



ASSESSMENT REVIEW BOARD

Churchill Building
10019 103 Avenue
Edmonton AB T5J 0G9
Phone: (780) 496-5026

NOTICE OF DECISION

CVG
1200-10665 JASPER AVENUE
EDMONTON, AB T5J 3S9

The City of Edmonton
Assessment and Taxation Branch
600 Chancery Hall
3 Sir Winston Churchill Square
Edmonton AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on July 27, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
2255453	13220 140 STREET NW	Plan: 4908KS Block: 2 Lot: 1/ 2U/ 3	\$5,882,000	Annual New	2011
2256808	13652 140 STREET NW	Plan: 4908KS Block: 3 Lot: 1/ 2U/ 3	\$2,256,500	Annual New	2011
2256253	13562 140 STREET NW	Plan: 4908KS Block: 3 Lot: 1/ 2U / 3	\$8,846,000	Annual New	2011
2255958	13364 140 STREET NW	Plan: 4908KS Block: 2 Lot: 1/ 2U / 3	\$10,018,500	Annual New	2011

Before:

Warren Garten, Presiding Officer
Brian Hetherington, Board Member
Howard Worrell, Board Member

Board Officer: Kristen Hagg



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Persons Appearing on behalf of Complainant:

Tom Janzen, CVG

Persons Appearing on behalf of Respondent:

Cam Ashmore, City of Edmonton, Law Branch

Devon Chew, City of Edmonton, Assessor

Mark Sandul, City of Edmonton, Assessor

PRELIMINARY MATTERS

After the presentation of the Complainant's brief on Roll Number 2682250, the Presiding Officer asked for a recess to discuss an issue of potential bias with the Board members. The Presiding Officer disclosed his prior working relationship with the owner, Westcorp and the Board concluded that the matter should be decided by the Respondent and Complainant as to their wishes in continuing the hearing with the Presiding Officer. After the Presiding Officer disclosed his prior working relationship from 2002-2004 with Westcorp to the parties, the Respondent questioned the Presiding Officer on his present relationship with Westcorp and confirmed that he had no current financial relationship and only a minimal social relationship with them. Both the Respondent and Complainant were satisfied with his disclosure and agreed to continue with the Presiding Officer hearing this and the other roll numbers 2682581, 2685600, and 2686509.

The Presiding Officer confirmed to both parties at the onset of the hearing on Roll Number 2255453 that the matter of potential bias raised on Roll number 2682250 et al, was also the same for this group of properties. The Respondent and Complainant agreed to continue as per their previous agreement.

The Board was informed by the Respondent and Complainant that 30 roll numbers were scheduled to be heard during the following days that would have common evidence packages and the same issue. Specific evidence and issues would also be presented for each roll number as they were to be heard by the Board. The parties requested that Roll Number 1171008 form the basis of a master file for this common evidence package and issue. The following is a list of the 30 Roll Numbers that were heard by the Board;

1171008, 1173004, 1174002, 1915404, 1084854, 7984743, 10005215, 10005227, 10005229, 9108853, 9109158, 9109356, 9109992, 9110156, 9110255, 4243630, 2682250, 2682581, 2685600, 2686509, 2255453, 2255958, 2256253, 2256808, 6386700, 6386759, 6386809, 6390157, 6390256, and 9961747.

Further, the Respondent and Complainant requested that the following roll numbers be grouped as follows;

- 1171008, 1174002, 1173004
- 9108853, 9109158, 9109356, 9109992, 9110156, 9110255
- 2682250, 2682581, 2685600, 2686509
- 2255453, 2255958, 2256253, 2256808
- 6386700, 6386759, 6386809, 6390157, 6390256

The Respondent provided the Board with a Master Binder of evidence R-2 that was to be used as common evidence for the 30 roll numbers, that contained;

