Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 00972

Assessment Roll Number:	10037284
Municipal Address:	1811 102 Street NW
Assessment Year:	2013
Assessment Type:	Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

REVISED DECISION OF
Peter Irwin, Presiding Officer
Lillian Lundgren, Board Member
Darryl Menzak, Board Member

Procedural Matters

[1] When asked by the Presiding Officer, the parties did not object to the composition of the Board. In addition, the Board Members indicated no bias in the matters before them.

[2] The Complainant stated that the two properties before the Board on this date were almost identical and most of the evidence and argument for the subject property would be the same for roll number 10158558. The parties agreed that submissions and evidence would be carried forward where appropriate.

Background

[3] The subject property is located in South Edmonton Common, which is a power centre situated on approximately 320 acres with about 100 stores, comprising 1.7 million square feet (sf). The subject property has several commercial retail units ("CRU's"), the largest of which is Sleep Country and the year of construction was 2007. The leasable area of these CRU's is 37,729 sf. The 2013 assessment is $16,305,000 based on the income approach to valuation.

Issues

1. Is the capitalization rate used to assess the subject property correct?

2. What is the correct method of calculating a capitalization rate for assessment purposes?

3. Is the subject property equitably assessed with similar properties?

Legislation

[4] 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

[5] The Complainant filed this complaint on the basis that the subject property assessment of $16,305,000 is in excess of market value and inequitable. In support of his position, the Complainant submitted an exhibit package containing 42 pages (Ex. C-1) and a rebuttal package containing 28 pages (Ex. C-2).

On the capitalization rate issue:

[6] The Complainant stated that, for assessment purposes on the subject property, the City applied various lease rates to the different space types, a 2.5% vacancy allowance, a 2.0% structural allowance, and a vacancy shortfall to arrive at a Net Operating Income ("NOI") of $978,310. The City then applied a 6.00% capitalization rate to arrive at the assessment.

[7] As the basis of his request for a 6.50% cap rate, the Complainant presented nine sales comparables (Ex. C-1, page 1). He submitted that the properties were all good quality retail centres on main thoroughfares. The sale dates ranged from March, 2011 to May, 2012. The Year of Construction ("YOC") range was 1987 to 2007. Building sizes ranged from 33,541 sf to 139,962 sf. The actual cap rates ranged from 6.06% to 7.15% and the assessment cap rates ranged from 6.50% to 7.50%.

On the method of calculating the cap rate:

[8] With respect to the cap rates obtained from these nine sales comparables, the numbers were obtained from the Network data sheets. (Network is a third party information provider of real estate data). The cap rates were calculated by dividing the NOI by the actual sale price times 100%.

[9] By way of an example, using the comparable #1, Sobey's at Mill Woods Mall, 6410 – 28 Ave., (Ex. C-1, page 5):

> $2,753,289 (the NOI) / $38,500,000 (the sale price) x 100% = a 7.15% cap rate

On the equity issue:

[10] In support of the requested 6.50% cap rate, the Complainant presented twelve assessment comparables (Ex. C-1, page 2). The size of the comparables ranged from 22,569 sf to 254,959 sf. All of these comparables had an assessed cap rate of 6.50%. The Complainant stated that all were also good quality retail centres located on main thoroughfares.

[11] In rebuttal, the Complainant provided the 2012 pro forma for the subject property, showing a 7.00% cap rate, compared to the 2013 cap rate of 6.00% (Ex. C-2, page 2). Also presented were Network sales data for several of the City's comparables plus a chart comparing Network cap rates to City cap rates for both party's comparables. Lastly, the Complainant referred to an MGB decision (039/05) and highlighted the statement that "… the MGB is satisfied that identifying a representative group of similar properties and calculating actual cap rates (i.e. actual NOI/actual sales) for the members of that group will generate an overall picture of the market." (Ex. C-2, page 21).

[12] In answer to a question as to whether any of the Complainant's sales comparables are power centres, the Complainant identified the properties located at 16620 95 Street and 12504 137 Avenue as properties considered power centres by the City. However, the Complainant defended his position that all of the comparables are similar to the subject.

