Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01935

Assessment Roll Number: 10005229
Municipal Address: 1033 Hooke Road 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
John Braim, Board Member
Pam Gill, 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 two-storey, multi-residential row housing complex located at 1033 Hooke Road NW in the Overlanders neighbourhood of northeast Edmonton. It is located in market area 11. The subject property is known as Hooke County Townhouses and contains a total of one hundred and sixty-five suites. The subject property has a total of fifty-two 2-bedroom suites, and one hundred and thirteen 3-bedroom suites all with basements. The total residential gross building area of the one hundred and sixty-five units is 277,233 square feet (1,679 square feet per unit) and the lot size is 421,910 square feet (9.686 acres) with site coverage of 20%.

[4] The subject property was valued on the income approach using a gross income multiplier (GIM) of 10.88 resulting in a 2013 assessment of $23,236,500.

Issue(s)

[5] Is the 10.88 gross income multiplier (GIM) used by the Respondent in deriving the assessed value of the subject property too high?

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 22-page brief (Exhibit C-1). The Complainant argued that based on an analysis of the gross income multipliers from the nine sales he put forward, a GIM of 10.20 would be more appropriate in determining the value of the subject property.

[8] The Complainant stated that from the 2011 income statement, the potential gross income (PGI) of $2,169,192 was very similar to the City's estimated $2,201,799 PGI. He stated that it was reasonable to use the City's estimated potential gross income to value the subject (Exhibit C-1, page 1).

[9] The Complainant presented sales of nine, walk-up apartments that sold between June 2010 and April 2012.

a) The number of units ranged from 12 to 99 compared to the subject's 165 units, and the properties ranged in age from 1964 to 2008 compared to the subject's age of 1986. The comparables sold for $68,764 to $186,170 per suite at a GIM ranging from 8.43 to 12.04, and the average PGI per suite per month ranged from $691 to $1,342. (Exhibit C-1, page 2)

b) The subject's average $1,112 PGI per suite per month is based upon the City's income estimate as at the July 1, 2012 valuation date. The comparables' PGIs are based on their incomes at the time of the sale. In order to take into account changes in rent levels between the sale dates and the valuation date, as well as other features of each property, the Complainant developed a formula where a ratio was calculated based on the subject's PGI of $1,112 per suite per month divided by the average PGI per suite per month of the sales comparables. This ratio was then applied to the sale price per suite of the comparables to arrive at the adjusted sale price per suite. For example, in the case of sale number one, the subject's average PGI per suite per month of $1,112 was divided by the average of the comparable which was $806, resulting in a factor of 1.38. This factor was then applied to the sale price per unit of $81,250, resulting in an adjusted sale price of $112,897. (Exhibit C-1, page 2)

c) Based on sales nos. 1, 2 and 3, which were most similar in age to the subject that had adjusted sale prices per suite of $112,897, $132,961 and $109,077 respectively, the Complainant stated that a value of $115,000 per suite was considered appropriate, and that this would result in a value of $18,975,000 for the subject property.

d) Placing most weight on sales nos. 1, 3 and 4, that have more similar physical attributes to the subject, the Complainant considered a GIM of 10.20 as being appropriate. When this GIM is applied to the City's effective PGI of $2,135,745, the resulting value of the subject would be $21,784,599.

[10] The Complainant provided information from a 2012 Cushman and Wakefield analysis of 87 low-rise buildings in Edmonton that showed the gross rent multiplier (GRM) to be virtually flat for the years 2009 to 2012, arguing that there was no need to time-adjust the multiplier, even if there had been increases in the rents. (Exhibit C-1, page 22)

[11] In argument, the Complainant stated that there were no row house sales during the past three years, and therefore he had to use apartment sales to determine a more appropriate GIM. He looked at sales of multiple family properties, close to the subject, and at properties that were close in age. He further argued that the Respondent had used a GIM of 10.88 without any sales evidence as to how it was derived.

[12] In responding to the Respondent's disclosure, the Complainant argued that using sales of individual condominiums to compare to the subject property was not appropriate, since the subject is a multi-residential property.

[13] In conclusion, the Complainant requested that the 2013 assessment of the subject property be reduced from $23,236,500 to $21,500,000, based on a GIM of 10.20.

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 46-page assessment brief (Exhibit R-1), an 85-page GIM brief (Exhibit R-2), a 51-page Law and Legislation brief (Exhibit R-3), and three previous CARB decisions (Exhibit R-4, 17 pages).

[15] The Respondent submitted information about the multi-residential income model that "*distinguishes different values for the various types of multi-residential properties by making adjustments for building type and significant variables attributable to that building type. Two models are created to work in tandem. One calculates the market typical Potential Gross Income using rental information, and the second calculates the market typical Gross Income Multiplier using the sale information and the PGI model. These models follow legislated guidelines and appraisal theory.*" (Exhibit R-1, page 7).

