

NOTICE OF DECISION NO. 0098 63/12

Michael Uhryn, MNP LLP
300, 622 5 Avenue SW
Calgary, AB T2P 0M6

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 June 25, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
1560150	17010 103 AVENUE NW	Plan: 7720926 Block: 1 Lot: 6	\$6,575,000	Annual New	2012

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.

cc: WESTGATE INVESTMENTS INC

Edmonton Composite Assessment Review Board

Citation: Westgate Investments Inc. v The City of Edmonton, ECARB 2012-000443

Assessment Roll Number: 1560150
Municipal Address: 17010 103 AVENUE NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

Westgate Investments Inc.
Represented by Michael Uhryn, MNP LLP

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Don Marchand, Presiding Officer
George Zaharia, Board Member
Howard Worrell, Board Member

Preliminary Matters

[1] The Parties at the onset of the hearings were sworn in and no objection was raised as to the composition of the CARB to hear and decide the complaint. In addition, the Board members indicated no bias with respect to this file. No preliminary matters were raised by the Parties.

[2] The CARB was advised by the Complainant that items **vi**, **vii**, and **viii** within the grounds of complaint were the only grounds being argued and that a resolve had been reached with the municipality relative to the rental rate associated with the subject's parking stall spaces.

Background

[3] The subject property consists of 1.33 acres located in the Stone Industrial Neighbourhood at the intersection of 103rd Avenue and 170th Street and is improved with a 1978 built, three storey suburban office. The upper two levels have developed office space; the main floor contains 41 grade level parking stalls. The described improvements consist of 36,217 square feet of assessable office space. The subject is classified with similar suburban offices located in the West End Area (WEA). The 2012 assessment under complaint is \$6,575,000.

[4] The above property description facts were all agreed to by the Parties.

[5] The direct capitalization methodology within the Income Approach to valuation was used by the Parties to argue against and in support of the assessment.

Issue(s)

[6] Is the market rental assessment rate for the subject’s office space \$14.00 per square foot or should it be revised to \$12.00 per square foot?

Or as an alternative

[7] Is the subject equitably assessed? Should the assessment of the subject be grouped and classified according to the 2012 Suburban Office Valuation Rates, within the WEA “A” category or within the WEA “B” category?

Legislation

[8] The CARB’s jurisdiction is with the ***Municipal Government Act, RSA 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.

[9] The CARB gave consideration to the meaning of market value and to the requirements of an assessment made pursuant its market value.

s 1(1) in this Act,

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 289(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.

[10] The valuation standard as set out within

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.

Position of the Complainant

[11] The Complainant presented rent roll evidence from the subject (Quickcard Building) itself and rent roll evidence from the adjacent property (The Centurion Building) in support of a \$12.00 per square foot rate rather than the current assessed rate of \$14.00 per square foot.

[12] Six new leases from the Quickcard building and four leases from the Centurion Building, representing 21% of the new leases in the two building were supplied. They indicate an average rental rate of \$12.10 and a median of \$12.00.

Bldg	Unit	Area	Start Date	Rate
Quickcard	140	1,102	1-Oct.-10	\$12
Quickcard	170	1,207	1-Sept.-10	\$14 (\$15*)
Quickcard	180	1,065	1-Nov.-10	\$12
Quickcard	190	1,975	1-Jan.-11	\$12 (\$13*)
Quickcard	210	2,174	1-Dec.-10	\$12
Quickcard	200	3,780	1-Dec.-10	\$12
Centurion	100	1,864	1-Jun-10	\$14
Centurion	300A	1,000	1-Apr.-11	\$10
Centurion	307	1,427	1-Dec.-11	\$11
Centurion	308	1,299	1-Jan.-12	\$12
total		16,893		

*amended at the hearing. (Exhibit C-1, page 95)

The Complainant submits that the above rental rates yield a median rate of \$12.00 per square foot and it is representative of the typical for the subject's suburban office space.

[13] The Complainant, in an alternative argument, submits that the subject property should have been assessed within the strata of a "B" class suburban office in the WEA instead of an "A" class suburban office in the WEA.

[14] The CARB was provided with two listing portfolios of the subject property, one from Humford Management Inc. and the other from Avison Young, identifying the subject as "B" class building. A third listing portfolio, also from Humford Management Inc., shows the neighbouring property, Centurion Plaza, as a "B" class building.

[15] The CARB was also provided with a listing of an additional 13 "B" class building properties together with an exterior photograph and location map all within the WEA district.

These comparables range with 1 to 3 floors of office space and are in the range of 6,400 to 51,845 square feet in size. The Complainant argues that there are several “B” class properties similar to the subject.

[16] The Complainant accepts the assessment parameters used by the Municipality in the assessments of “B” class of suburban office.

[17] The Complainant asked the CARB to consider the similarity in design (exterior appearance), the similarity in age, the number of floors, and the location of the comparables.

[18] The difference between the 2012 Suburban Valuation Rates are shown bolded in the following chart:

District	Subclass	Office Rate/ sq. ft.	Vacancy Rate	Structural	Vacancy shortfall	Cap Rate
WEA	A	\$14.00	7%	2%	\$14.00	7.00%
WEA	B	\$13.00	7%	2%	\$13.00	7.5%

[19] The Municipality has recalculated and is recommending the rate be revised from \$75.00 to **\$35.00 per stall** for the surface parking. This revision is acceptable to the Complainant.