- Tab 1 2011 Row House Mass Appraisal Brief
- Tab 2 Appraisal Institute of Canada Text Excerpts
- Tab 3 IAAO Mass Appraisal of Real Property & Basics of Real Estate Appraisal
- Tab 4 CVG Low Rise Sales Comparables
- Tab 5 COE Low Rise Sales Comparables
- Tab 6 COE Row House Sales Comparables
- Tab 7 2010 Row House Assessment Review Board Decision
- Tab 8 MGB Board Order 075/10
- Tab 9 2011 Law Brief

BACKGROUND

The subject properties collectively known as the Wellington Park Townhomes are located in Market Area 10. The buildings contain a total of 220 rental units of which 52 are 2 bedroom units, 102 are 3 bedroom units and 66 are 4 bedroom units. The effective year built is 1972 and condition is average

ISSUE(S)

Is the City of Edmonton's Gross Income Multiplier (GIM) the appropriate market value multiplier for the subjects' assessment?

LEGISLATION

The Municipal Government Act, R.S.A. 2000, c. M-26 (MGA);

s. 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. 284 (1)(r) "property means"

- i) a parcel of land,
- ii) an improvement, or
- iii) a parcel of land and the improvement to it;

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.

Matters Relating to Assessment and Taxation Regulation, Alta Reg 220/2004 (MRAT);

- s. 2 An assessment of property based on market value
- a) must be prepared using mass appraisal
 - b) must be an estimate of value of the fee simple estate in the property, and
 - c) must reflect typical market conditions for properties similar to that property
- s. 4(1)(a) The valuation standard for a parcel of land is market value
- s. 5(1) The valuation standard for improvements is
- a) the valuation standard set out in section 7, 8 or 9, for the improvements referred to in those sections, or
 - b) for other improvements, market value
- s. 6(1) When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvement is market value unless subsection (2) or (3) applies.

POSITION OF THE COMPLAINANT

The Complainant provided evidence (C-1) for each roll number that contained maps, photographs of the subject properties, City of Edmonton Assessment Details, Consolidated Income Statements and Sales Comparables.

Roll Number 2255453

- The Complainant stated that the subject property was built in 1960 and that the City had applied an effective age of 1972. The property has 48 mixed units with an average City assessed price per unit of \$122,541. The Effective Potential Gross Income (EPGI) of \$554,036 that is used by the City is not disputed by the Complainant. (R-1, pg 11); what is in dispute is the Gross Income Multiplier (GIM).
- The Complainant provided 8 sales comparables from Gettelnetwork.com (The Network) (C-1, pgs 2, 9-16) that demonstrated a range of GIM's from 9.24-10.23 with an average of 9.5. The Subject property is assessed by the City using a 10.6171 GIM (R-1, pg 11).
- Applying the average 9.5 GIM from the 8 sales comparables to the subject EPGI results in a value of \$5,263,000. The Complainant requested that the 2011 assessment be reduced from \$5,882,000 to \$5,300,000.

Roll Number 2256808

- The Complainant stated that the subject property was built in 1960 and that the City had applied an effective age of 1972. The property has 18 four bedroom units with an average City assessed price per unit of \$125,361. The EPGI of \$212,546 that is used by the City is not disputed by the Complainant. (R-1, pg 11); what is in dispute is the GIM.
- The Complainant provided 11 sales comparables from The Network (C-1, pgs 2, 9-19) that demonstrated a range of GIM's from 8.00 - 10.23 with an average of 9.27. Sales numbers 4, 5 and 7 were added to the 8 comparables used in the master file because they were more similar in size and from the same market area as the subject property. The Subject property is assessed using a 10.6171 GIM (R-1, pg 11).
- Applying a 9.0 GIM from the 11 sales comparables to the subject EPGI results in a value of \$1,913,000. The Complainant requested that the 2011 assessment be reduced from \$3,338,000 to \$1,950,000.

Roll Number 2256253

- The Complainant stated that the subject property was built in 1960 and that the City had applied an effective age of 1972. The property has 72 mixed units with an average City assessed price per unit of \$122.861 The EPGI of \$833,213 that is used by the City is not disputed by the Complainant. (R-1, pg 11); what is in dispute is the GIM.
- The Complainant provided 8 sales comparables from The Network (C-1, pgs 2, 9 -16) that demonstrated a range of GIM's from 9.24-10.23 with an average of 9.50. The Subject property is assessed using a 10.6271 GIM (R-1, pg 11).
- Applying the average 9.5 GIM from the 8 sales comparables to the subject EPGI results in a value of \$7,915,500. The Complainant requested that the 2011 assessment be reduced from \$8,846,000 to \$8,000,000.

