Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01888

Assessment Roll Number: 7147002
Municipal Address: 10721 85 Avenue NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Dean Sanduga, Presiding Officer
Brian Hetherington, Board Member
Dale Doan, Board Member

Procedural Matters

[1] The parties indicated they had no objection to the composition of the Board. In addition, the Board members indicated they had no bias on this file.

Preliminary Matters

[2] No preliminary matters were raised by the parties.

Background

[3] The subject property is a 9-suite apartment complex, located at 10721 85 Avenue in south-central Edmonton's Market Area 3. It was built in 1964 and contains seven 1-bedroom suites and two 2-bedroom suites. It is assessed by the City through the Income Approach to Value at $1,031,000.

Issue(s)

[4] The Complainant identified four issues that would be addressed:

- Market Value;
- Income & Expense Characteristics;
- GIM; and

- Overall Capitalization (cap) rate.

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] The Complainant presented the Board with a 19-page brief (C-1), which included the issues, maps and photographs of the subject, assessment details of the subject property, an income statement with changes prepared by the Complainant, a sales comparable chart, and an Edmonton apartment report for 2013 prepared by Cushman & Wakefield. The Complainant indicated that he would present both a direct capitalization and gross income multiplier (GIM) approach to value.

[7] The Complainant suggested to the Board that the City had estimated the potential gross income (PGI) for the subject property and deducted a typical vacancy allowance to arrive at an effective gross income. He further added that the City's effective gross income of $86,226 was multiplied by a GIM of 11.96 to arrive at the 2013 assessment. He suggested to the Board that the overall calculations were unreliable as the City's estimated effective gross income for 2013 was $86,226, adding that the actual effective gross income for the subject property for 2012 was $83,160 and the actual net operating income was $15,615.

[8] The Complainant presented a chart of five comparable apartment building sales, that had been completed between May 2010 and March 2012. The buildings ranged in size from 11 – 20 suites and had been built between 1965 and 1974, compared to the subject, which was built in 1964. The GIMs ranged from 9.02 – 10.64, creating an average of 9.86, compared to the assessment of the subject at 11.96. The estimated PGIs of the comparable buildings ranged from $836 - $977, creating an average of $869, while the subject had an actual PGI of $770 and had been assessed by the City with an EPGI of $798.

[9] Referring to the four-page Cushman & Wakefield Apartment Report (C-1, pp 8-11), the Complainant submitted that the the average GIM for Edmonton's apartments had remained constant from 2009 to 2012.

[10] The Complainant suggested to the Board that the sales he had presented supported his request for a GIM of 10.00 and an overall capitalization rate of 6.75% for the subject property.

[11] He added that applying the GIM of 10.00 to the subject property's actual revenue for 2012 results in a value of $831,600. He also suggested that capitalizing the actual 2012 net operating income of $15,615 by his proposed cap rate of 6.75% yields a value of $231,333.

[12] The Complainant further suggested to the Board that the operating expenses in 2012 were excessive, and adjusted the net operating income to $50,670. When a 6.75% cap rate is applied to this adjusted NOI, the result is a value of $750,667.

[13] In conclusion, the Complainant requested the Board to reduce the subject property's assessment to $800,000.

Position of the Respondent

[14] The Respondent presented the Board with a 50-page document (R-1) in support of the City's assessment. The brief contained the City's 2013 Low-Rise Assessment Brief; maps of Assessment Area 3, indicating the location of the subject property; photos of the subject; the City's assessment report; an expanded chart of the nine properties being reviewed by the Board, together with 11 comparable sales, six-pages of equity comparables of all apartment properties in Market Area 3; a two-page report on Case Law supporting the City position; an e-mail exchange relative to the transfer of two properties that were deemed Non-Arms Length between family members; extracts from "Standard on Verification and Adjustment of Sales"; and a 2012 CARB decision.

