

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2014 ECARB 00951

Assessment Roll Number: 10298548
Municipal Address: 11523 100 Avenue NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: \$17,090,500

Between:

CVG Canadian Valuation Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Jerry Krysa, Presiding Officer
Howard Worrell, Board Member
Jack Jones, Board Member

Procedural Matters

[1] In response to queries from the Presiding Officer, the parties did not object to the composition of the Board, and the Board members confirmed that they have no bias in respect of the matter.

[2] During the course of the hearing, the Respondent made an application to exclude the Complainant's rebuttal exhibit C3, and pages 4 to 9 of exhibit C2 from evidence on the basis that the materials are not proper rebuttal evidence, but rather, new evidence in further support of the Complainant's own argument.

[3] The Complainant maintains that the exhibits include proper rebuttal evidence in respect of the Respondent's photographic evidence and the Respondent's time adjustment factors.

Board Decision

[4] The Board allows the Respondent's application in respect of the Complainant's exhibit C2 (pages 5 to 9). The Board finds that the photographs are not directly related to any of the Respondent's evidence in exhibit R1.

[5] The Board denies the Respondent's application in respect of exhibit C3 and page 4 of exhibit C2, in part. The Board allows the materials to be entered as rebuttal evidence only in respect of the Respondent's time adjustment factors, for the reason that the materials are directly related to the Respondent's evidence of time adjustment factors in exhibit R1.

Background

[6] The subject property, known as Le Marchand Mansion, is a four storey office building located in west-central Edmonton. The original improvement was constructed in the early 1900's; however, the effective year of construction is estimated at 1970 as a result of subsequent renovations and additions. The building is comprised of 49,686 square feet of upper level office area, 5,905 square feet of below grade office area, 6,964 square feet of main floor retail area, 2,072 square feet of main floor restaurant area, and 7,479 square feet of storage area.

[7] The assessment of the subject property, prepared by means of the income approach to value is founded on the Respondent's 124th Street district "Subclass AA" mass appraisal income parameters.

Issues

[8] Does the assessment reflect the subject's physical characteristics as of December 31, 2013?

[9] What is the proper classification of the subject property?

Position of the Complainant

[10] The Complainant argues that the assessment of the subject property does not reflect the subject's characteristics and physical condition on December 31 of the assessment year. The Complainant submits that as of December 31, 2013, the 2,072 square foot restaurant was demolished and 4,198 square feet of office area in suites #211, #311 and #411 were gutted and un-serviced in preparation for renovation and expansion. Additionally, the 7,479 square foot below grade storage area was under renovation into a mechanical room and entrance to the proposed underground parking garage. The Complainant maintains that the total area affected should be excluded from the subject's income approach valuation.

[11] The Complainant further argues that recent leasing activity within the subject does not support the Respondent's "Subclass AA" suburban office classification and corresponding \$20.00 per square foot market rent rate. The Complainant submits that recent leasing activity more closely reflects the \$18.50 per square foot market rent rate assigned to 124 Street district "Subclass A" suburban offices, and to nearby downtown core "Subclass BB" offices.

[12] In support of the argument, the Complainant provided the subject's rent roll as of September 30, 2013, and a summary of ten, 2012 and 2013 leases within the subject exhibiting lease rates ranging from \$15.00 to \$20.00 per square foot, with average and median lease rates of \$17.95 and \$17.98 per square foot, respectively.

[13] In support of its requested assessment of \$14,200,000, the Complainant provided a reconstructed pro forma reflecting the assessment parameters of a 124 Street district "Subclass A" suburban office classification, and the exclusion of total area affected by renovation detailed above.

[14] In rebuttal to the Respondent's submission, the Complainant argues that the Respondent's net rent time adjustments are unsupported and excessive in relation to those applied to similarly located "Subclass A" suburban offices. In support of the argument, the Complainant provided the Respondent's 2014 Rental Rate Study of 124 Street district "Subclass A" suburban offices exhibiting 2012 lease rate time adjustment factors ranging from +3.65% to +6.59% in contrast to

the 2012 lease rate time adjustment factors of +7.43% to +17.50% applied in the Respondent's 2014 Rental Rate Study of similarly located "Subclass AA" suburban offices.