[16] The Respondent advised of the variables that affect PGI and GIM models (Exhibit R-1, page 9). The Board noted that the three variables affecting the GIM model are common with three of the nine variables affecting the PGI model. These three common variables are building type, age, and market area.

a) There are nine variables that affect PGI: suite size, condition, suite mix, age, building type, balcony, market area, river view suites, and stories.

b) There are three variables that affect GIM: building type, age, and market area.

[17] The Respondent explained that requests for information (RFI) were sent out to multi-residential property owners and based on the information received from one thousand owners, typical incomes were established.

[18] The Respondent stated that row housing properties cannot be compared to walk-up apartments since each has different construction, and row houses have features not available in a walk-up apartment. These features include front and back door private entrances, normally a front and back yard, parking at the door, and a full basement in addition to a main and second floor. Assessments can only be fair and equitable when row houses are compared to row houses, not to walk-up apartments. The Respondent opined that if the subject property were to be converted into condominiums, the value per unit would go up. (Exhibit R-1, page 25)

[19] In absence of any multi-residential row house property sales, the Respondent submitted sales of five row housing sales (condos) of single units that sold between March 14, 2012 and May 10, 2012 for time-adjusted values ranging from $168,000 to $200,000, compared to the assessment of the subject property at $140,827 per suite (Exhibit R-1, pages 26 and 27).

[20] The Respondent provided some CARB/MGB decisions that confirmed mixing and matching GIMs and rents is not an appropriate methodology. In a 2010 CARB decision, it was written: "*The Board concluded that the Complainant is using inconsistent methodology to value the subject property. The Complainant is applying GIMs and cap rates derived from the Network's reported actual income to the Respondent's typical income. This inconsistency results in an unreliable estimate of market value. The Board believes that, under appraisal theory, typical income, vacancy, and cap rates should be derived and applied in the same consistent manner.*" The Respondent went on to explain that: "*The City would therefore submit that any mixing and matching of rents or GIMs is not only contrary to the existing case-law, it is contrary to both assessment and appraisal principles. Further averaging GIMs from third party documentation is also methodologically incorrect unless the properties are highly similar, since averaging ignores the individual differences between properties.*" (Exhibit R-1, page 45)

[21] The Respondent provided a review of the Complainant's nine sales comparables used in his GIM study. The nine properties were a mix of two and a half, three and four-storey walk-up apartments, five were located in market area 11 as is the subject and four were located in market area 10. All the comparables had inferior suite mixes, and only two had three-bedroom suites. Suite sizes varied as well. The subject suites averaged 1,680 square feet in size, while the sizes of the Complainant's comparable properties that were walk-up apartments ranged from 721 to 1,173 square feet in size. Each of the row house units had yard space while the walk-up apartments did not. The Respondent time-adjusted the sale prices of the Complainant's nine sales, resulting in a time-adjusted sale price per suite ranging from $68,764 to $190,107 per suite. (Exhibit R-1, pages 41 and 42)

[22] The Respondent provided a document marked as Exhibit R-2 entitled "Errors Inherent in Mixing and Matching City GIMs/Incomes With Third Party GIMs/ Incomes". The basic methodology in deriving GIMs was spelled out. The basic concept is that both GIM and rents on a property need to be applied in the same way that they are derived: "*Data on each property's sale price, income, expenses, financing terms and market conditions at the time of sale is needed.*

In addition, the appraiser must make certain that the net operating income of each comparable property is calculated and estimated in the same way that the net operating income of the subject property is estimated." (Exhibit R-2, page 3)

[23] Although the City may introduce third party documents to prove that a sale occurred and to show the amenities of the building, the City does not rely on these documents for data such as incomes, expenses, capitalization rates, and gross income multipliers without further verification (Exhibit R-2, page 4). To demonstrate how much variation can occur in the reported gross income, vacancy, and GIM between Anderson Online, The Network, and the City of Edmonton, the Respondent provided an example of a sale of a property that sold for $1,236,000. Anderson Online showed the gross income at $76,380, the Network showed the gross income at $120,660, while the City calculated the PGI – typical as $92,550. Vacancies also varied substantially, as did the GIM. In this example, Anderson Online showed the GIM at 16.68, The Network at 10.67, while the City was at 13.77 (Exhibit R-2, page 7).

[24] In argument, the Respondent acknowledged that there were no sales of row house properties during the past three years. However, with the Complainant submitting sales of walk-up apartments to support a reduced GIM, the Respondent emphasized that these properties do not have the same attributes as row houses that have basements, yards, private entrances, and at-the-door parking. The Respondent raised many concerns regarding the Complainant's evidence including third party information, the Complainant's sales from different market areas compared to the subject, mixing third party data with the City's data, and the Complainant's innovative way of time-adjusting the sale prices per suite of the sales comparables. The Respondent deemed the Cushman and Wakefield average GRM study of eighty-seven low-rise sales of no use since the report was not limited to row house sales and it did not break down the sales into different building types. In closing, the Respondent argued that the Complainant had not met onus, since proving that the assessment is incorrect lies with the Complainant.

