ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 516/10

Canadian Valuation Group
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 October 20, 2010, respecting a complaint for:

Roll Number	**Municipal Address**	**Legal Description**
7984743	4842 106 Street NW	Plan: 2181MC Block: A
Assessed Value	**Assessment Type**	**Assessment Notice for**
$34,277,500	Annual - New	2010

Before:

Robert Mowbrey, Presiding Officer
John Braim, Board Member
Tom Eapen, Board Member

Board Officer: Annet N. Adetunji

Persons Appearing: Complainant

Tom Janzen, Canadian Valuation Group

Persons Appearing: Respondent

Devon Chew, Assessor, City of Edmonton
Tanya Smith, Barrister and Solicitor, City of Edmonton

PRELIMINARY MATTERS

1. Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board.

2. In addition, the Board advised the parties that the Board was not aware of any circumstances that would raise an apprehension of bias with respect to this file.

3. The Board had those individuals providing testimony either sworn or affirmed.

BACKGROUND

The subject property is a 216 row housing unit located in the Empire Park neighborhood (Market area 7). The subject property was built in 1961 and is in average condition. The total 2010 assessed value for the subject property is $34,277,500 which equates to $158,692 per unit.

ISSUE

Is the assessment of the subject property in excess of its market value?

LEGISLATION

The *Municipal Government Act*, R.S.A. 2000, c. M-26;

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

At the commencement of the hearing, the Complainant informed the Board they were not pursuing the argument pertaining to the equity issue or multiplier used by the Respondent put forth in the complaint reasons.

The position of the Complainant is that the capitalization rate (cap rate) is the best method of estimating the market value of the subject property for assessment purposes, as rental producing apartment properties are most commonly bought and sold on the overall capitalization approach in which a rate of return (cap rate) is applied to the net income after the operating expenses have been deducted (Exhibit C-1, page 1).

The Complainant advised the Board that a report by Cushman and Wakefield (Exhibit C-1, page 16) shows cap rates for multi-family properties were 8.10% in 2004, 7.40% in 2005 and 6.7% in 2009. The Complainant provided evidence to the Board on low rise apartment sales in 2004, 2005 and 2009 and on the average cap rate for 2004 (C-2), 2005 (C-3) and 2009 (C-4). The average cap rate for low rise apartments was 8.07% for 2004, while the rate for row houses was 7.85% for 2004, which is 0.22% lower than the low rise sales. In addition, the Complainant gave evidence to the Board on the years 2005 and 2009. Based on the evidence of the three years, the Complainant thought it reasonable to conclude that the cap rate applied to row houses is 0.20% lower than the cap rate applied to low rise apartments. The Complainant then deduced that a cap rate of 6.75% should be considered appropriate for the subject property.

The Complainant analyzed five similar row house complexes (Exhibit C-1) and determined that the median expenses per suite are $4,359 per unit and the average is $4,436 per unit. The Complainant advised the Board that the subject property's income statement showed expenses per suite were $4,194 (Exhibit C-1, page 9). The Complainant considered that $4,400 expenses per suite would be appropriate to operate the subject property.

The Complainant did not disagree with the Respondent's estimate of potential typical income and vacancy which had been applied to the subject building. The Complainant used the Respondent's potential gross income, deducted the Respondent's vacancy and then deducted the Complainant's estimate of typical expenses per suite. The Complainant applied a cap rate of 6.75% to the net operating income of $2,089,709 to produce a value of $30,958,500 or $143,326 per suite.

The Complainant requested a 2010 assessment of $30,958,500 based on the City's potential income approach.

POSITION OF THE RESPONDENT

The Respondent produced a binder for the row house multi-residential properties under appeal on October 20, 2010. The binder has 12 tabs and is 160 pages. The Respondent reviewed the binder with the Board.

The Respondent advised the Board that the Gross Income Multiplier (GIM) is the correct method of estimating the value of the subject property and was the method used. A GIM is predicted by a model developed from the analysis of validated sales. The model is applied to the entire row house inventory to produce an estimated typical GIM for each property as of July 1, 2009 (Exhibit R-1, page 7).

The Respondent advised the Board of the valuation specifications and significant variables regarding the model. The Respondent advised that the City determined a City-wide typical vacancy of 4% would be used on all row houses.

The Respondent advised the Board that the multi-residential model does distinguish different values for the various types of multi-residential properties. The rates established are market based due to the analysis of sales and income/expense properties.

The Respondent reviewed some sections of the Appraisal of Real Estate with the Board;

Tab 2, page 16, “Deriving capitalization rates from comparable sales is the preferred technique when sufficient data on sales of similar, competitive properties is available. Data on each property’s sale price, income, expenses, financing terms, and market conditions at the time of sale is needed. In addition, the appraiser must make certain the net operating income of each comparable property is calculated and estimated in the same way that the net operating income of the subject property is estimated.”