[15] The Complainant further argues that the Respondent's net rent time adjustments are unsupported by the assessed market rent rates of "Subclass AA" suburban offices in the 2013 and 2014 taxation years, which demonstrate stability in market rent rates between 2012 and 2013. In support of the argument, the Complainant provided the Respondent's tables of Suburban Valuation Rates to demonstrate that 124 Street district "Subclass AA" suburban offices were assessed at an identical market rent rate of \$20.00 per square foot for both taxation years.

[16] In closing, the Complainant maintains that net rent time adjustments are valid, but not required in this instance, and further, employing the Respondent's time adjustment factors applicable to the 124 Street district "Subclass A" suburban offices supports the Complainant's requested market rent rate and classification.

Position of the Respondent

[17] The Respondent concedes that the assessment does not reflect the subject property's physical characteristics as of December 31, 2013 and recommends that the assessment be revised to \$16,521,000, reflecting the demolition of the 2,072 square foot restaurant and the 7,479 square foot below grade storage area. However, the Respondent argues that during a joint property inspection with the Complainant, the property manager indicated that the 4,198 square feet of office area in suites #211, #311 and #411 were not under construction as of December 31, 2013, and therefore this area is properly included in the assessment.

[18] The Respondent further argues that the subject property is properly classified as a 124 Street district "Subclass AA" suburban office, and maintains that the recommended assessment reflects the market value of the property in accordance with relevant legislation.

[19] In respect of the subject's 124 Street district "Subclass AA" suburban office classification, the Respondent provided the qualitative and quantitative attributes and the mass appraisal stratification criteria relied upon for the classification of suburban offices set out below:

Quantitative Attributes: Effective Year Built; # of Stories; Gross Leasable Area; Lease Rates

Qualitative Attributes: Interior Finish; Exterior Finish; Condition; Quality; Parking; Lot Location; Transit Access; Traffic Exposure

AA	Highest Rents. Encompasses premium quantitative attributes and premium qualitative attributes.
A	Rents lower than AA offices. Generally, quantitative attributes are slightly inferior to AA. Encompasses a high number of qualitative attributes; some or all may be inferior to AA.
B	Rents lower than A office. Generally, quantitative attributes are slightly inferior to A. Encompasses an average amount of qualitative attributes; some or all may be inferior to A.
C	Lowest rents. Generally, quantitative attributes are slightly inferior to B. Encompasses a low number of qualitative attributes; some or all may be inferior to B.

[20] In support of the subject's "Subclass AA" classification and the \$20.00 per square foot market rent rate, the Respondent provided its 2014 Rental Rate Study in respect of 124 Street district "Subclass AA" suburban offices comprised of nine 2012 leases and one 2013 lease, exhibiting a range of time adjusted lease rates from \$17.00 to \$26.55 per square foot, and average and median lease rates of \$20.53 and \$20.39, respectively.

[21] In further support of the subject's "Subclass AA" classification and the \$20.00 per square foot market rent rate, the Respondent provided a "DTZ" commercial lease listing in respect of the subject property, exhibiting an asking rent rate of \$20.00 per square foot.

[22] In support of the rent rate time adjustment factors, the Respondent provided an excerpt of a third party document, "CBRE Suburban lease trend" to demonstrate that overall net asking rates were increasing through Q3, 2013, and had stabilized by Q1, 2014.

[23] In response to the Complainant's evidence and argument, the Respondent submits that the Complainant has not provided sufficiently compelling evidence to establish a prima facie case.

[24] The Respondent argues that the Complainant's estimate of value is improper due to the inconsistent application of the subject's "actual" rent rates, with "typical" operating characteristics. The Respondent further argues that the Complainant's request of a "Subclass A" suburban office classification is founded exclusively on the subject's rent rate, and ignores all of the qualitative and quantitative attributes considered by the Respondent in its' stratification of the subject property.

Relevant Legislation

The Municipal Government Act, RSA 2000, c M-26

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;

289(1) Assessments for all property in a municipality, other than linear property, must be prepared by the assessor appointed by the municipality.

(2) Each assessment must reflect

- (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and
- (b) the valuation and other standards set out in the regulations for that property.

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

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.

Decision

[25] The Board finds that the assessment of the subject property does not reflect its characteristics and physical condition as of December 31, 2013. The Board further finds that the assessment parameters assigned to 124 Street district "Subclass A" suburban offices are more reflective of those exhibited by the subject property. The assessment is revised to \$15,496,000.