Roll Number 2255958

- The Complainant stated that the subject property was built in 1960 and that the City had applied an effective age of 1972. The property has 82 mixed units with an average City assessed price per unit of \$122,176. The EPGI of \$943,619 that is used by the City is not disputed by the Complainant. (R-1, pg 11); what is in dispute is the Gross Income Multiplier (GIM).
- The Complainant provided 8 sales comparables from The Network (C-1, pgs 2, 11-18) that demonstrated a range of GIM's from 9.24-10.23 with an average of 9.50. The Subject property is assessed using a 10.6171 GIM (R-1, pg 11).
- Applying the average 9.5 GIM from the 8 sales comparables to the subject EPGI results in a value of \$8,964,000. The Complainant requested that the 2011 assessment be reduced from \$10,018,500 to \$9,000,000.

POSITION OF THE RESPONDENT

The Respondent advised the Board that Roll # 1171008 would be used as the Master file for the 30 applications to be heard in the series of scheduled hearings. Much of the evidence and information presented would also be carried forward to the other roll numbers being heard.

The Respondent indicated to the Board that the Complainant's choice of methodology in reaching its proposed GIM is flawed, as there is a need to use comparisons with similar Row House properties.

The Respondent referred to a binder provided (R2), containing background information and analyses of comparable properties to be used throughout the series of hearings. The binder included a presentation on the City's Multi-Residential Assessment Income Model (R2, pg5). This model incorporates an equation for the calculation of a Market Value Assessment (MVA), using the following process:

$$\text{MVA} = (\text{Potential Gross Income less vacancy allowance}) \times \text{GIM}$$

The binder also included an outline description of Row House properties (R2, pg 11) the kind of properties being reviewed in the current series of appeals. In presenting this information, the Respondent acknowledged that there had been a limited number of sales of this particular type of property in recent years by which to make accurate assessments.

Among other elements used by the Respondent from R2 were the following:

- The City of Edmonton uses Gross Income Multipliers (GIM) as the basis of reaching assessment values for multi-residential properties. To support this concept, the Respondent referred the panel to a quote from "The Appraisal of Real Estate, Second Canadian Edition" published by the Appraisal Institute. The description of Gross Income Multipliers, according to the Institute, is:
 - *"Gross income multipliers (GIMs) are used to compare the income-producing characteristics of properties. Potential of effective gross income may be converted into an opinion of value by applying the relevant gross income multiplier. This method of capitalization is mathematically related to direct capitalization because rates are the reciprocals of multipliers or factors. Therefore it is appropriate to discuss the derivation and use of multipliers under direct capitalization."*
- The Respondent informed the Board that "averaging is not a sound principle, especially when comparing row housing to walk-up units".
- When discussing comparables, the Respondent referred to a description contained in Chapter 14 of *"The Basics of Real Estate Appraising"*, published by the Appraisal Institute of Canada. The publication contains the following paragraph (R2, pg 37):
 - *"Market comparables should be just what the term implies; they should be similar in most essential respect to the property being appraised if the comparison process is to be valid. Ideally, the comparables should be similar to the subject from the standpoints of location, type of building, quality of tenancy, and such*

other pertinent factors. The appraiser must strive to understand on what basis the gross incomes of the comparables were being generated at the time the rents were originally negotiated, such as apartment sizes, amenities, quality of premises, or quality of management.”

- In section 4, which was an analysis of sales comparables presented by the Complainant, the Respondent suggested that the property at 10725 - 109 Street (R2, pg 39) had been purchased by Investplus GP III Inc; described by the Respondent as a company that sought out “under-valued and under-managed properties”.
- The Respondent also pointed out a sale at 16404 115 Street (R2, section 4, pg 55) described by The Network as a “Highly leveraged transaction.”

