Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 2286

Assessment Roll Number:	7136559
Municipal Address:	10707 81 AVENUE NW
Assessment Year:	2012
Assessment Type:	Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
John Noonan, Presiding Officer
Jack Jones, Board Member
Pam Gill, Board Member

Preliminary Matters

[1] When asked by the Presiding Officer, the parties indicated no objection to the composition of the Board. The Board members indicated they had no bias in the matter before them.

Background

[2] The subject is a 20-unit low rise apartment building in average condition built in 1969. It is located in the Queen Alexandra neighbourhood in market area 3 and has been assessed using the income approach to valuation.

Issue(s)

[3] Is the 2012 assessment of the subject property excessive?

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.

***Matters Relating to Assessment and Taxation Regulation* AR 220/2004**

s 2(c) An assessment of property based on market value must reflect typical market conditions for properties similar to that property.

Position of the Complainant

[5] The Complainant presented evidence in a 16-page brief (C-1) and argument for the Board's review and consideration.

[6] The Complainant argued that the subject should be assessed using actual income rather than a computer generated typical income.

[7] The Complainant argued that buyers look at actual income and expenses generated by a property, and as such, that is what should be considered for assessment not the amount generated by the City of Edmonton model.

[8] Five comparables were produced (C-1, page 2) with an average Gross Income Multiplier (GIM) of 10.00 (rounded) and an overall capitalization rate of 6.75% (rounded). The Complainant used third party documentation from The Network to ascertain these values. The most weight was placed on comparables 2, 3 and 4 as they were most similar to the subject property.

[9] Applying a GIM of 10.00 to the actual 2011 revenue resulted in a value of $1,984,000, and capitalizing the net operating income by 6.75% resulted in a value of $2,140,000. Both values are significantly less than the assessed value of $2,397,000.

[10] The subject was sold in May 2010 for $1,988,500. This value remains unchanged as per the City of Edmonton time adjustment factors (C-1, page 8).

[11] The Complainant argued that the sale should be used in the valuation of the subject as it indicates the actual value of the property. It was noted that the sale document provided (C-1, page 5) indicated a $100,000 allowance for repairs which have since been completed and that amount should be added to the sale price to obtain a more representative valuation of $2,088,500. The Complainant noted that the sale price is further supported by his income analysis.

[12] Upon questioning, the Complainant indicated that the sale was an estate sale as the property was sold from the father's estate to his daughter. The Complainant clarified that the sale was an arm's length sale as there was an appraisal performed on the property and that appraisal was used to determine value. The appraisal was not produced at the hearing.

[13] In summary, the Complainant requested the 2012 assessment be reduced from $2,397,000 to $2,088,500.

Position of the Respondent

[14] The Respondent presented evidence (R-1, R-2, R-3 and R-4) and argument for the Board's review and consideration.

[15] The Respondent explained that the income approach was used to assess Low-Rise apartments. The income approach is the preferred method of valuation when there is sufficient data available to ascertain value. The City of Edmonton receives a large amount of data from their request for information packages that are sent out annually, and therefore, they are able to generate two models that calculate the market typical Potential Gross Income (PGI) and the market typical Gross Income Multiplier (GIM). All the GIM values were determined using market typical rents and vacancy in calculating an effective potential gross income.

[16] To support its use of typical market factors, the Respondent noted that "The regulation requires standard procedures and the use of typical market factors in creating an assessment. Therefore, a typical level of income and typical adjustments must be used to prepare the property assessment" (R-3, page 38).

[17] The Respondent noted that the Complainant did not respond to the Request for Information for the past two years.

[18] The Respondent produced six sale comparables (R-1, page 64) that had time adjusted sale price per suite values of $108,000-$176,571. The GIM range for the six comparables is 11.75-13.77. The subject is valued at $119,850 with a GIM of 11.48.

[19] The Respondent also submitted an equity chart (R-1, page 71) to illustrate that all properties within market area #3, and the same age of the subject property have been equitably assessed utilizing a GIM of 11.48. The equity comparables ranged in value per suite from $109,222 to $126,593.

[20] The Respondent noted that the Complainant's request is for $104,425 per suite and a GIM of 10.00 which are outside of the equitable range established by the Respondent.

