Edmonton Composite Assessment Review Board

Citation: GGL HOLDINGS LTD v The City of Edmonton, ECARB 2012-000220

Assessment Roll Number:	2193357
Municipal Address:	14605 119 AVENUE NW
Assessment Year:	2012
Assessment Type:	Annual New

Between:

GGL HOLDINGS LTD

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Robert Mowbrey, Presiding Officer
Dale Doan, Board Member
Petra Hagemann, Board Member

Preliminary Matters

[1] Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board members indicated no bias on this file. The witnesses were either sworn in or affirmed, the choice being that of the individual witness.

[2] During a break in the hearing, a Board member advised the Presiding Officer that he had worked for the Complainant more than 30 years ago. After the break, the Presiding Officer advised the parties of the issue and that the Board had agreed that the Board member should not be in a conflict position.

Background

[3] The subject property is a concrete building that is demised into two shop bays and one office/shop bay. The subject property built in 1965 is located at 14605 119 Avenue NW. The total area is 7,815 square feet including a main floor office of 1,902 square feet. The subject property has a 2012 assessment of $860,500.

Issue(s)

[4] What is the market value of the subject property?

Legislation

[5] The Municipal Government Act reads:

> ***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;
>
> 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's assessment of $860,500 was inequitable and in excess of market value. In support of this position, the Complainant presented an appraisal to the Board marked as Exhibit C-1 and dated December 2011. The Complaint advised the Board that the subject property was not overly well maintained; that two of the bays had no windows and that one of the bays had only an open shop with no office improvement and no washroom.

[7] The Complainant advised the Board that they calculated the value of subject property based on the income and direct comparison approaches. The overall capitalization technique provided a value of $591,000 to $646,000. The overall direct comparison approach provided a value of $581,000 to $658,000. The Complainant requested a correlated market value of $620,000 (Exhibit C-1 page 1).

[8] The Complainant outlined the assumptions, limiting conditions, scope and the purpose of the appraisal (Exhibit C-1 pages 2-5).

[9] In addition, the Complainant advised the Board about market value, location of the subject property, economic and market analysis, along with the neighborhood analysis (Exhibit C-1 pages 5-9).

[10] The Complainant outlined the three bays, including improvements, zoning and photographs. The Complainant advised the Board that bay #2 was not available for inspection (Exhibit C-1 10-19).

[11] The Complainant provided the Board with a market rental survey that provided a rental range from $6.75 - $9.25 per square foot. Overall, the Complainant stated that after taking locational characteristics into account of both the subject property and the comparables, as well as current market conditions and alternative available properties, the Complainant is confident in

estimating market rental rate for bays #1 and #2, if leased together, at $7.25 psf, and for bay #3 at $7.00 psf (C-1 pages 21-24).

[12] The Complainant advised the Board a pro forma operating statement was on C-1 page 25.

[13] The Complainant provided the Board with a four sales comparables of investment properties and pointed out the difference and similarities to the subject property:

- #4 establishes the top end of the range at $136.41 psf. Given the superior office improvements, a negative adjustment is required. In addition, the property is newer and located in a more desirable location and this comparable is evidence that a unit value of less than $136.41 psf is appropriate for the subject property.

- #1 is a recent sale that transferred on October 2011 for $127.45 psf. With large windows and a newer development that is situated within a more desirable neighborhood, this provides evidence that a unit value below $127.45 psf is appropriate for the subject property.

- #3 represents the sale of a larger, multi tenant office/warehouse that transferred in August 2011 for $84.66 psf. Overall, the countermanding positive and negative adjustments suggest a unit value similar to $84.66 psf is appropriate in establishing the top end of the range for the subject property.

- #2 transferred in September 2011 for $70.27 psf of the footprint area. With the comparable in a more desirable location, this comparable suggest a unit value above $70.27 psf is appropriate for the subject property.

Therefore, overall the direct comparison approach estimates the market value of the subject property to be between $581,000 and $658.000 (Exhibit C-1 29-32).

[14] Using the income approach to value, the Complainant illustrated to the Board a range in market value for the subject from $591,000 to $646,000. After analysis the Complainant estimates the market value of the subject property to be between $581,000 and $658,000 based on the direct comparison approach. Therefore, the Complainant advised the Board that based on the effective date of the inspection, the market value of the subject property should be $620,000.

[15] The Complainant during cross-examination asked the Respondent when the Respondent inspected the property. The Respondent advised the Board that the inspection took place during May/June of 2012 and that there were no changes from the previous year.

[16] The Complainant asked the Respondent how the assessment of the subject property was derived at and the Respondent advised the Board that the assessment was based on the mass appraisal model.

