

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 00862

Assessment Roll Number: 3285905

Municipal Address: 11150 Jasper Avenue N W

Assessment Year: 2013

Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Shannon Boyer, Presiding Officer

Jack Jones, Board Member

Robert Kallir, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer the parties before the Board indicated no objection to the Board's composition. In addition, the Board Members indicated no bias with respect to this file.

[2] The parties presenting evidence at the hearing were sworn in.

Preliminary Matters

[3] There were no preliminary matters.

Background

[4] The subject property is a 10 story office building located in the Oliver neighborhood west of downtown Edmonton and is known as the Devonian Building. The building was originally constructed in 1959. In 2005 it was gutted and renovated and has a total area of 172,144 square feet of office space. The building is assessed utilizing the income approach to valuation. The assessment district is classed as the government district by the City of Edmonton and is assessed as an "AA" building. The building is valued by the City utilizing an office rent rate of \$21.00 per square foot, a parking stall rate of \$175.00 per month for each of 114 underground parking stalls, an office vacancy rate of 25.00 %, a structural expense of 2%, an office vacancy shortfall of \$19.00 per square foot and a capitalization (CAP) rate of 5.5%. Additionally, the City deducts \$7,059,500 to reflect the unfinished space in the building.

Issue(s)

- [5] Is the 2013 assessment of the subject property at \$29,582,500 fair and equitable?
- [6] Is the 2013 assessed classification of “AA” for the building correct?
- [7] Is the assessed CAP rate of 5.5% 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 289(1) Assessments for all property in a municipality, other than linear property, must be prepared by the assessor appointed by the municipality.

(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.

s 293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,

(a) apply the valuation and other standards set out in the regulations, and

(b) follow the procedures set out in the regulations.

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 *Matters Relating to Assessment and Taxation Regulation, Alta Reg 220/2004 (MRAT)* reads:

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.

S 3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

Position of the Complainant

[10] The Complainant presented evidence (C-1, C-2 & C-3) and argument for the Board's review and consideration.

[11] The Complainant noted that the subject property was not connected to the City light rail transit (LRT) system and the downtown pedway system as is the case with the properties set out in Exhibit R-1 page 45. In addition, the subject property is located on the corner of Jasper Avenue and 112 Street which on the far west end of the downtown area as designated by the City.

[12] The Stantec Building located just north of Jasper Avenue on 112 Street was classified by the City as "AL" (C-1 page 2 and C-2 pages 3,7-8).

[13] The Complainant referred the Board to the rent roll (R-1 page 25) setting out the actual occupancy/vacancy rate for the subject property.

[14] The Complainant noted that certain of the dollar amounts set out in C-1 pages 2-4 were incorrect and amended those amounts with the agreement of the Respondent.

[15] The Complainant stated that due to the differences noted to other Class AA downtown Office buildings as set out above the subject property is more similar to a 124 Street AA classification than a Class AA downtown property.

[16] With respect to the subject property, the Complainant presented a CAP rate analysis (C-1, page 2-3) in support of a request to increase the CAP rate from 5.5% to 6.75%. The Complainant presented eight sales of "AA", "AH" & "AL" properties which occurred between April, 2010 and February, 2012 with CAP rates ranging from 5.85% to 7.58%. The average CAP rate of the "AH" sales was 6.89% and the median was 6.98%. Based on this analysis and the differences noted to other Class AA downtown office buildings as set out above the Complainant suggested a 6.75% CAP rate would be more appropriate for the subject property.

[17] In rebuttal the Complainant presented a sales comparison chart (C-2, page 2) to illustrate the variance between the net operating income (NOI) and CAP rates reported at the date of sale and the City derived NOI's and CAP rates utilizing market rents.

[18] In summary the Complainant requested the 2013 assessment of the subject property be reduced from \$29,582,500 to \$26,000,000.

Position of the Respondent

[19] The Respondent presented evidence (R-1) and argument for the Board's review and consideration.

[20] The Respondent outlined the valuation process for office buildings (R-1 pages 130 to 142) and the various attributes considered in determining market value. The properties are initially classed as A, B or C and then further stratified into sub classes by rents and other attributes.

