

Edmonton Composite Assessment Review Board

**Citation: Colliers International Realty Advisors Inc. v The City of Edmonton, 2013
ECARB 00646**

Assessment Roll Number: 9996863
Municipal Address: 15333 153 Avenue NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

Colliers International Realty Advisors Inc.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Larry Loven, Presiding Officer
Brian Hetherington, Board Member
Dale Doan, Board Member

Procedural Matters

[1] The parties indicated that they had no objections to the composition of the Board. In addition, the Board members indicated that they had no bias on this file.

[2] The parties requested the evidence and argument presented in this file be carried forward from roll #9994119, where applicable.

Preliminary Matters

[3] The matter of the correct municipal address was raised. The municipal address for roll #9996863 shown on the both the 2013 Assessment Notice and Neighbourhood Shopping Centre Valuation Summary is 15333-153 Avenue NW; however, both parties stated the correct address to be 15333 Castledowns Road NW. The Board confirmed that municipal address would be corrected accordingly.

[4] No other preliminary matters were raised by either of the parties.

Background

[5] The subject property is an individually titled, free-standing, 4,155 square foot McDonald's fast food outlet. Constructed in 2002, the subject property is located within the Lakeside Landing Shopping Center development.

Issues

- [6] Is the assessment of \$1,821,000 correct?
- [7] Is the capitalization rate of 6.5% correct?

Legislation

- [8] The *Municipal Government Act, RSA 2000, c M-26*, reads:

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

- [9] The Complainant submitted into evidence a 34 page brief (C-1) outlining the basis of the complaint and request for a capitalization rate of 7.5%.

- [10] The Complainant informed the Board that the 2013 assessment of the subject property showed a 19.2% increase from the prior year’s assessment of \$1,527,500 and requested an assessment of \$1,578, 000, based on a 7.5% capitalization rate.

- [11] The Complainant presented two tables, one containing four McDonald’s equity comparables located in south Edmonton and the second containing three McDonald’s equity comparables located in north Edmonton, highlighting the following: the year of construction ranging from 2000 to 2004 for the south and 2002 to 2011 for the north versus 2002 for the subject property; net leasable areas ranging from 2,652 square feet to 5,763 square feet versus 4,155 square feet for the subject property; assessed rental rates of \$30.00 per square foot for all of the equity comparables, as well as the subject property; and assessed capitalization rates of 7.00% for three of the south comparables, 7.50% for one of the south and all three of the north comparables versus 6.50% for the subject property (C-1, p.6). Based on the equity comparables given, the Complainant requested a capitalization rate of 7.50%.

- [12] The Complainant included the City of Edmonton Assessment Detail Reports for all seven of the equity comparables. The Board notes that the capitalization rates given on page one of each Assessment Detail Report was consistently 1% higher than the overall capitalization rate

used to calculate each property assessment. The Complainant was unable to explain the variance, nor was any explanation offered by the Respondent.

[13] The Complainant referred to a map of north central Edmonton (C-1, p. 7) which noted the location of the subject property and the three north Edmonton equity comparables. The Complainant stated that the equity comparables were all assessed at a higher capitalization rate than the subject property (C-1, p. 7).

[14] Using the Income Approach with the requested capitalization rate of 7.5%, the Complainant determined the market value of the subject property to be \$1,578,347, and requested a new assessment of \$1,578,000.

[15] In rebuttal, the Complainant submitted a document (C-2) containing 17 pages which included birds-eye photographs of the subject property and the Respondent's nine equity comparables, together with the 2013 Assessments of the Respondent's comparables. The Complainant highlighted that all are standalone buildings. However, the Tim Hortons in the Mill Woods Town Centre at 5204 – 23rd Avenue, Dairy Queen at 12708 – 140th Avenue, McDonald's at 12630 – 140th and 9630 – 165th Avenue were shown to be assessed as separate properties whereas the other four had been assessed as part of the neighbourhood shopping centre in which they were located.

