ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 523/10

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 22, 2010, respecting a complaint for:

Roll Number	**Municipal Address**	**Legal Description**
5207634	140 Harrow Circle NW	Plan: 4907TR Block: 13 Lot: 1
Assessed Value	**Assessment Type**	**Assessment Notice for**
$9,524,500	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

Bozena Andersen, Assessor, City of Edmonton
Cameron Ashmore, 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 95 suite walk-up apartment building located in Homesteader area (market area 11). It was built in 1978 with three and half stories and is in average condition. The total 2010 assessed value for the property is $9,524,500 which equates to $100,257 per suite.

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, pages 1-3).

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 provided an income statement as at December 31, 2008. The Complainant provided a list of expenses, on both a price per suite and an expense percentage basis, that were taken from 7 low-rise apartment buildings (Exhibit C-1, page 2) to arrive at an average of $3,341 expenses per suite and a median of $3,405 expenses per suite. The Complainant used an expense figure of $3,400 per suite for the subject property. The Complainant deducted the total expenses from the effective gross income to arrive at the net operating income.

The Complainant utilized the same seven sales to determine the cap rate. Using the sales, the average cap rate is 6.85% and the median is 7.07%. The Complainant deducted the Respondent's vacancy rate from the Respondent's potential gross income and then deducted the Complainant's expenses per suite to provide the net operating income. The Respondent applied a cap rate of 7% to the NOE of $627,716 (Exhibit C-1, page 2). This produced a value of $8,967,371 or $94,393 per suite.

The same chart also indicated the time adjusted sale price (TASP) per suite for each of the seven sales had an average of $85,869 per suite and a median of $84,188 per suite (Exhibit C-1, page 2). The Complainant placed most weight on sales numbers 5 and 6 at $86,188 per suite and $102,200 per suite and concluded a value of $95,000 per suite was considered reasonable for the subject property.

In support of their cap rate, the Complainant provided a third party report from Cushman & Wakefield (Exhibit C-1, page 19). The chart indicated the overall cap rate for multi-family residential sales in Edmonton was 6.7% .

The Complainant requested a 2010 assessment of $9,000,000 based on using the City's potential income and the direct comparison approach.

POSITION OF THE RESPONDENT

The Respondent produced a binder for the low rise multi-residential properties under appeal on October 19, 2010. The binder has 15 tabs and is 169 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 low rise 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 typical vacancy rate was 4% in market area 11 (Exhibit R-2, pages 12).

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 4 sales of walk-up apartment buildings (Exhibit R-1, page 157) that had sold in 2009 (2 sales) and 2008 (2 sales). The time adjusted sale price per suite ranged from $101,162 to $124,107. The sales were similar to the subject property in terms of condition and number of stories. The median time adjusted sale price per suite is $105,620, which is somewhat higher than the assessment of the subject property at $100,257.

When the Respondent's "typical" PGR and "typical" vacancy are applied to the 4 comparable sales (2nd part of chart), the comparable sales provide GIMs ranging from 10.33 to 11.04, which is slightly higher than the assessment of 10.02. The Respondent advised the Board that the Complainant's actual income is higher that the City's potential income.

The second part of the chart also provided the same sales using typical potential gross rents (PGR) and typical vacancies as opposed to the actual PGR and vacancy provided by the Network documents. In this chart, when “typical” rents and “typical” vacancy are used and after the deduction of expenses of $3,400 per suite, an average cap rate of 6.59% is produced. When applied to the net operating income (NOI) of $627,716, the indicated value is $9,525,000 which supports the assessment.

In addition, the Respondent provided an equity comparable chart that indicated four comparables of similar market area, age and condition. The assessments per suite ranged from a low of $100,212 to a high of $105,160, which is well within the range for the subject property at $100,257 (Exhibit R-1, page 157).

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 $9,524,500 as fair and equitable.

REASONS FOR THE DECISION

1. The Board was persuaded by the Respondent’s equity comparables chart (Exhibit R-1, page 157). The comparables were similar in terms of location, age and condition and the assessment of the subject property compares very favorably with the equity comparable chart.

2. The Board was persuaded by the Respondent’s application of “typical” PGI, vacancy, expenses of $3,400 per suite and the median cap rate of 6.59% to produce a value of $9,525,500. The supports the 2010 assessment.

3. The GIM of the subject property at 10.02 is slightly lower than the four sales comparables, when adjusted for typical market rents and vacancy.

4. The Board accepts the procedure of selecting a median value and a sample of four is an acceptable number of sales for the mass appraisal method stratification model.

5. 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.

6. 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 seven comparable sales all close to the subject property to derive the expenses per suite and also a cap rate for the subject property. The Board noted sale #4 contained only 6 suites and was much older than the subject property(1978). The Board did not consider this to be a meaningful comparable sale due to its relatively size and age.

7. The Board notes that both parties had the property at 11530 34 Street as part of their evidence. The Board was advised that the subject property is very similar to the comparable and is slightly newer. The time adjusted sale price per suite for the comparable is $101,161 compared to the subject property's assessment of $100,257 per suite.

8. In addition, the Board was not persuaded by the Complainant's analysis in respect of "typical" expenses. The Complainant had supplied 7 comparable sales (C-1, page 2) but the Board noted there was little evidence or documentation on the sales expenses to support the figure provided by the Network.

9. 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.

10. The Board therefore concludes 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.

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cc: Municipal Government Board
Gold Bar Developments Ltd.