The Respondent made the following submissions to the Board in reference to the City of Edmonton brief (R1):

- A chart of the Complainant’s eight sales comparables for roll numbers 2255453, 2256253, 2255958 (R-1, pg 31), including GIM calculations by both The Network and Anderson for each of the properties. The average GIM for the comparables, using The Network calculations was 9.50, while the average by Anderson statistics was 9.75.
- A chart of the Complainant’s eleven sales comparables for roll number 2256808 (R-1, pg 31) including the eight sales comparables used for the previous three roll numbers; the chart contained GIM calculations by both The Network and Anderson for each of the properties. The average GIM for the comparables, using The Network calculations was 9.36, while the average by Anderson statistics was 9.76.
- The charts showed that four of the eleven sales comparables presented by the Appellant were post facto and therefore invalid, while four were considered inferior.
- Varying analyses of six different property sales as reviewed by The Network, Anderson and the City of Edmonton (R-1, pgs 35-37). These charts demonstrated that The Network calculation of the GIM for the six properties ranged from 9.3 – 12.1; the Anderson’s calculations of GIM ranged from 9.17 – 12.23; while the City of Edmonton calculations for the GIM ranged from 9.33 – 11.83.
- An opinion that row house properties should be compared with row house sales (R1, pg 37). The Respondent acknowledged that row house sales have been limited in recent years, but suggested that it had included row house sales in its comparisons, while the Complainant had not listed any.
- The Respondent presented a chart of four row house sales comparables (R2, tab 6, pg 69-72, R1, pg 39), which had taken place between December 2005 and March 2011.
- The Respondent asks the Board to confirm the 2011 Assessment(s).

COMPLAINANT SUMMARY

The Complainant submitted that any sales completed in the latter half of 2010 should not be classified as post-facto for assessment calculations; he went on to note that the Respondent included a row-house sale completed in March of 2011 (R2, pg 69), nine months later than the July 1 valuation date for assessments. The Complainant stated that the City of Edmonton's estimate of Gross Potential Income for the properties was accurate and not an issue. He also indicated to the Board that he was not suggesting that equity was an issue, but rather questioned whether the City's model produced the right assessment value.

The Complainant suggested that low-rises are the best comparables. He noted that the City used low-rises for comparables, but provided no explanation of any adjustment for the differences between row houses and walk-ups.

The Complainant noted that he had presented a list of comparisons that were the best from an investment perspective. He suggested that the actual income of the subject properties was similar to the estimates provided by the City of Edmonton.

Finally, the Complainant submitted that the multiplier factor used by the Respondent for the subject properties was excessive, and added that the GIM figures reported by The Network and Anderson for the comparable properties reflected market factors that affect decision makers in the market place. He pointed out that the best comparable property from the Respondents list, from statistics prepared by The Network and Anderson, shows a 9.3 multiplier, which is close to the Complainant's submission for the subject properties GIM of 9 or 9.5.

RESPONDENT SUMMARY

The Respondent opened his summary presentation by arguing that methodology is the key to how calculations are made and that the Complainant has used different methodology than that used by the City of Edmonton. The Respondent requested that the Board accept the methodology of GIM used by the City of Edmonton as correct. The Respondent pointed out that the Complainant had taken GIM calculations from The Network and applied it to the City of Edmonton Gross Potential Income, and cautioned the Board that it ought to be very careful if accepting such a methodology.

Commenting on the Complainant's use of data from The Network, the Respondent stated that The Network, in its calculations, made assumptions, and added that nobody expects certainty and that different reporting agencies arrive at different results. He questioned the reliability of the numbers used, arguing that there is no knowledge of where the data is coming from, or whether consistent sources are being used.

- The Respondent suggested that there was an assumption by the Complainant that The Network adjusts the market information.
- He added that appraisal manuals clearly state that different locations impact value, but that the Complainant had indicated that this was not important.
- Further, the City of Edmonton's Potential Gross Income calculations were lower than those suggested by the Complainant, suggesting that the methodology was a key issue in the differences.

