Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01005

Assessment Roll Number:	4032116
Municipal Address:	10915 23 Avenue NW
Assessment Year:	2013
Assessment Type:	Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
John Noonan, Presiding Officer
Darryl Menzak, Board Member
Lillian Lundgren, 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 matter before them.

Background

[2] The subject property, known as Heritage Square, is a shopping centre located at 10915 23 Avenue NW. It has a net leasable area of 30,470 square feet (sf) comprised of a Shoppers Drug Mart and several Commercial Retail Units (CRUs). The lot size is 116,906sf. It is assessed at $9,798,500.

Issue(s)

1. Is the subject property assessment *correct?

   (a) Is the 6.5% capitalization rate used to prepare the assessment correct?

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

   (a) Is the 6.5% capitalization rate equitable?

*The Board is using the term in relation to the valuation standard of market value.

Legislation

[3] 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

[4] The Complainant filed this complaint on the basis that the subject property assessment is incorrect and inequitable.

[5] The Complainant argued that the 6.5% capitalization rate used to prepare the assessment is incorrect. In support of this position, the Complainant presented ten sales of retail centres that transacted between March 2011 and October 2012 (Exhibit C-1 page 1).The transactions were taken from documents prepared by The Network. The properties range in building size from 6,438sf to 139,962sf and were constructed between 1957 and 1995. The capitalization rates for the sale comparables range from 6.63% to 7.34%.

[6] The Complainant stated that sale comparables #3, #4, #6 and #7 are more similar in magnitude to the subject property and therefore more comparable.

- Sale #3 located at 5074 130 Avenue NW sold in September, 2011 with a capitalization rate of 7.02%. It has a building area of 33,000sf that was constructed in 1995. It was purchased in conjunction with the adjoining property and the Complainant stated that 'it is not a very good indicator".
- Sale #4 located at 10503 Kingsway Avenue NW sold in December, 2011 with a capitalization rate of 7.07%. It has a building area of 42,424sf that was constructed in 1990. It is classified as a retail plaza.
- Sale #6 located at 6104 90 Avenue NW sold in April, 2012 with a capitalization rate of 7.23%. It has a building area of 59,539sf that was constructed in 1970. A portion of the centre is to be rebuilt following a fire.
- Sale #7 located at 15311 97 Street NW sold in May, 2012 with a capitalization rate of 6.76%. It has a building area of 33,541sf that was constructed in 1987. It was acquired

jointly with London Centre for $19,000,000 and no documents were provided to support the allocated value.

[7] The Complainant acknowledged that the sale comparables were not time adjusted; however, they are recent sales that occurred in 2011 and 2012. The Complainant also acknowledged that The Network determined its capitalization rates using the net operating income on the sale date, and that the capitalization rates are leased fee rates.

[8] The Complainant argued that the subject property is treated inequitably because the Respondent applied higher capitalization rates to similar retail properties. In support of this position, the Complainant presented nine equity comparables with capitalization rates of 7.0% and 7.5% (Exhibit C-1 page 2). The subject is assessed using a 6.5% capitalization rate.

[9] In summary, the Complainant stated that the sale comparables and the equity comparables are all good quality retail centres and for the most part located on major thoroughfares. Based on an analysis of the comparables, a more appropriate rate for the subject property for the 2013 assessment would be 7.25%. This results in the requested value of $8,785,000.

Rebuttal

[10] The Complainant stated that the Respondent uses a hypothetical capitalization rate to value properties because the Respondent determines a capitalization rate using a time adjusted sale price and a stabilized net operating income. According to the Complainant, "a cap rate is a cap rate" and the marketplace recognizes the capitalization rate on the sale date based on the actual income stream.

[11] In addition, the Complainant presented details on each its equity comparables (Exhibit C-2) showing a map of the area and various assessment details such as age, building class, building size, lot size and site coverage.

Position of the Respondent

[12] The Respondent submitted that the subject property assessment of $9,798,500 is correct and equitable.