[17] The Complainant questioned the Respondent regarding the assessment approach to the subject property and why not use the cost approach or the income approach? The Respondent stated that the sales comparison approach was the best assessment methodology for the subject property and similar properties because so many warehouse/office types were owner-occupied.

[18] The Complainant asked the Respondent why 2008 sales were used when there are sales in 2011. The Respondent stated sales are utilized from June 2008 to June 2011 and time adjusted to valuation date.

[19] The Complainant asked the Respondent if the only adjustment is time and the Respondent stated that other variables were taken into account such as location, size, year built and condition.

[20] During summation, the Complainant stated the appeal process makes the assessment system better. They noted that property taxes were down in 2011. The Complainant further stated valuation under mass appraisal is a difficult process with some properties being assessed higher and some lower than the average. The Complainant stated there are flaws with the mass appraisal system and some appeals will fall through the crack.

[21] The Complainant stated that some of the Respondent's information is inaccurate and is ball parking to the extreme.

[22] With the Complainant having the last word, they suggested that having seen the property and analyzed sales comparables, market value at $620,000 is accurate.

Position of the Respondent

[23] The Respondent defended the City's position in presenting a 30-page assessment brief marked as R-1 and a 44-page law and legislation evidence package marked as R-2.

[24] The Respondent explained to the Board that the subject assessment and similar assessments were prepared using the direct sales comparison assessment methodology for value. The Respondent advised the Board that the City was mandated to use mass appraisal for assessment purposes. Mass appraisal is a methodology for valuing individual properties, which involves the following process:

- properties are stratified into groups of comparable property
- common property attributes are identified for the properties in each group
- a uniform valuation model is calibrated for each group using market information incorporating the property attribute

Mass Appraisal Approaches

- Cost Approach
- Sales Comparison Approach
- Income Approach

The International Association of Assessing Officers (IAAO) and the Appraisal Institute of Canada recognizes the applicability of all three approaches to value for use in mass appraisal.

[25] The Respondent advised the Board that for the 2012 annual assessment the sales comparison approach was employed. There is ample data from which to derive reliable value estimates and only a portion of the inventory is traded on its ability to generate income. A large percentage of industrial property in Edmonton is owner-occupied, and as such has no income attributable to it.

[26] When sufficient valid sales are available, the sales comparison approach tends to be the preferred valuation method.

[27] Sales occurring from January 2008 through June 2011 were used in model development and testing. Through the review of sales and the collection actions of buyers and sellers in the market place are analyzed to determine the contributory value of specific property characteristics that drive market value.

[28] Factors found to affect value in the warehouse inventory were: the location of the property, the size of the lot, the age and condition of the buildings, the total area of the main floor (per building), amount of finished area on the building area on the main floor as well as developed upper area (per building).(Exhibit R-1 pages 4-8).

[29] The Respondent provided a detailed sheet showing the Board the assessment analysis regarding the subject property. The subject property was assessed using the direct sales approach (Exhibit R-1 page 14).

[30] The Respondent provided the Board with 5 sales comparables to the subject property.

- #1 at 11430- 142 Street was on a major road, but was close to the subject property.
- # 2 at 10805 120 Street was in a newer area and centrally located. The site coverage was 44%, but the comparable was double the size of the subject property.
- #3 at 10566 114 Street was a little newer than the subject property, but had a 79% site coverage and was double the size of the subject property.
- #4 at 10535 108 Street was a little newer than the subject property, but had twice the site coverage than the subject property.
- #5 at 12803 126 Avenue was newer than the subject property, but had higher site coverage and the comparable was smaller than the subject property (Exhibit R-1 page 22).

[31] Both the Respondent and Complainant advised the Board that they could not gain access to bay #2 for inspection purposes.

[32] The Respondent provided the Board with 8 equity assessment comparables to the subject property. All of the equity comparables were similar to the subject in location, condition and age and had an average assessment of $114.97 per sq. ft (Exhibit R-1 page 28).

[33] During cross-examination, the Respondent pointed out the 2nd comparable provided by the Complainant (page 33- C-1) was a non-arms length sale, as both the vendor and the purchaser were the same (Exhibit R-1 pages 30, 32).

[34] The Respondent provided third party reports to the Board that stated that vacancy rates were 4.42% in the North West and 3.62% in Edmonton proper (Exhibit R-1 page 34).

[35] The Respondent provided third party reports to the Board that stated the average asking rental rate per bay size (5,001-10,000) was $8.70 per foot in the North West (Exhibit R-1 page 35).