[15] In total, the Respondent presented the Board with six documents that were to be used for a series of nine hearings on the same day. The documents were:

R-1 – 50 page Assessment Brief;

R-2 – 26 page Legal Brief;

R-3 – 51 page Law and Legislation document;

R-4 – 5 page 2013 CARB decision 01921;

R-5 – 85 page GIM Brief; and

R-6 – 2 page extract from R-1, for ease of Board review.

[16] The Respondent referred to the Law & Legislation document (R-3), which showed that the City must use typical rental income for a class of properties, rather than actual income for individual properties. He also referred to his written submissions on Fairness and Equity (p 9), Market Value (pp 16-17), Burden of Proof (p 23), and Third-Party documents (p 31).

[17] The Respondent informed the Board that the City's multi-residential property valuation models use the following calculation for the Market Value Assessment (MVA):

MVA = (Potential Gross Income, less Vacancy allocation) x GIM

[18] The City's Income Detail Report for the subject property (R-1, p 21) showed that the property had an PGI of $88,893, which with a standard 3% vacancy rate provided an EPGI of $86,226. Using a GIM of 11.96 generates the assessment for the subject property of $1,031,000.

[19] The Respondent presented the Board with a chart of 11 comparable sales of Low-Rise apartment buildings in the same south-side Market Area 3 as the subject. This chart included all of the Complainant's comparables, with comments on their suitability for comparison purposes. The Respondent referred to the Complaiant's comparables # 1 and 3 being Non-Arms Length sales between family members and sale # 5 being in only fair condition at the time of sale. The Respondent also suggested that suite mix and penthouse units would affect value.

[20] The time-adjusted sales price per suite of the comparables ranged from $97,376 to $180,306, creating an average of $126,774 and a median of $128,159. The requested assessment of the subject property at $88,888 per suite is much lower.

[21] The Respondent criticized the use of the Cushman & Wakefield report by the Complainant, pointing out to the Board that the statistics were city-wide averages and not related to any specific area.

[22] The average assessment per suite of the City's sales comparables was $121,412, compared to the assessment per suite of the subject property at $114,555.

[23] The Respondent also presented the Board with a chart of 175 Equity Comparable walk-up apartment buildings in Market Area 3. The assessments per suite ranged from $110,200 - $177,357. He added that these sales and equity comparables support the subject assessment.

Decision

[23] The decision of the Board is to confirm the assessment of the subject property at $1,031,000.

Reasons for the Decision

[24] The Board accepted the submission of the Respondent that sales between family members must be classified as non-valid. Two of the Complainant's five comparables fell into this category – and indeed had been deemed non-valid by a CARB hearing in 2012, as presented in R-1 (pp 45-19). The Board also noted that Comparable # 5 was deemed to have been in only fair condition at the time of sale, also making it undesirable as a comparable property.

[26] The Board also noted that the Complainant had told the Board that his comparables, # 1, 3, 4 and 5 were the most comparable to the subject. However, the Board concluded three of these were poor comparables for the reasons outlined above. This left only one of the Complainant's preferred comparables to be considered.

[27] The Board found that the Complainant's calculations were based on data from Network sheets prepared from the sales of the properties and were not time-adjusted to the assessment date. Additionally, his results were averaged to reach a recommended request for the revised assessment, which was inappropriate.

[28] Referring to the presentation of the Cushman & Wakefield Apartment Report, the Board noted the Respondent's comment that average GIMs presented were city-wide figures, while the subject is located in one of the most successful market areas of Edmonton.

[29] The Board found the comprehensive chart of comparable sales, including rates for PGI, estimated gross income and GIMs, together with assessments per suite to be very convincing, showing that the 2013 assessment per suite of the subject was in line with other similar properties.

[30] The Board was impressed by the breadth and detail of the information presented by the Respondent to support the assessment.

Dissenting Opinion

[31] There was no dissenting opinion.

Heard on November 14, 2013.
Dated this 12th day of December, 2013, at the City of Edmonton, Alberta.

Dean Sanduga, Presiding Officer

Appearances:

Peter Smith
for the Complainant

Andy Lok
Steve Lutes
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.