[21] The Respondent argued that using actual income overlooked market conditions, the methodology is unreliable and it resulted in inequity in assessment. Further support for this argument was offered at R-1 pages 73-79, an excerpt from the Basics of Real Estate Appraising, which shows the proper method of establishing and stabilizing expenses.

[22] The Respondent also provided a previous Board decision from 2010 to further support the use of the Income Approach (R-1 pages 81-85).

[23] The Respondent addressed the sale of the subject and argued that it was a non-arm's length transaction as the sale took place between a father's estate and daughter. Furthermore,

there was no exposure to the open market and the Respondent had received confirmation from a third party that it was a non-arm's length transaction (R-1, page 88).

[24] Non-arm's length transactions were further detailed in the assessment standards set out by the Board of the International Association of Assessing Officers in R-1 pages 89-95.

[25] The Respondent addressed the Complainant's profit/loss statement for 2011 and stated that it was post facto, and that typical income is used in assessment and not actual. A Board decision from August 2012 was referred to in support of this argument (R-1, pages 96-101).

[26] The Respondent addressed the Complainant's sales (R-1, page 102) and criticized two of them as being non-arms length sales, one property as being much older than the subject, one sale did not include income as a factor in the sale and one was a high end sale which sold for $176,751/unit.

[27] The Respondent also addressed the Complainant's reliance on The Network documents for the GIM. They argued that third party information could not be verified. A detailed list of reasons was enumerated in R-2, page 4.

[28] The Respondent further illustrated their point by providing data sheets for one property from three different sources (R-2, pages 19-21) The GIM for the one property was calculated at 16.68, 10.67 and 13.77. The Respondent argued that unless the third party was present to account for the way information was used and calculated, the information could not be relied upon.

[29] The Respondent referred to a Board decision From August 2012 to support their argument that third party information should not be relied upon and that averaging and mixing GIMs is not an acceptable method of valuation (R-4, page 5, paragraphs 25 and 26).

[30] In summary, the Respondent requested that the 2012 assessment of the subject property at $2,397,000 be confirmed.

Decision

[31] The Board confirms the 2012 assessment of the subject property at $2,397,000.

Reasons for the Decision

[32] After review and consideration of the evidence and argument presented by both parties, the Board determined that the 2012 assessment of the subject property at $2,397,000 is appropriate.

[33] Both parties agreed that the best indicator of value for the subject is the actual sale, if deemed valid. The Board found that it could not rely on the sale of the subject as it was between a father's estate and daughter and there was no market exposure. The Complainant submitted that the sale was based on an appraised value, however, the actual appraisal was not submitted for the Board's consideration and without further substantiation the Board could not rely on the sale as being an arm's length transaction.

[34] The Board looked at the valuation method used and the argument of using typical income values as opposed to actual. The Board accepted the Respondent's position on this matter. An assessment is required by legislation to reflect typical market conditions. The

Respondent has derived and applied models based on rent surveys (PGI model) and sales (GIM model). Included in the Respondent's presentation was a chart showing the results of these models. The subject property was arrayed with other apartment buildings of similar age, location and condition. The chart showed suite mixes and average sizes of all the similar properties, their modeled potential gross income, assessments and an assessment per suite. The subject was shown to be within the range of values calculated for all similar properties. The Board is satisfied that the subject is equitably assessed in comparison to a good-sized sample of similar properties.

[35] In reviewing the Complainant's methodology, the Board recognizes the inconsistency that may be generated in not applying GIM"s and Cap Rates in the same fashion they were derived. Also, if GIM's and Cap Rates are to be averaged, the properties should be highly similar to each other. Simply averaging GIM's and Cap Rates could result in an inequity in valuation.

[36] The Board looked at the third party data provided by the Complainant and finds that while this type of information can be a useful tool, there can be inaccuracies and inconsistencies depending on how the information is derived. The Board exercised caution when reviewing the third party documentation and relied on the Respondent's valuation as being the most accurate when considering the data sources and how they are applied.

[37] The Board finds that the 2012 assessment of the subject property at $2,397,000 is fair.

Dissenting Opinion

[38] There was no dissenting opinion.

Heard commencing September 24, 2012.

Dated this 16th day of October, 2012, at the City of Edmonton, Alberta.

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John Noonan, Presiding Officer

Appearances:

Peter Smith

for the Complainant

Devon Chew

Steve Lutes

for the Respondent