EDMONTON
Assessment Review Board

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Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 2179

Assessment Roll Number: 1333210
Municipal Address: 10015 164 Street 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] Upon questioning by the Presiding Officer, the parties indicated they had no objection to the composition of the Board. In addition, the Board members indicated they had no bias on this file.

Background

[2] The subject property is a walk up apartment, containing 11 suites. It is located in west Edmonton, in Market Area 5. With an effective year built of 1975, the property contains all two-bedroom suites. The subject property sold in June 2011, just prior to the valuation date of July 01, 2011, for a price of $1 million. The property is assessed at $1,247,000 based on the Income Approach using typical potential gross income (PGI), typical vacancy and typical gross income multiplier (GIM).

Issue

[3] Is the subject's 2012 assessment of $1,247,000 correct?

Legislation

[4] 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

[5] The Complainant filed this complaint on the basis that the subject property assessment of $1,247,000 was in excess of market value. Equity was not in question. In support of this position, the Complainant presented a set of five sales comparables included in a 15 page assessment brief (Exhibit C-1).

[6] The Complainant informed the Board that the subject property had sold for $1,000,000 in June 2011. The Complainant explained that the best indication of market value was the sale of the subject property near the valuation date (Exhibit C-1 page 2).

[7] The Complainant argued that the sales information in respect of the comparable sales in the same part of the city clearly indicated that the subject's 2012 assessment was excessive and unfair. In particular, the GIM used by the municipality for the subject's assessment was totally

out of line with the actual market conditions. This GIM value (10.59), along with the higher income per suite ($893/unit/month), both calculated by the municipality, resulted in a much higher per suite assessment of $113,363 (Exhibit C-1, page 2)

[8] The Complainant further argued that the municipality's GIM, income and consequently the per suite assessment values were out of touch with the market conditions, as demonstrated by the five sales comparables (Exhibit C-1, page 2).

[9] Based on an analysis and consideration of the subject's physical, locational and income-producing attributes, the Complainant indicated to the Board that a GIM of 8.5, an overall capitalization rate of 7.5% and a value of $90,000 per suite should be relied upon for the subject's 2012 assessment (Exhibit C-1, page 2). If the suggested GIM of 8.50 was applied to the effective gross income, the value for the subject would be $1,001,000.

[10] Using the municipality's estimated effective income and deducting the average expenses per suite from the set of sales comparables, the Complainant argued that capitalizing the net operating income by 7.5% yielded a value for the subject of $1,042,000.

[11] In response to questions, the Complainant agreed to the following:

a. The municipality did not rely on the cited sales information for arriving at the assessment values.

b. That different third party sources could provide different information and inferences in respect of the same sale.

c. The set of five comparables cited by the Complainant were older than the subject.

d. Not all of the sales comparables were in the same market area as the subject.

e. The income reported by the independent reporting agency in respect of the subject property (Exhibit C-1, page 13) was considerably higher than the municipality's effective PGI estimates for the subject (Exhibit R-1, page 8).

f. The Complainant had relied on the municipality's projected income and used the same in conjunction with the gross income multiplier derived from the market sources.

[12] The Complainant requested that the Board reduce the 2012 assessment of the subject to $1,000,000, the sale price of the subject in June 2011.

<u>Position of the Respondent</u>

[13] The Respondent presented a 30 page assessment brief (Exhibit R-1), a law & legislation brief (Exhibit R-2) and a detailed brief highlighting the 'Errors Inherent in Mixing and Matching City GIMs / Incomes with Third Party GIMs / Incomes' (Exhibit R-3.) The assessment brief included five sales comparables and 17 equity comparables that supported the subject's 2012 assessment of $1,247,000 as fair and equitable.

[14] The Respondent explained to the Board that the subject assessment and similar assessments were prepared using the mass appraisal methodology. This methodology relied on the analysis of income information provided by the property owners/managers in response to 2200 requests for information (RFIs) sent out by the municipality. It also relied upon validated sales information in respect of over 150 sales reported in respect of the comparable properties (Exhibit R-1 pages 20-22).

[15] The Respondent advised the Board that the municipality used two modeling approaches; one for the PGI and the other for the GIM. These models made necessary adjustments for a variety of factors affecting the PGI and the GIMs, to provide equitable assessments that reflected the market conditions in the municipality (Exhibit R-1, pages 23-27).