Reasons for the Decision

[26] **Characteristics and Physical Condition:** The Board accepts the Respondent's recommendation in respect of the subject's characteristics and physical condition as of December 31, 2013. The Board is not persuaded by the Complainant's photographs of demolition and renovations as there was little evidence to confirm the specific areas photographed and the dates of the photographs. Moreover, the Complainant's rent roll evidence indicates that leases were in place for units #211 and #311 well past December 31, 2013, as the leases exhibit expiry dates of April 30, 2014 and May 31, 2015, respectively.

[27] **Classification:** The Board applies little weight to the Respondent's suburban office stratification criteria and finds it to be vague and subjective. Although the Respondent argued that the subject's market rent rate is insufficient to stratify the subject property, the Respondent failed to provide any other compelling evidence to correlate the subject's other qualitative and quantitative attributes with those set out in the stratification criteria. In the absence of such evidence from the Respondent, the Board accepts that the subject can be stratified exclusively by its typical market rent rate.

[28] **Methodology:** The Board rejects the Respondent's argument regarding the Complainant's application of "actual" rents with other "typical" market factors, as a property's recent leasing activity may well reflect "typical" market rent rates. Although the application of contract lease rates from dated leases may not reflect current market rent and therefore may include potential leasehold interests, in this instance the Complainant relied only on recent leasing within the subject property to establish the subject's potential gross income.

[29] **Market Rent Rate:** The Board accepts that the subject's typical office market rent rate is \$18.50 per square foot. The Complainant's evidence of ten recent leases within the subject property, exhibiting a range of lease rates from \$15.00 to \$20.00 per square foot is compelling evidence of the subject's typical office market rent rate. The Board notes that of the ten recent leases, 90% were at lower rent rates than the Respondent's predicted "typical" market rent of \$20.00 per square foot rate, and no leases exceeded that rate. As there was no market evidence provided in support of the requested \$18.50 per square foot market rent rate for the subject's commercial retail units, or the requested \$11.00 per square foot market rent rate for the subject's below grade office areas, the assessed rates assigned to those areas will not be disturbed by the Board.

[30] The Board applied little weight to the Respondent's evidence of time adjusted lease rates. The Board concurs with both parties that time adjustments to rent rates may be necessary; however, the Board notes that there was no compelling market evidence in support of the significant time adjustment factors applied by the Respondent. The Board was not persuaded by the Respondent's CBRE Suburban Lease Trend evidence as the document indicates an average net asking rent rate of approximately \$16.25 midway between Q3 2011 and Q1, 2012, and approximately \$17.00 midway between Q1 and Q3, 2013 (at the effective valuation date);

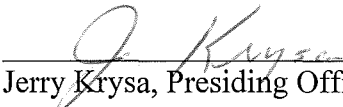
reflecting a time adjustment of approximately +4.6% in contrast to the Respondent's +17.50% time adjustment to early 2012 lease rates.

[31] Moreover, the Board notes that the Respondent's stratification of "Subclass A" and "Subclass AA" 124 Street district suburban offices is not supported by a comparison of the unadjusted (predominantly 2012) lease rates in the Respondent's corresponding 2014 Rental Rate Studies.

Sub Class	Net Rent Range	Median Net Rent	Average Net Rent	TA Net Rent Range	TA Median Net Rent	TA Average Net Rent
A	\$14.00 - \$22.00	\$18.00	\$18.28	\$14.51 - \$23.08	\$18.81	\$19.21
AA	\$15.00 - \$23.00	\$18.00	\$18.25	\$17.00 - \$26.55	\$20.39	\$20.53

Heard August 20, 2014.

Dated this 15th day of September, 2014, at the City of Edmonton, Alberta.


Jerry Krysa, Presiding Officer

Appearances

For the Complainant: Tom Jantzen, Canadian Valuation Group

For the Respondent: Joel Schmauss and James Cumming, City of Edmonton
Amy Cheuk (Counsel)

Exhibits

- C1 Complainant's Submission (22 pages)
- C2 Complainant's Rebuttal (4 pages - *Reference pgh. 5)
- C3 Complainant's Rebuttal (2 pages)
- R1 Respondent's Submission (55 pages)
- R-2 Calgary Assessment Review Board Decision 0660/2010-P (10 pages)

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.