[13] The Complainant reiterated that the subject property should be valued with a 6.5% cap rate. Between 2012 and 2013, cap rates in the city declined by 0.16% to 0.52%, but the subject property's cap rate declined from 7.00% to 6.00% (significantly more).

[14] The Complainant submitted that South Edmonton Common is not as unique as it once was as over the years other power centres have been built or have grown. While the subject is part of South Edmonton Common, it is a smaller retail parcel that has no direct exposure to main roads. Its location for assessment purposes is similar to that of a number of the Complainant's comparables.

[15] In summation, the Complainant requested that a higher cap rate (6.50%) be used, resulting in an assessment of $15,050,500.

Position of the Respondent

[16] The Respondent stated that the subject property is a Power Centre located in South Edmonton Common. Power Centre is defined in the City of Edmonton 2013 Shopping Centre Valuation Guide as: a large center, anchored by at least one or more anchor or junior anchors, having a format where tenants have exterior exposure and access. This type of centre can be developed on one or many legal addresses or roll numbers. Usually flanked by 1 or 2 major thoroughfares. The Respondent submitted that South Edmonton Common is unique because it is the largest shopping center of its kind in Edmonton and is a shopper's destination, having in excess of 100 retail establishments, some of which are the only ones in Edmonton (e.g. IKEA). Based on its scale, it is not comparable to other Edmonton power centres.

[17] The Respondent referred the Board to a map and an aerial photo of the subject property and noted that its neighbours are retail properties. Upon questioning, it was confirmed that the only access to the subject property is from 102 Street.

[18] The Respondent stated that the subject property and all other properties in South Edmonton Common were assessed using a 6.00% capitalization rate.

On the cap rate and calculation method issues:

[19] The Respondent presented a Shopping Centre Capitalization Rate Analysis showing a table of fourteen properties (Ex. R-1, page 24). Three years of sales were analyzed, with sale dates ranging from August, 2010 to April, 2012, time adjusted to the valuation date. The median and average cap rates in this particular rate analysis were 6.18% and 6.19% respectively.

[20] The Respondent uses the following methodology to derive a fee simple capitalization rate. The Cap Rate is derived by dividing the Stabilized NOI by the Time Adjusted Sale Price.

[21] The Respondent submitted that the Complainant's "leased fee" cap rates come from Network documentation based on the actual NOI. Alternatively, the City's numbers have been adjusted to reflect fee simple and bring them into line with the valuation date. It was further submitted that using "typical" NOI is the preferred method of calculation. A number of MGB and CARB cases were included in the Respondent's package (R-1, pages 64-97).

[22] In summary, the Respondent requested that the Board confirm the assessment.

Decision

[23] The property assessment is confirmed at $16,305,000.

Reasons for the Decision

[24] In determining whether the 6.0% capitalization rate used to prepare the subject assessment is correct and equitable, the key consideration is comparability. The Board finds that the Complainant's sales comparables are not sufficiently comparable to test the subject assessment.

[25] The subject property is part of a power centre known as South Edmonton Common which is the largest shopping centre of its kind in Edmonton. It is a destination with more than one hundred retail buildings, of which, several are big box stores. Only two of the Complainant's sales comparables are power centres. However, they are smaller centres and have CRU rents that are inferior to the rental rates in the subject property.

[26] With respect to the Complainant's source of capitalization rates, the rates published by The Network are derived from the actual NOI at the time of sale. The Board finds that the Complainant's capitalization rates are "leased fee" capitalization rates, and should not be used for assessment purposes. When the actual lease rents differ from the typical market rents and are used to derive the capitalization rate, the result is a "leased fee" capitalization rate. The capitalization rates must be derived and applied in a consistent manner.

[27] In conclusion, the Board finds that the Respondent's capitalization rates are more reliable because the Respondent consistently used the 2013 stabilized NOI and the time adjusted sale price to derive the capitalization rate. Further, there is insufficient evidence to prove that the subject property assessment is inequitable or incorrect.

[28] For these reasons, the assessment is confirmed.

Heard June 20, 2013.
Dated this 16th day of July, 2013, at the City of Edmonton, Alberta.

Peter Irwin, Presiding Officer

Appearances:

Tom Janzen, CVG
for the Complainant

Cam Ashmore
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.