[21] The Respondent referenced the quantitative and qualitative attributes that are typically considered when determining a building sub class (R-1, pages 132 & 133). In addition the Respondent referred to its response summary (R-1 pages 16-19) as well as the financial information (R-1 pages 20-32).

[22] The Respondent drew the attention of the Board to downtown lease space availability and rental rates set out in R-1 pages 46-51 and the leasing sales document for the subject property set out at R-1 pages 52-55.

[23] The Respondent presented a critique of the Complainant's CAP rate analysis indicating that third party sales reports cannot be relied upon as there is no definitive evidence as to the parameters used to calculate the CAP rates. The Respondent advised that the assessment must be based on typical market conditions and prepared using typical market data in lieu of actual income. To illustrate this point, the Respondent presented a CAP rate analysis chart (R-1, page 33) with eight sales comparables all of which were in common with the Complainant (C-1, page 2). This analysis utilized the time adjusted sales price of the sales comparables along with a market derived NOI to develop an adjusted CAP rate for each property. The median for the "AA" properties was 5.37% whereas the 2013 assessed CAP rate for the subject property is 5.5%.

[24] The Respondent referred the Board to the Board orders and decisions set out at R-1 pages 80-106.

[25] In summary the Respondent requested the 2013 assessment of the subject property be confirmed at \$29,582,500.

Decision

[26] The decision of the Board is to reduce the 2013 assessment of the subject property from \$29,582,500 to \$26,550,500.

[27] The Board finds that the building sub classification of "AH" for the subject property is the appropriate building classification for the 2013 assessment.

[28] The Board finds that a 6% CAP rate is the appropriate rather than the 5.5% originally used for the 2013 assessment.

Reasons for the Decision

[29] After review and consideration of the evidence and argument presented by both parties the Board finds that the 2013 assessment of the subject property at \$29,582,500 is not appropriate.

[30] In reviewing the location of the subject property and its lack of connectivity to the amenities available for other Class AA downtown properties the Board finds that the assessed sub classification as "AH" is the correct classification for the subject property.

[31] The Complainant's CAP rate study (C-1, page 3) relies on third party data which may or may not be an accurate representation of the NOI utilized in conjunction with the sale price to determine the CAP rate at the date of sale. The Respondent has utilized market rents (as required by legislation- see M.R.A.T.R. (above)) along with time adjusted sales prices to derive an adjusted CAP rate for the sales comparables which supports the revised CAP rate of 6%.

[32] The Board finds that a 6% CAP rate should be applied to the subject property consistent to the CAP rate utilized by the City for other buildings classified as "AH" and taking into account the attained lease rates and very high vacancy rate for the subject property (R-1 page 42).

[33] The Board finds the revised 2013 assessment of the subject property at \$26,550,500 to be fair and equitable.

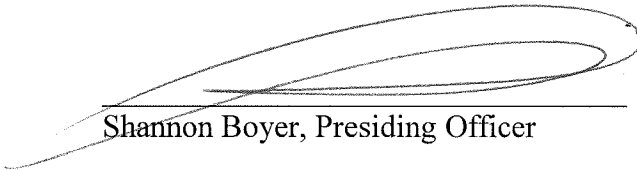
[34] In arriving at the assessed value of \$26,550,500 the Board utilized an office rent rate of \$20.50 per square foot, a parking stall rate of \$175.00 per month for each of 114 underground parking stalls, an office vacancy rate of 25.00 %, a structural expense of 2%, an office vacancy shortfall of \$17.50 per square foot and a CAP rate of 6.00 % and deducted \$7,059,500 to reflect the unfinished space in the building (C-1 page 2).

Dissenting Opinion

[35] There was no dissenting opinion

Heard commencing August 26, 2013.

Dated this 11th day of September, 2013, at the City of Edmonton, Alberta.


Shannon Boyer, Presiding Officer

Appearances:

Tom Janzen, Canadian Valuation Group
for the Complainant

Cam Ashmore, Law Branch City of Edmonton
James Cumming, Assessor City of Edmonton
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.