[16] While the assessment had been based on 11 suites, an actual inspection of the property revealed that the space previously used for office purposes had been converted into an income producing unit, increasing the number of suites to 12. This number of suites was in agreement with the figures from the third party sources cited by the Complainant. The Respondent argued that this also lowered the 2012 per suite assessment from $113,364 to $103,917, while at the same time, increasing the income potential for the property (Exhibit R-1, page 12).

[17] The Respondent argued that the subject's sale price of $1,000,000 would translate into $83,333 per suite, and would put this sale into an 'outlier' territory. In support of this argument, the Respondent indicated to the Board in oral argument that, prior to its sale in June 2011, the subject property had been declared uninhabitable for health reasons. The Respondent stated that this could explain its low sales price, but it did not reflect the market conditions.

[18] The Respondent argued that the municipality was obligated to rely on the database of citywide sales information and the income and expense information received from the property owners/managers. This information established 'typical' income, expense and GIM values for every market area in the municipality.

[19] Using the comparable sales data, the Respondent demonstrated that the subjects' per suite sale price of $90,909 (or $83,333 based on 12 units instead of 11) was low for its age, size and the calculated GIM value. Although a valid sale, the subject's sale could not be used as representative of actual market conditions (Exhibit R-1, page 12).

[20] The Respondent stressed that the set of 17 equity comparables, all in the same market areas as the subject, all assessed in 'average' condition and all having 'balconies' clearly demonstrated that the subject had been equitably assessed with a GIM of 10.59 (Exhibit R-1, page 19).

[21] The Respondent argued that the Complainant's basis of appeal, relying on the outcomes from using the municipality's lower projected income and a lower GIM reflected in a third party report was not a valid approach to establish assessment value. The Respondent based this argument on the information contained in the detailed brief pertaining to errors inherent in mixing information from different sources.

[22] The Respondent requested the Board to confirm the 2012 assessment of $1,247,000.

Decision

[23] The Board confirms the 2012 assessment of $1,247,000.

Reasons for the Decision

[24] The Board found the sale price of the subject property close to the valuation date as the best means of establishing market value of the subject property. Section 1(1)(n) of the *Municipal Government Act,* defines "market value" as 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. Both the Complainant and the Respondent agreed that the sale of the subject property was a valid sale.

[25] The Board acknowledged that the Honourable Madam Justice L.D. Acton of the Court of Queen's Bench reaffirmed the concept of relying on the sale of the property itself in the *697604 Alberta Ltd* v. *Calgary (City of), 2005 ABQB 512* at paragraph 24. However, the Board noted several facts that question the applicability of the subject's sale to its being representative of the typical market conditions.

a. The subject property, with a market reported sales price of $83,333 per suite, was priced lower than the average of the sales comparables listed by the Complainant, even though it was considerably newer than the comparables, had a richer suite mix with a larger size. The Complainant failed to provide an explanation for this discrepancy.

b. The Board also noted that the GIM derived from the subject's reported sale (8.488) was considerably lower than the GIM value of 10.81, the average of the five sales comparables provided by the Respondent. The Board was not provided with any explanation for this discrepancy.

c. The Board heard evidence from the Respondent that the subject property was in an inferior condition at the time of its sale and allegedly, had been declared uninhabitable by the health authorities. The Respondent also advised that the subject had been renovated after its sale, but before the condition date. Neither assertion was contradicted by the Complainant at the hearing, although he advised that this was hearsay evidence.

[26] The Board is of the opinion that there are significant issues with the sales comparables presented by the Complainant for the purpose of establishing value for the subject. Four out of the Complainant's five sales comparables (excluding the subject) were from a different market area, inferior to the subject's location, as the Board was advised by the Respondent.

[27] The Board was not persuaded by the Complainant's methodology of combining elements of information or derivatives from different sources that may not yield consistent, explicable or reliable results.

[28] The Board was persuaded by the Respondent's equity argument supported with a set of 17 equity comparables that showed that the subject had been equitably assessed. The Board noted that all of these equity comparables were located in the same market area, were all in average condition, and all had balconies, as did the subject.

Dissenting Opinion

[29] There was no dissenting opinion.

Heard October 4, 2012.

Dated this 19 day of October, 2012, at the City of Edmonton, Alberta.

Hatem Naboulsi, Presiding Officer

Appearances:

Tom Janzen
for the Complainant

Renee Redekopp
Steve Lutes
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.