EDMONTON
Assessment Review Board

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Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 1668

Assessment Roll Number: 4314159
Municipal Address: 35 Homestead Crescent NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Hatem Naboulsi, Presiding Officer
Mary Sheldon, Board Member
Jasbeer Singh, Board Member

Preliminary Matters

[1] The parties to the proceeding indicated no objection to the composition of the Board. The members of the Board indicated no bias with respect to this matter.

[2] Evidence, argument and submissions, so far as relevant, are carried forward to this file from roll number 1049360.

Background

[3] The subject property is a 91 suite apartment complex located in market area 11 in northeast Edmonton. It was built in 1982 and contains 57 one bedroom suites, 30 two bedroom suites and 4 three bedroom suites. The subject property was valued by the municipality based on the income approach using typical potential gross income (PGI), typical vacancy and typical gross income multiplier (GIM). The 2012 assessment of the subject was $9,910,000 or $108,901 per suite.

Issue

[4] Is the 2012 assessment of the subject property fair?

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 submitted into evidence a 16 page brief identified as C-1, arguing that the current assessment of $9,910,000 for the subject represented a 10% increase over the last year's assessment. This was even though the municipality's time adjustment chart showed no value increases over the last two years.

[7] The Complainant indicated to the Board that he agreed that the subject should be assessed using the income approach to value. He also agreed with the PGI estimate and vacancy rate calculated and used by the municipality's methodology in arriving at the subject's assessment. However, the Complainant argued that the GIM used by the municipality in calculating the assessment for the subject was excessive; the market data supported a lower GIM.

[8] In support of this position the Complainant submitted five sales of properties which, he indicated were similar to the subject. The sales occurred between June, 2010 and July, 2011 with expenses ranging from $3,639 to $3,989 per suite, a GIM range from 8.75 to 10.38, a capitalization rate ranging from 6.29% to 7.42% and monthly PGI ranging from $803 to $1,054 per suite (Exhibit C-1, page 2).

[9] The Complainant advised the Board that the most weight should be placed on comparable sales #3, #4, and #5. He argued that this market data supported a GIM of 9.75 when applied to the effective gross income for the subject based on the typical PGI and vacancy rate estimated by the municipality. This would result in a current assessment for the subject of $8,600,000.

[10] As well, the Complainant submitted that the market data he provided would support a 6.75% capitalization be applied to the net operating income of the subject, assuming typical expenses of $3,600 per suite. This would result in a current assessment of $8,213,000.

[11] Based on this evidence, the Complainant requested that the 2012 assessment be reduced to $8,300,000 or $91,209 per suite.

Position of the Respondent

[12] The Respondent submitted into evidence a 40 page brief identified as Exhibit R-1. The law and legislation brief identified as Exhibit R-2 was carried forward from roll number 1049360. The Respondent argued that the subject's current assessment of $9,910,000 was fair and equitable when compared with the sales and equity of similar properties.

[13] In support of this position, the Respondent presented two sales comparables located in the same market area 11 as the subject. The sales took place in May, 2011, with a sale price per unit of $113,710 and $159,382 and GIMs of 11.05 and 12.04.

[14] The Respondent also submitted 17 equity comparables, all located in market area 11. The GIM range of these comparables was from 10.83 to 12.04. The assessments per suite ranged from $108,717 to $159,382.

[15] The Respondent provided evidence to the Board that the Complainant's sales comparable #1 was a motivated sale and therefore of little assistance in establishing value for the subject. As well, only two of the Complainant's sales comparables were located in the same market area as the subject.

[16] The Respondent reminded the Board that the Complainant's analysis was based upon the typical PGI and vacancy rate used by the municipality. He explained that the model used to establish the PGI used rental information obtained by the municipality from requests for information (RFIs), adjusted according to significant variables such as market area, age condition, suite mix and size etc. Another model then establishes a GIM through a review of validated sales along with the PGI model. The Respondent explained further that the Complainant had then used market data from reporting services such as the Network to obtain the GIM and cap rate figures. The Respondent argued that the source and timing of this Network information could not be confirmed and that there could be inaccuracies and problems with this third party information. He pointed the Board to information from three different reporting services concerning the Complainant's sales comparable #2 (Exhibit R-1, page 35). Each of these services reported a different GIM for this sale.

[17] The Respondent argued that using this data from the reporting services and mixing it with the typical PGI and vacancy rate figures obtained by the municipality according to its methodology resulted in inaccurate and unreliable results. The Respondent pointed the Board to

case law which stated that this inconsistent methodology is incorrect and unreliable (Exhibit R-1, page 40).

[18] The Respondent requested that the Board confirm the 2012 assessment of the subject property at $9,910,000.

Decision

[19] The decision of the Board is to confirm the 2012 assessment of the subject at $9,910,000.

Reasons for the Decision

[20] The Board agrees with the statement of the Respondent that an increase in an assessment of a property is not, without further compelling evidence, sufficient reason to overturn an assessment.

[21] The Board examined the evidence presented by the Complainant. The Board is of the opinion that the comparable sales data presented by the Complainant in support of the request for a 9.75 GIM and a 6.75% capitalization rate is not persuasive. Only two of the comparables are from the subject's market area; a significant variable in both the PGI model and the GIM model. The Board also heard evidence that one comparable was a motivated sale, which makes it of less assistance in establishing value.

[22] The Board is concerned that the sales data and information presented by the Complainant to derive its GIM and capitalization rate might not be reliable and could be problematic. In that regard, the Board notes the evidence of the Respondent presented in respect of the Complainant's sales comparable #2. That evidence shows that three reporting services report three different GIM figures for the same property. The only common thread in these reports is the sale price of the property.

[23] The Board agrees with the Respondent that inconsistent data should not be used in deriving the GIM or capitalization rates. In this case, the Complainant has used rental and vacancy data collected by the municipality according to its methodology to establish a PGI. However, the Complainant has also used sales data from other sources to establish a GIM. As noted above, the sales data used by the Complainant could be unreliable.

[24] As well, the Board notes that the municipality uses the GIM method to value these types of properties and not the capitalized income method. In any event, the capitalization rate suggested by the Complainant suffers from the same flaw as the Complainant's GIM in that it was derived and applied in an inconsistent manner.

[25] The Board also agrees with the Respondent that the value per unit for the subject at $108,901 is within the range per suite value of the comparables presented.

[26] Therefore, the Board concludes that evidence presented by the Complainant is not sufficiently compelling to alter the assessment of the subject and that the 2012 assessment of $9,910,000 for the subject is fair and equitable.

Dissenting Opinion

[27] There was no dissenting opinion.

Heard commencing October 1, 2012.
Dated this 12 day of October, 2012, at the City of Edmonton, Alberta.

Hatem Naboulsi, Presiding Officer

Appearances:

Peter Smith, CVG
for the Complainant

Andy Lok
Tanya Smith
for the Respondent

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.