Position of the Respondent

[16] To support their position that the 2013 Assessment of the subject property is correct, the Respondent presented a 55 page brief (R-1) containing, pictures, maps, proformas, complaint issues, cap rate study, and shopping mass appraisal, retail and law briefs.

[17] Using a map and aerial photograph showing the location of the subject property (R-1, p.5), the Respondent argued that the subject property, while separately titled, operates as part of the surrounding neighbourhood shopping centre development, sharing access, parking and amenities with other tenants within the development.

[18] The Respondent provided the Board with the Neighbourhood Shopping Centre Valuation for the 2013 Assessment of the subject property showing market value of \$1,821,000, derived using a capitalization rate of 6.5% (R-1, p. 7).

[19] The Respondent referenced its Equity Response (R-1, p.14) where it stated "*The subject property is valued within the Shopping Centre grouping of properties.*", and referred the Board to its definitions of shopping centre categories (R-1, pp. 22-23).

[20] In justification of the 6.5% capitalization rate applied to the subject property, the Respondent presented the Board with a chart, entitled Capitalization Equity Comparison, containing the assessment capitalization rate used for nine fast food outlets located in Edmonton shopping centres (R-1, p 15). All nine, which included two Tim Hortons; a Harvey's; Arby's & Burger King; three McDonald's; a Dairy Queen and a Panda & Tokyo Express, were assessed at capitalization rate of 6.5%.

[21] The Respondent also provided the Board with Edmonton Composite Review Board decisions 2013 ECARB 00639 (R-2) and 00640 (R-3) each containing 5 pages . First, the Respondent directed the Board to R-2 at para. 3, describing the subject restaurants as being part of Belmont Town Centre; para. 12, supports the Respondent's 6.5% capitalization rate applied to shopping centres; and, para. 16, the finding that the 6.50% capitalization rate was correct. Second, the Respondent directed the Board to R-3 at para. 18, regarding the finding that a blanket capitalization rate of 6.5% applied to shopping centres was applied equitably and fairly; and, para. 19, the finding that regardless of the classification as a Power Centre or a Neighbourhood Shopping Centre, both are assessed at the same capitalization rate.

Decision

[22] The assessment of the subject property is confirmed at \$1,821,000.

Reasons for the Decision

[23] No sales comparables were provided by either party.

[24] No evidence or argument was given by either party with respect to factors such as, area, market rent, structural allowance, or vacancy shortfall used to determine net operating income.

[25] The Respondent's nine equity comparables, all assessed using a 6.5% capitalization rate, were assessed as a part of a neighbourhood shopping centre development. The Board notes four of the 2013 assessments for the Respondent's equity comparables appear to be separately titled; whereas, the Complainant's equity comparables were all assessed as standalone properties, not part of a retail plaza nor a neighbourhood shopping centre (except one located a 10520 – 111th Avenue).

[26] The Board finds, based in part on the photographs and maps provided, the subject property, notwithstanding it is separately titled, appears to be a part of the surrounding neighbourhood shopping centre development in terms of shared access, parking, amenities and presence of an anchor, such as a food or drug store. Similarly, all of the Respondent's equity comparables appear to be part of the surrounding neighbourhood shopping centre developments; whereas, only one of the Complainants equity comparables seemed to part of a neighbourhood shopping centre development.

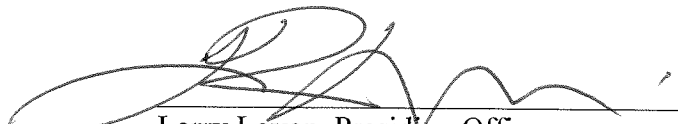
[27] Based the above reasons, the Board finds the subject property to be fairly and equitably assessed using a capitalization rate of 6.5% that is consistent with the assessed rate typically applied to neighbourhood shopping centers.

Dissenting Opinion

[28] There was no dissenting opinion.

Heard commencing July 17, 2013.

Dated this 1st day of August, 2013, at the City of Edmonton, Alberta.


Larry Loven, Presiding Officer

Appearances:

Greg Jobagy
for the Complainant

John Ball
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.