Referring to an MGB Board Order (MGB 075/10) from June 2010 (R2 pp 77-97), the Respondent drew attention to the Reasons for the decision, which concluded with a quote from a commentary by J Cummings on the *Westcoast Transmission* hearing:

For this (assessment) process to work, it is evident that the appraiser must make some choices about the concepts to be used, and then use them consistently.

Based on this statement, the Respondent argued that the Complainant cannot expect to “have it both ways”, and that there needs to be a consistency between rents and GIM; thus, it would not be appropriate to use only the Network GIM.

With regards to post facto sales, the Respondent noted that there is a question as to how they can be used. He suggested that the Board can use them to look for trending in value, and pointed out that GIMs were trending down.

Finally, the Respondent submitted that the hearing was not intended to debate the issue of whether the City of Edmonton’s model was right or wrong;; he indicated that the model shows historical differences between low-rise homes and row houses.

In closing, he the Respondent disagreed with the Complainant that equity was not an issue.

COMPLAINANT REBUTTAL

The Complainant stated that the particular hearing was looking at one property, not all properties listed for the hearings. He added that the City of Edmonton’s Potential Gross Income and the actual income are largely the same.

Further, the Complainant submitted that The Network and Anderson data are based on actual income and that there was no evidence presented by the City of Edmonton to show that row houses have higher market value than walk-ups.

In closing, he asked the Board to set a GIM of 9.5 for roll numbers 2255453, 2256253, 2255958 and a GIM of 9 for roll number 2256808.

DECISION

Roll Number 2255453: The Board’s decision is to reduce the 2011 assessment from \$5,882,000 to \$5,604,000 based on a GIM of 10.11.

Roll Number 2255958: The Board’s decision is to reduce the 2011 assessment from \$10,018,500 to \$9,544,000 based on a GIM of 10.11.

Roll Number 2256253: The Board’s decision is to reduce the 2011 assessment from \$8,846,000 to \$8,427,000 based on a GIM of 10.11.

Roll Number 2256808: The Board’s decision is to reduce the 2011 assessment from \$2,256,500 to \$2,150,000 based on a GIM of 10.11.

REASONS FOR THE DECISION

The Board requested information of the Respondent on several occasions as to which comparables or co-efficients of value were used to calculate the GIM used in the City of Edmonton assessment(s). There was no evidence presented to the Board by the Respondent to show how the GIM's were calculated so as to determine the rationale behind the GIM calculation. The Board had no alternative but to determine that the values were somewhat subjective.

The GIM method is described in the Respondent evidence package (R-2, tab 3, pg 31) and includes the following quote: "to obtain samples in each group, many sales are needed". The board found that there was only one valid sale of a row house in the City of Edmonton evidence package (R-2, pg 70) from which the City could create a model for GIM purposes. The Board notes that if the Respondent only used this one sale, it could distort the model.

As the Board was not provided with evidence supporting the GIM used by the City to calculate the assessment(s), the Board concluded that the City must have extracted information from other property sales (low rise, multifamily etc.) in the City of Edmonton in order to arrive at a final GIM for the subject property(s).

The use of GIM is well explained in the City evidence package (R-2, tab 1, pg 5) which partially states "*A GIM is predicted by a model developed from the analysis of validated sales*"

The Respondent's evidence also included a portion of the Appraisal of Real Estate Second Canadian Edition (R-2, tab 2, pg 17); an excerpt cautions as follows:

"Appraisers who attempt to derive and apply gross income multipliers for valuation purposes must be careful for several reasons. First, the properties analyzed must be comparable to the subject property and to one another in terms of physical, locational, and investment characteristics. Properties with similar or even identical multipliers can have very different operating expense ratios and, therefore, may not be comparable for valuation purposes."

The Board found that the City of Edmonton did not put much weight to the operating costs of the non-residential property, which can effectively distort the City's GIM.

Both the Complainant and Respondent agreed that valid row house sales were not available, so it was determined by the Board that the City's GIM must have been derived from low rise apartment sales and/or other similar type multi-residential properties.