[36] The Respondent provided third party reports from Colliers International for the second quarter of 2011 (Exhibit R-1 page 36) illustrating the range in capitalization rates in the Edmonton area from 6.7% to 7.75% as opposed to 8.75% as suggested by the Complainant .

[37] The Respondent provided excerpts from the "Appraisal of Real Estate-Second Canadian Edition;"

- Appraisers develop an opinion of property value with specific appraisal procedures that reflect three distinct methods of data analysis:
  a) Cost
  b) Direct Comparison
  c) Income

- All three approaches are applicable to many appraisal problems, but one or more of the approaches may have greater significance in a given assignment. Also, income capitalization can be particularly unreliable in the market for commercial or industrial property where owner-occupants could be investors.

- Typically, the direct comparison approach provides the best indicator of value for owner-occupied commercial and industrial properties (Exhibit R-1 page 38, 39).

- An adjustment for market conditions is made if general property values have appreciated or depreciated since the transaction dates due to inflation or a change in investors' perception of the market over time.

- Again, it is imperative that the appraiser analyze comparable sales and derive their capitalization rates in the same manner used to analyze the subject property and capitalize its income.

- An overall capitalization rate provides compelling evidence of value when a series of conditions are met:

  a) Data must be drawn from properties that are physically similar to the property being appraised and from similar (preferably competing) markets. Where significant difference exist for a given comparable, its indications are afforded less weight or may be discarded entirely.

  b) Sales properties used as sources for calculating overall capitalization rates should have current (date of sale) and future market expectations, including income and expense patterns and likely value trends, that are comparable to those affecting the subject property.

  c) Income and expenses must be estimated on the same basis for the subject property and all comparable properties (Exhibit R-1 pages 37-43).

[38] During argument and summation, the Respondent asked the Complainant as to the date of the appraisal which established the market value of the subject. The Complainant stated the appraisal was done in December of 2011 and not on the valuation date.

[39] In addition, the Respondent summarized that there were questions regarding the Complainant's comparables in respect to the rental rate survey and that no adjustments had been

made for size, condition and age. The Respondent suggested that the Complainant was ball parking the analysis and therefore the evidence was questionable.

[40] The Respondent again stated that one of the Complainant's comparables was non-arms length and there was a disconnect between the cap rate and the rental rate.

[41] In summary, the Respondent suggested the Complainant's vacancy analysis was using site specific details as opposed to typical percentages.

[42] The Respondent noted the Complainant's comparables would have to be adjusted as follows in order to render them comparable to the subject property:

a) #2 and #4 states that market rent is below market and the cap rate has not been adjusted
b) #2 and #3 are 5 times the size of the subject property
c) # 2 is a non-arms length sale
d) #4 is much larger than the subject property

[43] Regarding the Complainant's sales data chart on page 33 C-1, the Respondent commented:

a) the sales comparables were not in the same district as the subject property
b) #1 was bought be the adjacent owner
c) #2 was a non-arms length sale

[44] The Respondent stated as of valuation date of July 1, 2011, the Respondent's evidence was the strongest and they asked the Board to confirm the 2012 assessment of $860,500.

Decision

[45] The decision of the Board is to confirm the 2012 assessment of $860,500.

Reasons for the Decision

[46] The Board reviewed both the Complainant's and the Respondent's evidence and argument and found neither party had overwhelming evidence and argument to defend their position.

[47] The Board was not persuaded by the Complainant's evidence. The evidence lacking but not limited to; no adjustment made for size, condition, location and age. One comparable was non-arms length and the Complainant was using site specific details and not typical variables.

[48] The Board noted that the Respondent spent some time and effort advising the Board on the mass appraisal process. The Board reviewed the excerpts from the Appraisal of Real Estate provided by the Respondent and suggests the Respondent did not follow the appraisal guidelines enunciated by the Appraisal Institute. The Board notes the sales comparables were not similar, in that location, condition, size and building differences greatly varied.

[49] The Board put some weight on the Respondent's equity comparables noting some similarities to the subject property.

[50] However, jurisprudence has established the onus of showing an assessment is incorrect rests with the Complainant. The Board finds that the Complainant did not provide sufficient and compelling evidence to enable the Board to form an opinion as to the incorrectness of the assessment.

<u>Dissenting Opinion</u>

[51] There was no dissenting opinion.

Heard commencing September 14, 2012.
Dated this 4th day of October, 2012, at the City of Edmonton, Alberta.

____
Robert Mowbrey, Presiding Officer

Appearances:

Guy Bourgeois, Bourgeois & Company Ltd.
for the Complainant

Cam Ashmore, Legal Counsel, City of Edmonton
Marty Carpentier, Assessor, City of Edmonton
for the Respondent