Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01864

Assessment Roll Number:	7191257
Municipal Address:	11147 82 Avenue NW
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
Mary Sheldon, Board Member
Martha Miller, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties indicated no objection to the Board's composition. As well, the Board Members indicated no bias with regard to this file.

Preliminary Matters

[2] Evidence, argument and submissions by both the Complainant and the Respondent were carried forward to this file from Assessment Roll Number 03055985, where relevant.

Background

[3] Known as Concorde Apartments, the subject is a high rise apartment building comprising 101 units. It is located at 11147 – 82 Ave NW, Edmonton, in Market Area 3. It was built in 1965 and is in good condition. There are 56 bachelor units, 22 two bedroom units, 22 one bedroom units and 1 three bedroom suite. The 2013 assessment is $13,714,000.

Issue(s)

[4] Is the Gross Income Multiplier (GIM) used to determine the subject's 2013 Assessment appropriate, fair and equitable?

Legislation

[5] 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

[6] In support of the appeal, the Complainant presented written evidence (Exhibits C-1 and C-2) and oral argument for the Board's review and consideration.

[7] The Complainant argued that the GIM applied to the subject in the 2013 assessment is too high at 11.90 and requests that the GIM be reduced to 10.50, which will reduce the 2013 assessment to $12,040,000. The Complainant accepts the Respondent's calculation of the Potential Gross Income and vacancy rate.

[8] The Complainant argued that the subject experienced a significant increase in GIM over the last three years, in contrast with data which suggests that GIMs have stabilized during the same time period (Exhibit C-1, pages 6-11). Supported by Cushman & Wakefield Report data, the Complainant suggested that a reasonable GIM for the subject is 10.50 and no more than 11.02 (Exhibit C-1, pages 18-21).

[9] The Complainant produced six sales comparables with supporting data from The Network (Exhibit C-1, pages 2, 12-17). Of the five comparables located in Market Area 3, the GIMs ranged from 10.64 to 11.05, whereas 11.90 had been applied to the subject.

[10] The Complainant argued that the best calculation of GIM is based on the actual sale price and the actual income the property is generating on the date of sale. It was suggested that this process is superior to the Respondent's method of calculating GIM because the Complainant's process shows exactly what a buyer is prepared to pay for a building's ability to generate a particular income at a particular date.

[11] During questioning, the Complainant agreed that the Cushman & Wakefield GIM data was not restricted to buildings that have similar attributes to the subject, but include buildings of differing locations, market areas, building type, condition and age from across Edmonton.

[12] The Complainant confirmed that he did not independently verify The Network data for accuracy, nor did he adjust the data.

[13] During further questioning, the Complainant agreed that the GIM of its comparables was based on actual sale price and actual income on the date of sale. The data was not adjusted for circumstances surrounding the sales, or other factors, and the data was not time adjusted.

[14] In Rebuttal, the Complainant produced documents prepared by The Network analyzing the Respondent's comparables. The Complainant summarized this information in a table showing the difference in the GIMs derived by The Network and the Respondent (Exhibit C-2, page 8) using the same properties. The Network's Estimated Potential Gross Income (EPGI) calculations were up to 20% higher than the Respondent's EPGI and this resulted in correspondingly lower GIMs.

[15] In closing, the Complainant requested that the Board reduce the GIM to 10.5, which would reduce the subject's 2013 assessment from $13,714,000 to $12,040,000.

<u>Position of the Respondent</u>

[16] In support of its assessment, the Respondent presented written evidence (Exhibit R-1 and R-2) and oral argument for the Board's review and consideration. The Respondent included 2012 Board decision, ECARB 2012-002257, which also dealt with the subject.

[17] The Respondent reviewed its statutory obligation to use mass appraisal when conducting annual property assessments. The Respondent also reviewed some of the widely accepted principles of appraisal methodology, including the importance of applying adjustments and maintaining consistency in methodology (Exhibit R-1, pages 29-53).

[18] The Respondent said that assessments may vary from year to year and that without further evidence, historical data showing an increase in the subject's GMI is not sufficient to overturn an assessment.

[19] The Respondent said that the most important variables in determining the appropriate GIM are the building type, effective year built and the market area/location (Exhibit R-1, page 34).

[20] The Respondent provided four sales comparables in support of the subject's assessment. (Exhibit R-1, pages 15-18, 20). Comparable 1 was the only high rise; the other three were low rise apartments, which in the Respondent's opinion, is to the subject's advantage; all four are in less desirable market areas and are of average condition while the subject is of good condition. Finally, comparables 1, 2 and 3 are substantially newer than the subject.

