Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 00866

Assessment Roll Number: 10001965
Municipal Address: 10025 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 had no objection to the Board's composition. In addition, the Board Members had no bias with respect to this file.

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

Background

[3] The subject property is located in downtown Edmonton and is known as Telus Plaza. It consists of two high rise office towers (north & south), a retail component assessed with the south tower and a two storey office building known as the Engineering Building. The entire complex was completed in 1970 and is assessed utilizing the income approach to valuation. The assessment district is classed as the financial district by the City of Edmonton and is stratified into the subclass of "AH". "AH" utilizes an office rent rate of $20.50 per square foot, office vacancy rate of 7.5%, a CRU vacancy rate of 5.0%, a structural expense of 2%, an office vacancy shortfall and a CRU vacancy shortfall of $17.50 per square foot and a cap rate of 6.0%.

Issue(s)

[4] Is the 2013 assessed sub classification of "AH" for the two storey office component known as the Engineering Building correct?

[5] Is the 6.0% capitalization rate applied to the office and retail components for the 2013 assessment correct?

[6] Is the 2013 assessment of the subject property at $360,334,000 fair and equitable?

Legislation

[7] 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.

[8] 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

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

[10] The Complainant requested the complex component known as the Engineering Building be re-evaluated at a lower sub class considering its age and location. This two storey structure contains 16,233 square feet of office space which was renovated in 2003. It is located away from Jasper Avenue and was leased to a single tenant during 2012 at a rate of $8.00 per square foot. This tenant has since vacated the building and as of spring 2013 the building was vacant.

[11] In rebuttal the Complainant presented an equity comparable (C-3, pages 4 & 5) which is a similar complex with an office tower assessed as "AA" with a cap rate of 5.5% and a smaller adjoining office building assessed as "AL" with a cap rate of 6.0%.

[12] The Complainant requested the Engineering Building be lowered in sub classification from "AH" to "BH" which would reduce the 2013 assessment from $4,672,500 to $3,002,000.

[13] The Complainant also requested the capitalization applied to the retail component of the complex be increased from 6% to 7% for the 2013 assessment. The Complainant indicated the subject retail area is located below ground and is generally less well known and less desirable than other above ground retail centres located in the downtown area. The Complainant presented two equity comparables (C-1, pages 12 & 13) of retail complexes that were assessed at a 7% cap rate.

[14] The Complainant requested the 2013 assessment for the retail component be revised to $13,349,000 by utilizing a 7% cap rate.

[15] With respect to the office towers, the Complainant presented a cap rate analysis (C-1, page 3) in support of a request to increase the cap rate from 6% to 7%. The Complainant presented seven 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 the Complainant suggested a 7% cap rate would be appropriate for the two office towers.

[16] In rebuttal the Complainant presented a sales comparison chart (C-3, 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.

[17] The Complainant requested the 2013 assessments of the North & South towers be reduced to $94,558,000 & $196,946,000 respectively by utilizing a 7% cap rate.

[18] When the Complainant compiled the requested revisions to the 2013 assessment for the individual complex components (C-1, page 4) the revised total request is $307,855,000.

[19] The Complainant also presented an appraisal of the subject property (C-2) prepared as of Dec. 31, 2011 by Altus Group Ltd. which arrived at a value of $310,000,000 based on the Income Approach ($309,000,000) and the Direct Comparison Approach ($312,000,000).

[20] In summary the Complainant requested the 2013 assessment of the subject property be reduced from $360,334,000 to $308,000,000.

Position of the Respondent

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

[22] The Respondent outlined the valuation process for office buildings (R-1, pages 129 to 141) 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.

[23] The Respondent noted the "AH" sub classification of the Engineering Building was supported by the level of finish present in the building as well as the amenities offered by the rest of the complex. The Respondent referenced the quantitative and qualitative attributes that are typically considered when determining a building sub class (R-1, pages 131 & 132). The attributes that apply to the subject property (R-1, page 26) indicate that the complex could be sub classed as "AA" but has been sub classed as "AH" to take into account the dated finish in some units. The Respondent advised that the classification applies to the entire complex as all components share the same positive attributes.

[24] In response to the Complainant's request for a cap rate revision to the retail component of the complex the Respondent presented four equity comparables (R-1, pages 47 to 57) which are similar to the subject property in that they are high rise offices with retail / food court spaces with both the office and retail / food court components being assessed at the same cap rates.

[25] The Respondent also noted that the 7% cap rate applied to the Complainant's two comparables (C-1, pages 12 & 13) is a different circumstance in that those two comparables are entirely retail with no office component. In addition to a higher cap rate they also have higher lease rates applied than those applied to the subject property.

[26] 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 29) with eight sales comparables (seven of which were in common with the Complainant (C-1, page 3)). 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 "AH" & "AL" properties was 6.02% whereas the 2013 assessed cap rate for the subject property is 6%.

[27] The Respondent critiqued the appraisal of the subject property presented by the Complainant (C-2) indicating that the appraisal is based on the leased fee estate, analyses contract rents and is unclear as to how the cap rates of the comparables are calculated.

[28] The Respondent also provided a number of past MGB and CARB decisions for reference concerning building classification and leased fee vs fee simple sales.

[29] In summary the Respondent requested the 2013 assessment of the subject property be confirmed at $ 360,334,000.

Decision

[30] The Board finds that the building sub classification of "AH" for the complex component known as the Engineering Building is the correct building classification for the 2013 assessment.

[31] The Board finds that a 6% capitalization rate is correct for the 2013 assessment for both the retail and office portion of the subject property.

[32] The decision of the Board is to confirm the 2013 assessment of the subject property at $360,334,000 as fair and equitable.

Reasons for the Decision

[33] 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 $360,334,000 is appropriate.

[34] In reviewing the assessed sub classification of the complex component known as the Engineering Building the Board finds that the assessed sub classification as "AH" is correct due to the amenities which are shared with the overall complex (R-1, page 26). There was no evidence provided by the Complainant that would support an adjustment to the sub classification of this building. The comparable property provided by the Complainant (C-3, page 5) did not include sufficient detail to determine whether it was in fact comparable to the subject property.

[35] The Board finds that the 6% cap rate applied to the retail portion of the complex has been applied in an equitable manner when compared to similar high rise office buildings that include a retail / food court component. While the Complainant requested the subject property have the same cap rate applied to the retail component as other strictly retail properties, he failed to make the retail lease rate adjustments that would go along with such a request.

[36] The Board finds that the 6% cap rate applied to the office portion of the complex in the 2013 assessment has been applied in an equitable manner when compared to similar high rise office buildings of the same class and sub class. The Respondent has stratified the downtown high rise office buildings based on rents and other attributes as well as having equitably applied market rents, vacancy percentages, vacancy shortfall costs, structural expenses and cap rates to all similarly classed buildings. All "AH" sub class buildings such as the subject share a 6% cap rate.

[37] The Complainant's cap rate study (C-1, page 3) presented to support a 7% cap rate request 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 MRAT (above)) along with time adjusted sales prices to derive an adjusted cap rate for the sales comparables which supports the assessed cap rate of 6%.

[38] The Board gave little weight to the 2011 appraisal (C-2) because the appraisal stated that it was prepared for internal use only and was prepared based on the assumption of a cash sale, which could have an effect on value. Further the appraiser was not present to give evidence. The Board is persuaded that there are potential sources of error from relying on third party documents as all components of value may not be analyzed and accounted for in the third party data.

[39] The Board finds the 2013 assessment of the subject property at $360,334,000 including the assessment components of building sub class and cap rates to be fair and equitable.

Dissenting Opinion

[40] 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.