[13] The Respondent explained that, the subject property forms part of a neighborhood shopping centre in South Edmonton. The centre contains a Sobeys food store, a drugstore, fast food restaurants, sit down restaurants and personal service outlets. The property is located on the south side of 23 Avenue with the terminus of the LRT directly across the avenue from the subject property.

[14] The Respondent defended the 6.5% capitalization rate used to prepare the subject assessment with a Shopping Centre Capitalization Rate Analysis (Exhibit R-1page 16). The analysis is based on fourteen sales of shopping centres that transacted from August 2010 to April 2012. The median capitalization rate is 6.18%.

[15] The Respondent highlighted the sale, known as Century Park, at 2303 111 Street NW as the best comparable because it is located across the avenue from the subject property. It sold on June 17, 2011 with a capitalization rate of 5.81%.

[16] In terms of the methodology, all of the Respondent's sale comparables were time adjusted to the valuation date of July 1, 2012, and in some cases, market adjustments were applied. For example, the sale price for 100 Manning Crossing was adjusted upward because the interest rate on the mortgage was above average. The stabilized net operating income and the time adjusted sale price were consistently used to derive an appropriate "fee simple" capitalization rate.

[17] The Respondent dismissed the Complainant's argument that the subject property is inequitably assessed with similar properties because the equity comparables presented by the Complainant are not in the shopping centre group. The Respondent applied a 6.5% capitalization rate to each of the properties in the shopping centre inventory including the subject property.

[18] The Respondent commented that none of the Complainant's sale comparables are time adjusted. The Respondent also commented on the comparability of the sales highlighted by the Complainant. Comparable #4 is not similar because it is a retail plaza. Comparable #7 is part of a two parcel sale and the referenced property is twenty years older than the subject property. Although both parties used the Complainant's comparable #3, this property is considered inferior to the subject property by the Respondent because of location. Both parties used the Complainant's sale #6 which is twenty-eight years older than the subject, has known contamination and a portion of the centre is to be rebuilt following a fire.

[19] In summary, the Respondent requested the Board to confirm the assessment at $9,798,500.

Decision

[20] The property assessment is confirmed at $9,798,500.

Reasons for the Decision

[21] In determining this matter, the Board finds that the Complainant has not provided sufficient evidence to demonstrate that the 6.5% capitalization rate used to prepare the subject assessment is incorrect or inequitable.

[22] With respect to correctness, the Complainant identified sale comparables #3, #4, #6 and #7 as the most comparable. The Board does not accept these comparables as good indicators of value for the subject property on the valuation date because they have not been time adjusted. Further, the sales are not sufficiently similar to establish a reliable estimate of value for the subject property. It is a mystery to the Board that either party finds the sale comparable located at 6104 90 Avenue similar to the subject property when it is considerably older, has known contamination and is recovering from a fire.

[23] The Board also reviewed the Respondent's sale comparables used to establish the capitalization rate for shopping centres. With the exception of the sale at 6104 90 Avenue, the Board finds that the Respondent's sale comparables support the use of a 6.5% capitalization rate for the subject shopping centre.

[24] Respecting equity, the Complainant failed to establish that any similar properties are assessed using higher capitalization rates. The Board accepts the Respondent's evidence that all shopping centre properties are assessed in the same manner as the subject property using a capitalization rate of 6.5%.

[25] While the method of deriving a capitalization rate is not an issue identified on the complaint form, it is an underlying issue of this complaint. The legislation requires that all properties be valued on the fee simple estate; and further, that all properties be valued using typical market conditions. The Board understands that the capitalization rates prepared by third parties are widely used in the real estate market. However, there can be material differences between the reported net operating income and the legislated typical net operating income which results in a different capitalization rate. For assessment purposes, the Board accepts the Respondent's method of calculating a capitalization rate.

[26] Accordingly, the assessment is confirmed.

Heard July 23, 2013.
Dated this 15th day of August, 2013, at the City of Edmonton, Alberta.

JP Noonan

John Noonan, Presiding Officer

Appearances:

Peter Smith
for the Complainant

Cam Ashmore, Legal Counsel
John Ball, Assessor
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.