[21] The GIM for the Respondent's sales comparables ranged from 14.33 to 14.80, with the subject's GIM being 11.96. The time adjusted sales price per suite ranged from $140,732 to $199,437, with the subject's being $135,782.

[22] The Respondent also presented eight equity comparables, all of which are high rise buildings, in average condition, of similar age to the subject and are located in Market Area 3 (Exhibit R-1, page 22). The GIM applied to all eight comparables was 11.96, with the subject's GIM also being 11.96. The time adjusted assessment per suite ranged from $136,967 to $164,209 with the subject's being $135,782.

[23] The Respondent was critical of the Complainant's method of obtaining data from third party documents. With respect to The Network's data, the Respondent questioned the source and

reliability of the data and pointed out that no adjustments had been made to the sale price or the EPGI in the Complainant's comparables.

[24] With respect to the Cushman Wakefield Study, the Respondent pointed out that the data was derived from dissimilar properties from various market areas; accordingly, little weight should be given to the data.

[25] The Respondent was critical of the Complainant's methodology of mixing and matching data in that the Complainant was using a PGI based on typical rents and vacancy while using a GIM reported in third party documents based on unadjusted actual income and vacancy at the time of sale.

[26] The Respondent requested that the Board confirm the 2013 assessment of the subject at $113,714,000.

Decision

[27] The decision of the Board is to confirm the 2013 assessment of the subject at $13,714,000. The GIM of 11.90 is appropriate, fair, and equitable.

Reasons for the Decision

[28] In the Board's opinion, the Complainant did not provide persuasive evidence that the GIM is too high and that the requested GIM is appropriate.

[29] The Board agrees that each assessment year is determined individually; accordingly, the history of increasing GIM, without more evidence, is not sufficient to overturn an assessment.

[30] The Board does not accept the Cushman and Wakefield Study data in support of the Complainant's argument that the GIM is inappropriate or unfair. The study looks at trends and the data is compiled from dissimilar properties from across Edmonton. The Board considered the study to be of little assistance in this matter.

[31] The Board notes that the Complainant's process for determining GIM is based on unadjusted actual data for sales and income based on third party documents. There is no authority to show that the Complainant's process is a widely accepted methodology for assessment of property. The Board agrees with the Respondent that the acceptable method of calculating GIM requires the use of adjusted sales price and income data.

[32] The Board also agrees with the Respondent that the PGI and GIM must be derived and applied in a consistent manner. Mixing actual data and adjusted data in the valuation of market value is inconsistent methodology.

[33] The Board is persuaded that there are potential sources of error from relying on third party documents for actual sale and income data because all components of value may not be analyzed and accounted for in the third party data.

[34] The Board reviewed the Complainant's sales comparables with particular focus on building type, age, and location. The Board concluded that comparables 2 and 3 met two of the three criteria, being similar in age and in the same market area as the subject. Because the GIM

of these comparables was derived from actual sales price and actual income data, unadjusted, from third party documents, the Board places little weight on the Complainant's comparables.

[35] The Board reviewed the Respondent's sales comparables with the same criteria and determined that only one was a high rise, two were in the same market area, and three were substantially newer than the subject. Comparable 4, a low rise apartment on 81 Avenue, met two of the three criteria (age and location), and was the best comparable. The Board notes that even where one of the Respondent's sales comparables is inferior to the subject in one of three factors, (market area, property type and condition), the GIM still supports the assessment. For example, although comparable 4, is inferior in building type, it still achieves a higher GIM than the subject.

[36] The Board reviewed the Complainant's rebuttal material which was the chart recalculating the GIM for the Respondent's comparables. The Board is not persuaded that the Complainant's process of calculating the GIM is acceptable. The Respondent's rebuttal GIM calculations were given no weight.

[37] The Board examined the Respondent's equity comparables. All comparables were high rise buildings of similar condition in the same market area. One comparable was slightly newer and two were slightly older. The same GIM was applied to the subject and all eight comparables. The Board places greater weight on these comparables.

[38] In the Board's opinion, the Respondent's equity comparables support the appropriateness of the GIM applied to the subject. Further, the Board is satisfied that the GMI has been fairly and equitably applied to the subject.

[39] To conclude, the Board is of the opinion that the Complainant did not provide sufficient evidence to establish that the GIM applied to the subject is inappropriate, or unfair and inequitable.

Heard commencing August 12th, 2013.
Dated this 28th day of August, 2013, at the City of Edmonton, Alberta.

Shannon Boyer, Presiding Officer

Appearances:

Tom Janzen
for the Complainant

Allison Cossey
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.