

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01447

Assessment Roll Number: 4143673

Municipal Address: 13616U 97 Street NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
George Zaharia, Presiding Officer
Jasbeer Singh, Board Member
Taras Luciwi, 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.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject property is a neighbourhood shopping centre located at 13616U 97 Street NW in north Edmonton. The building comprises 11,420 square feet of space that includes 800 square feet of CRU space less than 1,000 square feet, 2,820 square feet of CRU space between 1,001 and 3,000 square feet, and 7,800 square feet of CRU – Restaurant space. The property is located on a triangular-shaped lot at the intersection of 137 Avenue and 97 Street.

[4] The subject property was valued on the income approach resulting in a 2013 assessment of \$4,910,500.

Issue

[5] Is the capitalization rate (cap rate) used in deriving the assessed value of the subject property too low?

Legislation

[6] 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

[7] In support of his position that the 2013 assessment of the subject property is excessive, the Complainant presented a 28-page brief (Exhibit C-1). The Complainant argued that based on an analysis of the cap rates from sale and equity comparables, the cap rate applied to the subject property is too low and should be increased from 6.5% to 7.0%.

[8] The Complainant stated that all the parameters used by the City in arriving at the assessed value, except for the cap rate, were reasonable (Exhibit C-1, page 1).

[9] The Complainant presented a cap rate study that included an analysis of eleven sales of “good quality retail centres”, and ten equity comparable properties.

a) The sales comparables sold between March, 2011 and May 2012 for cap rates ranging from 6.54% to 7.23%. The building sizes of the comparables ranged from 5,500 to 139,962 square feet, compared to the size of the subject at 11,420 square feet. The net operating incomes (NOI) of the comparables ranged from \$11.48 to \$30.12 per square foot with the subject’s income at \$27.95 per square foot. (Exhibit C-1, page 2)

b) The equity comparables were assessed using cap rates ranging from 6.5% to 7.5%. The comparables ranged from 12,903 to 51,542 square feet, compared to the size of the subject at 11,420 square feet. (Exhibit C-1, page 2)

[10] Based on an analysis of the sales with consideration given for “shadow anchors”, incomes considered more stable than the subject’s, and NOI’s most similar to the subject, the Complainant requested that the cap rate applied to the subject be increased from the current 6.5% to 7.0% (Exhibit C-1, page 2).

[11] Based on an analysis of the equity comparables, the Complainant stated that the comparable known as Main on Whyte, with a 6.5% cap rate, is one of the newest buildings on the popular Whyte Avenue, and that it would be inequitable to use the same cap rate for the subject as is used for that comparable (Exhibit C-1, page 2).

[12] In argument, the Complainant stated that the subject property suffers from an irregular shaped lot, does not have direct access from 97 Street southbound, and lacks a major anchor with Sobeys being closed and with Starbucks moving out. The subject is therefore a good candidate for an increased cap rate.

[13] In conclusion, the Complainant requested that the 2013 assessment of the subject property be reduced from \$4,910,500 to \$4,560,000, based on a cap rate of 7.0%.

Position of the Respondent

[14] The Respondent stated that the 2013 assessment of the subject was fair and equitable. To support his position, the Respondent presented a 151-page assessment brief (Exhibit R-1) that included law and legislation.

[15] The Respondent advised that the subject was included in the neighbourhood shopping centre valuation group. Consequently, he provided a "Shopping Centre Capitalization Rate Analysis" of fourteen shopping centres sold during a time frame of August, 2010 to April, 2012 (Exhibit R-1, page 9). The properties sold for adjusted cap rates ranging from 4.65% to 8.04% resulting in a median cap rate of 6.18% and an average cap rate of 6.20%.

[16] The Respondent provided a review of the Complainant's eleven sales comparables used in his cap rate study. Sales of retail and retail plaza properties were removed from the study, leaving eight properties to be analyzed (Exhibit R-1, page 26). The remaining eight sales were stabilized to allow for a consistent comparison to the subject. The cap rates as provided by the Complainant were taken from the Network's sale reports. These cap rates were derived from sales ranging from April, 2011 to April 2012, and resulted in a median cap rate of 7.03%. However, when the sales were time-adjusted to the July 1, 2012 valuation date, the median time-adjusted fee simple cap rate was reduced to 6.47%. The cap rate applied to these eight sales was 6.50% for the current assessment year.

