chart of the analysis of four sales of low rise multi-residential properties in the market area of the subject. The comparables are all 2.5 story properties ranging in age from 1971 to 1979 which does not encompass the age of the subject of 1981. The number of suites in the comparables ranges from 6 to 35 respectively, which encompasses the subject total suites of 18. The City of Edmonton income analysis and the time adjusted sales prices produce a range of GIM's of 8.77 to 11.14 which compare to the GIM for the subject at 10.63. The sales dates of the comparables range from March 2011 to October 2012 and are time adjusted to the July 1, 2013 valuation date. The sale data sheet for comparable number 2 indicates the name of the vendor and purchaser to be the same thus making the sale questionable.

[13] The Respondent also submitted a chart of the analysis of four equity comparables located in market area 10. These comparables are all 2.5 story low rise properties with an age range of 1979 to 1983. The number of suites range from 6 to 29. The GIM range is 10.53 to 10.73 compared to the subject of 10.63 and the assessment per suite ranges from \$99,812 to \$ 113,916, compared to the subject at \$99,777.

### **Decision**

[14] The decision of the Board is to confirm the 2014 assessment of \$1,796,000.

### **Reasons for the Decision**

[15] The Board was faced with the difficulty of dealing with the absence of any representative on behalf of the Complainant and the emailed request by the agent to accept into evidence the Disclosure Brief that had been filed with the Respondent and the Composite Assessment Review Board pursuant to S.8 of MRAC. The Board acknowledges that pursuant to S.16(1) of MRAC, in lieu of attending , a party may file a written presentation with the clerk. The Board accepts that the Disclosure document (Exhibit C-1) satisfies the requirement of S.16(2)(b) of MRAC.

[16] Having made the decision to accept the information contained in Exhibit C-1 into evidence, the Board proceeded to examine the contents of the Appraisal contained in the exhibit and gave it due consideration. The Board noted matters that gave concern about the Appraisal. The first matter that affects the significance is the date of the Appraisal being more than a year

before the valuation date of the subject. The second is that it was prepared for a third party and no consent was presented for its use before the Board. The third is that it was prepared for financing and not assessment. The fourth is that it was prepared on the incorrect assumption of the number of units in the building which skews the calculations. The assessment shows 18 suites present in the subject. However the Appraisal uses 17 suites in the calculations which results in an error in the resulting information.

[17] This leads to the fifth matter of concern in that the Appraisal was prepared on a lease fee estate basis. S.2(b) of MRAT provides that in mass appraisal an assessment of property based on market value must be an estimate of the fee simple estate in the property. This departure from the legislated basis for making the estimate renders the Appraisal of little weight to the Board in considering the valuation reached by the Appraiser for assessment purposes.


[18] Giving full consideration to all the information in the Appraisal, the Board reviewed the sales comparables presented by the parties and found the Respondent's comparables to be superior to those of the Complainant. The addition of the equity comparables by the Respondent added support to the sales comparables and to the assessment valuation of the Respondent. The equity comparables are persuasive that the assessment is not only correct but is fair and equitable.

### **Dissenting Opinion**

[19] There is no dissenting opinion.

Heard May 21, 2014.

Dated this 5<sup>th</sup> day of June, 2014, at the City of Edmonton, Alberta.

  
\_\_\_\_\_  
Lynn Patrick, Presiding Officer

**Appearances:**

None

for the Complainant

Cameron Ashmore

Keivan Navidikasmaei

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.*

## Appendix

### Legislation

#### **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.

#### **The *Matters Relating to Assessment Complaints Regulation*, AR 310/2009:**

##### **Disclosure of evidence**

s 8(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

- (a) the complainant must, at least 42 days before the hearing date,
  - (i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and
  - (ii) provide to the respondent and the composite assessment review board an estimate of the amount of time necessary to present the complainant’s evidence.

##### **Personal attendance not required**

s 16(1) Parties to a hearing before an assessment review board may attend the hearing in person or may, instead of attending in person, file a written presentation with the clerk of the assessment review board.

(2) A party who files a written presentation under subsection (1) must provide a copy of it to the other parties,

- (a) in the case of a hearing before a local assessment review board, at least 3 days before the hearing;

- (b) in the case of a hearing before a composite assessment review board, at least 7 days before the hearing.

***The Matters Relating to Assessment and Taxation Regulation, AR 220/2004:***

**Mass appraisal**

- 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.

**Exhibits**

Complainant's Brief, C1 – 56 pages  
Respondent's Brief, R1 – 65 pages