[20] The following chart summarizes the Complainant’s assessment request: an assessment based on a market rental rate of \$12.00 per square foot or, as an alternative, an assessment similar to other “B” Class offices in WEA.

Class within WEA	A	B
Office Space in square feet	36,217	36,217
Typical rate	\$12.00	\$13.00
Parking stall rate 41 stalls	\$35.00/ stall	\$35.00/ stall
Vacancy allowance	7%	7%
Operating Cost allowance	\$14.	\$14.
Non-recoverable allowance	2.0%	2.0%
Capitalization Rate	7.0%	7.5%
Requested assessment	\$5,375,500	\$5,491,500

(Exhibit C-1, page 100)

Position of the Respondent

[21] The Respondent presented a summary of the subject's rent roll for 2009, 2010, and 2011 and asked the CARB to note the upward trend in rents. The 2009 summary shows the net rent in the range of \$8.00 to \$18.00 per square foot. The 2010 summary shows the net rent in the range of \$9.00 to \$19.12 per square foot. The 2011 summary shows the net rent in the range of \$9.00 to \$20.00 per square foot.

[22] The Respondent presented a summary of 13 WEA located "A" suburban rents in support of the assessed market rental rate of \$14.00 per square foot - 9 are from the year 2010 and remaining 4 are January and May of 2011. The rents range from \$11.00 to \$15.00 with a mean time-adjusted average of \$13.29 /sf and a median of \$14.00 /sf.

[23] The Respondent also presented a summary of 8 suburban WEA "A" Class Office Building as assessment equity comparables; each show the typical market rental rate used in the income approach prepared assessments of \$14.00 per square foot for each comparable.

[24] The lease listing information for four suburban WEA "A" Class Office Building was also provided for the CARB's consideration. One of the four is a listing brochure for the subject. They show asking lease rates of \$15.00 - \$16.00 per square foot; the subject being at \$16.00 per square foot.

[25] The Respondent provided the following statement as a response to the parameters for determining classification of an office building: (Exhibit C-1, page 51)

Factors considered in the classification of a property include, but are not limited to, current leases on the property, historical leasing information, renovations to the property, third party options about the classification of the property and prior decisions on the classification of the property.

[26] The Respondent advised that there are seven market areas identified by the real estate community in which the Suburban Offices are located. They are as follows: Eastgate, Southside, Whyte Avenue, 149th Street, Westend, 124th Street, and 118th Avenue.

[27] The Respondent also advised that the rating of the class of suburban office buildings, i.e. "A", "B", or "C" and the rental rates, the adjustment variables, and capitalization rates associated with each class are specific to each of the seven market areas. For example an "A" suburban office building in the Whyte Avenue area carries an assessed market rate of \$18.00 versus the subject's assessed market rate of \$14.00 in the West End area.

[28] The Respondent expressed concern that the Complainant's lease data is site specific or limited to the neighbouring property. The typical market conditions for properties similar are not being considered in the request of an assessed market rate of \$12.00 per square foot.

[29] The Respondent requested that consideration be given the history of the subject leasing rates that show current leases with rates well in excess of the \$14.00 assessed rate.

[30] The subject's location and exposure to a major traffic corridor, the recent lobby renovations, and the recent renovation to the public hallways with public washroom upgrades should be given consideration. As well, consideration to the similarity to supporting comparable

properties descriptions, third party classifications and the current rental rates support the grouping of the subject with similar “A” class Suburban Offices .

[31] The recommended revision to the parking stall rate from \$75.00 to \$35.00 per stall results in a reduction of the 2012 assessment from \$6,575,000 to \$6,318,500.

Findings

[32] The assessed market rental rate of \$14.00 per square foot is within the range of lease rates shown in a review of subject’s most current lease.

[33] The subject is similar to the other grouped suburban offices “A” within the West End area.

Decision

[34] The assessment of roll number 1560150 is revised to **\$6,318,500**.

Reasons for the Decision

[35] The Complainant’s evidence, based on the six new leases in the subject property provided, indicates rental rates in the range of \$12.00 to \$15.00 per square foot. A review of the subject’s rent roll as of January 1, 2012 shows existing lease rates in the range of \$9.00 to \$21.00 per square foot. The \$9.00 rate is atypical when one considers the balance of the space is renting within the range of \$12.00 to \$21.00 per square foot and the largest space representing over 30% of the building is leased at \$21.00.

[36] The assessed rate is supported by an inventory of 13 similarly classified spaces indicating a mean average of \$13.29 per square foot and a median of \$14.00 per square foot. The CARB is satisfied that the typical market conditions for properties similar to the subject property are being reflected in the rental rate applied to the subject. Regulation AR 220/2004 is clear that the assessment must be prepared with the use of typical data.

[37] The CARB is not persuaded to alter the subject classification as a suburban office to that of the neighbouring property - the Centurion Building. As per the findings, the CARB did give consideration to the subject’s location and exposure to a major traffic corridor, the recent lobby renovations, the recent upgraded renovation to the public washroom, the similarity to supporting comparable property descriptions, and third party classifications. The current rental rates together with the subject’s rental rate history support the grouping of the subject with similar “A” class Suburban Offices. The history of the subject’s classification as an “A” class Suburban Office has remained constant over its life of assessment.

Dated this 17th day of July, 2012, at the City of Edmonton, Alberta.

Don H. Marchand, Presiding Officer

Appearances:

Michael Uhryn, MNP LLP
for the Complainant

Cam Ashmore, Legal Counsel
John Ball, Assessor
for the Respondent