[17] In argument, the Respondent highlighted some information included in a CBRE cap rate survey from the second quarter of 2012 showing cap rates for neighbourhood shopping centres in Edmonton ranging from 6.00% to 6.50%, and for strip malls ranging from 5.75% to 6.25% (Exhibit R-1, page 31). Based on the City's cap rate study showing a median cap rate of 6.18%, the revised stabilized cap rate of the Complainant's sales of 6.47%, and the CBRE report, it was the Respondent's position that the 6.5% cap rate applied to the subject property was fair and equitable.

[18] In conclusion, the Respondent requested that the Board confirm the 2013 assessment of the subject property at \$4,910,500.

Decision

[19] The decision of the Board is to confirm the 2013 assessment of the subject property at \$4,910,500.

Reasons for the Decision

[20] The Board placed less weight on the evidence and argument put forward by the Complainant for the following reasons:

- a) The cap rate study provided by the Complainant showed the cap rates based on the net operating incomes and sale prices at the time of sale. The cap rate was not stabilized to the July 1, 2012 valuation date.
- b) When the Complainant's cap rate study was time-adjusted by the Respondent, excluding the retail and retail plaza properties, the median time-adjusted fee simple cap rate for the shopping centre properties was reduced to 6.47%, supporting the 6.5% cap rate applied by the Respondent to arrive at the 2013 assessment of the subject property.
- c) The Complainant stated that some of the properties that were included in the cap rate study "*are parts of larger retail projects with major "shadow" anchors and their incomes are considered to be more stable than the subject property*". However, based on the information submitted by the Complainant, the net operating incomes (NOI) of the comparables ranged from \$11.48 to \$30.12 per square foot with the subject's income at \$27.95 per square foot falling at the high end of the range, disputing the Complainant's claim. There was no evidence that the subject property suffered from unstable income.
- d) Although the Complainant raised concerns about the shape of the lot and the level of income, the Complainant had accepted the income parameters used by the Respondent in arriving at the assessment of the subject. Since the income enjoyed by the property owner was at the high end of the net operating incomes as shown in the Complainant's cap rate study, this disputed the Complainant's claim that the shape of the lot had a negative effect on the subject property.

[21] The Board placed greater weight on the evidence provided by the Respondent for the following reasons:

- a) The cap rate study submitted by the Respondent, based on the sale of fourteen neighbourhood shopping centres, sold for stabilized cap rates ranging from 4.65% to 8.04% resulting in a median cap rate of 6.18% and an average cap rate of 6.20%. This supported the 6.5% cap rate applied to the subject property.
- b) Although the Respondent does not depend on third party information, the Respondent highlighted some information included in a CBRE cap rate survey from the second quarter of 2012 showing cap rates for neighbourhood shopping centres in Edmonton ranged from 6.00% to 6.50%, and for strip malls from 5.75% to 6.25%. Based on the City's cap rate study showing a median cap rate of 6.18%, the revised stabilized cap rate of the Complainant's sales of 6.47%, and the CBRE report, the Board concurred with the Respondent's position that the 6.5% cap rate applied to the subject property was fair and equitable.

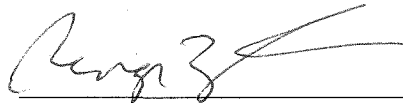
[22] The Board was persuaded that the 2013 assessment of the subject property at \$4,910,500 was fair and equitable.

Dissenting Opinion

[23] There was no dissenting opinion.

Heard October 22, 2013.

Dated this 12th day of November, 2013, at the City of Edmonton, Alberta.

A handwritten signature in dark ink, appearing to read 'George Zaharia', written over a horizontal line.

George Zaharia, Presiding Officer

Appearances:

Peter Smith
for the Complainant

Ryan Heit
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.