Tab 2 page 18, An overall capitalization rate provides compelling evidence of value when a series of conditions are met:

- Data must be drawn from properties that are physically similar to the property being appraised and from similar (preferably competing) markets. Where significant differences exist for a given comparable, its indications are afforded less weight or may be discarded entirely.
- Sale 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.
- Income and expenses must be estimated on the same basis for the subject property and all comparable properties.
- The comparable property’s price must reflect market terms, or an adjustment for cash equivalency must be possible.
- If adjustments are considered necessary for differences between a comparable and the subject property, they should be made separately from the process of calculating the overall capitalization rate and should be based on market evidence.

The Respondent stated that the Complainant did not give any evidence or vacancy allowance in the disclosure to dispute the vacancy rate used by the City (Exhibit R-2, page 13). The income conversion factor, whether cap rate or GIM, should be applied to the same type of income for the comparables as the subject. When buying a property, a purchaser will consider the opportunity to increase rents when negotiating the purchase price. With the income increased to market, a purchaser can’t pay the same multiple as when the rents are low as the potential to increase rents is no longer there.

One cannot simply take an average of cap rates from sales - a cap rate reflects specific characteristics of the sale. This includes:

- Income level (risk to the income stream) and
- Required rate of return to the investor (based on the income in place and the physical attributes of the property, such as age, condition and size of the overall investment).

The Respondent provided the Board with a chart detailing five sales of larger investment walk-up apartment buildings (Exhibit R-2, page 31) that had sold in 2009 (2 sales) , 2008 (2 sales) and 2007 (1 sale). The Respondent had chosen to focus on large investment low rise sales, because of the lack of recent row housing sales, and because these properties will attract similar investors because of the scale of the developments. The first sales analysis chart (page 31) shows GIM’s and cap rates calculated for the sales and the subject property using the unadjusted potential gross income and vacancy rate. For the sales, the Network reported income and expenses were used, but for the subject property the income and expenses were stabilized on the request for information for the property that the owner sends in to the City. The Respondent produced an expense per suite of $2,900 as typical for the subject row house. The analysis produced a GIM of 11.87 and a cap rate of 6.60%. When applying these figures to the effective gross income and net operating income, the calculations support the assessment (Exhibit R-2, page 33).

The second sales analysis chart (Exhibit R-2, page 31) shows GIMs and cap rates for the sales and the subject property using the time adjusted sale prices and the City's estimate of potential gross income for both the sales and the subject property. The expenses were stabilized in the same manner as the first sales analysis chart. The analysis produced a GIM of 11.28 and a cap rate of 7.04%. When applying these rates to the effective gross income and the net operating income, the resulting calculations support the assessment (Exhibit R-2, page 32).

The Respondent provided the Board with a sales chart (Exhibit R-2, page 34) that detailed the four most recent row housing sales. The comparables had a median time adjusted sale price of $162,178 per suite. The average time adjusted sale price per suite was $164,686. Both the median and average time adjusted sale price per suite support the assessment per suite of $158,692.

The Respondent advised the Board that the Complainant's methodology was flawed and indicates a misleading representation of value.

DECISION

The decision of the Board is to confirm the 2010 assessment of $34,277,500 as fair and equitable.

REASONS FOR THE DECISION

1. The Board put little weight on the Respondent's sales comparables on row housing complexes. All of the sales comparables are considerably newer than the subject property and quite small in comparison to the subject property.

2. The Board placed little weight on the Complainant's third party support information from Cushman and Wakefield as it covered the entire City of Edmonton and it was not broken down into areas. In addition, the report was not broken down into specific types of multi-family properties such as high rise, low rise and row houses. Third party publications are problematic evidence for a number of reasons. The market data used to construct the reports was not in evidence, upon which the Board can determine the reliability and comparability to the subject property.

3. The Board accepts that the cap rate approach is an accepted methodology for valuation. However, the Board was not persuaded by the Complainant's use of the cap rate approach (C-1, page 2). The Complainant had supplied five comparable sales to the subject property to derive a cap rate for the subject property. However, the Board did note that, not all were comparable due to the size and location differential. The Board questioned the usefulness of a comparable property in St. Albert.

4. In addition, the Board was not persuaded by the Complainant's analysis in respect of "typical" expenses. The Complainant had supplied five comparable sales (C-1,

page 1) but the Board noted there was little evidence or documentation on the sales expenses to support the figure.

5. The Board concluded that the Complainant is using inconsistent methodology to value the subject property. The Complainant is applying GIMs and cap rates derived from the Network's reported actual income to the Respondent's typical income. This inconsistency results in an unreliable estimate of market value. The Board believes that, under appraisal theory, typical income, vacancy and cap rates should be derived and applied in the same consistent manner.

6. The Board therefore concludes that the Complainant did not provide sufficient or compelling evidence to alter the assessment.

DISSENTING OPINIONS AND REASONS

There was no dissenting opinion.

Dated this 16th day of November, 2010, at the City of Edmonton, in the Province of Alberta.

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Robert Mowbrey
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.

cc: Municipal Government Board
Andromeda Investments Ltd.