Due to the foregoing deficiencies, the Board's decision is based on the only evidence before it, which is the sale comparables brought forward by both the Complainant and Respondent.

The sales comparables discarded by the Board are as follows:

Roll Numbers 2255453, 2256253, 2255958, 2256808

<u>Complainant(C-1, pg 2)</u>	<u>Reason</u>
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Low Rises:

6450-184 Street	Post Facto
9520-103 Ave.	Post Facto
10115-108 Ave.	Post Facto
16404-115 Street	Post Facto

Roll Number 2256808
Complainant

Low Rises C-1, pg 2)

12040- 82 Ave	Outlier
11811- 67 Street	Highly leveraged sale
12035 82 Street	Highly leveraged sale

<u>Respondent (R-2, pg. 57-72)</u>	<u>Reason</u>
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Low Rises:

6450-184 Street	Post Facto
11405-27 Ave.	Vendor Take Back Mortgage (deemed non-arms length)

Row Houses:

241 Dunluce Road	Post Facto
18010-98 Ave.	No Financial information available
501 Dunluce Road	Sold in 2005 with no time - adjusted price provided

The Respondent argued that the Complainant's use of information from The Network and from Anderson Data Online was unreliable. However the Respondent used information from these two organizations (R-2, tab 5 and 6) as its own bona fide sales comparables. The Board found that when the selling price and Gross Potential Rents were compared between The Network and Anderson Data Online, that the information was consistent with each sale and could be considered as a credible source.

The Board would like to acknowledge that the Respondent's GIM spread between all 30 properties was 7.5% from highest to lowest. The lowest being roll number 9108853 at a GIM of 10.4865 and the highest being roll number 4243630 at a GIM of 11.34846. From the information provided, there appears to be a much larger differential between property rents than GIM calculation.

The Board concludes that the greatest impact on the differential in value between properties is the Gross Potential Rent and not the GIM. Increases in rent have the largest single impact on the value of Multi-Residential property.

Gross Potential Rent was not an issue in these hearings

The Board placed the most weight on the following sales comparables extracted from both the Complainant (C-1, pg 2) and the Respondent (R-2, pg 57-68):

<u>Location</u>	<u>GIM</u>	<u>Area</u>	<u>Provider</u>
10725-109 Street	9.28	3	Complainant
11411-103 Ave.	10.23	3	Complainant
10340-117 Street	9.80	3	Complainant
11511-27 Ave.	10.63	2	Respondent
10227-119 Street	10.67	3	Respondent
11420-60 Ave.	10.06	2	Respondent
9560-163 Street	9.24	3	Respondent and Complainant

The Board notes that the average GIM of these qualified sales comparables provided by the Complainant and Respondent is a GIM of 9.99. The Board placed the greatest weight on this GIM calculation.

As a test the Board notes the median GIM from these same seven comparables is 10.06. As a further test the Board notes the average GIM for the 3 property sales with more than 40 units is 9.99 with a median GIM of 10.06. The average GIM of the 4 property sales with less than 40 units is 9.99 with a median GIM of 10.02.

From the information above there is no clear evidence that the number of units sold in a transaction has a major impact on the GIM.

The Board has used the GIM of 9.99 as a benchmark and applied to each property based on the differential calculated by the City of Edmonton assessment details. This in effect allows for GIM differences in areas within the City. The calculation is as follows:

The Board has used the GIM of 9.99 as a benchmark (base) and applied to each property based on the differential calculated by the City of Edmonton assessment details. This in effect allows for GIM differences in areas within the City. The calculation is as follows:

City of Edmonton GIM $10.6171 - 10.4865$ (Base) = $0.1306/10.4865 = 0.0124541$ Increase to the revised base of $9.99 \times 1.0124541 = 10.11$ GIM

DISSENTING OPINION AND REASONS

There were no dissenting opinions by the Board Members

DISSENTING OPINION AND REASONS

There were no dissenting opinions by the Board Members

Dated this 11th day of August, 2011, at the City of Edmonton, in the Province of Alberta.



Warren Garten, Presiding Officer

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, R.S.A. 2000, c.M-26.