[25] In conclusion, the Respondent requested that the Board confirm the 2013 assessment of the subject property at $23,236,500.

Decision

[26] The decision of the Board is to confirm the 2013 assessment of the subject property at $23,236,500.

Reasons for the Decision

[27] The Board acknowledges that both parties struggled with the same problem - that there were no sales of row house properties during the three years prior to the valuation date. However, in saying that he was the only one to provide sales to support his requested GIM, and that the Respondent provided no evidence to support his 10.88 GIM, the Complainant would suggest that by providing sales of properties of a different building type with significantly different attributes or features, that he provided the Board with the necessary support to make a change in the assessment. The Board disagrees.

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

a) The sales analysis provided by the Complainant was of properties that were of a different building type, one of the significant variables in both the Potential Gross Income Model and the Gross Income Multiplier Model. The nine comparables were a mix of two and a half, three and four-storey walk-up apartments, while the subject is a row house complex. Row house units vary from walk-up apartment units in significant ways. The subject row houses had basements, back and front yards, and separate entrances near available parking, attributes or features not enjoyed by walk-up apartments. As well, almost half the properties were in different market areas from the subject that is in market area 11, again one of the significant variables in both the Potential Gross Income Model and the Gross Income Multiplier Model.

b) From the Complainant's sales analysis, he arrived at an average GIM of 9.48 and a median GIM of 9.03. Averaging GIMs from third party documentation is incorrect unless the properties are highly similar, since averaging ignores the individual differences between properties. In the case of the nine sold properties, the numbers of suites ranged from 12 to 99, the suite mixes varied significantly where one bedroom units ranged from 7% to 58% of the total number of units in the building, and the average sizes of the units ranged from 721 to 1,173 square feet.

c) In attempting to demonstrate that the $140,827 per unit assessment of the subject property was too high, the Complainant used the average PGI per suite per month as reported by third party sources at the time of sale and then compared them to the subject's PGI developed by the Respondent using typical values. The resulting ratio was then applied to the selling price per suite of the comparables to arrive at an adjusted sales price per suite, resulting in a range of $108,194 to $153,015. Although the $140,827 per suite assessment of the subject fell within this range, the Board placed no weight on the Complainant's calculated values due to the mixing and matching of incomes, and the different building types compared to the subject.

d) The Complainant did not direct the Board to any assessment or appraisal theory that would support his novel approach in calculating a ratio to be applied to the sale of the comparable property in order to adjust the sale price to the July 1, 2012 valuation date. The ratio was a relationship between the average PGI per suite per month of the subject property (calculated by the City using typical vales) and the average PGI per suite per month of the comparables as reported by third party sources. Since third party sources record the information at the time of the sale, the Complainant was mixing actual values with typical values, contrary to appraisal theory that mandates typical parameters should be derived and applied in the same manner.

[29] The Board concurred with the Complainant that it was not fair to compare the sale price of individual row house units with a multi residential row house property as the Respondent had done in trying to support the $140,827 per suite assessment of the subject. The Board placed little weight on the resulting time-adjusted sale prices of the five sales submitted by the Respondent that ranged from $168,000 to $200,000.

[30] Although the Respondent did not provide any sales to support the 10.88 GIM applied to the subject property, the Board placed greater weight on the evidence provided by the Respondent for the following reasons:

a) The Respondent provided an explanation as to the method by which PGIs and GIMs are calculated and all the variables that would affect them. It is well documented that appraisal formulas must use consistent information. The PGI as reported by a third party source based on actual incomes at the time of sale to develop a GIM, cannot be then compared to the PGI developed by the Respondent using typical incomes to then value a property. In this case, that is exactly what the Complainant is asking the Board to accept in order to achieve his requested reduced assessment.

b) In absence of any row house sales, the Respondent had stated that historical data was used in developing the GIM, and the PGI was based upon responses to one thousand requests for information. In the Board's view, this approach would meet the requirements as stated in appraisal texts along with mandated procedures found in provincial legislation and regulations.

c) The Board is mindful of the limitations placed upon it by s.467(3) of the Municipal Government Act whereby it must not alter any assessment that is fair and equitable, taking into consideration standards and procedures set out in the regulations, and assessments of similar properties. In the Board's opinion, the Respondent prepared the assessment consistent with the directions set out in the legislation and regulations, and therefore the Board must not alter the assessment.

[31] The Board was persuaded that the 2013 assessment of the subject property at $23,236,500 was fair and equitable.

Dissenting Opinion

[32] There was no dissenting opinion.

Heard October 28, 2013

Dated this 22nd day of November, 2013, at the City of Edmonton, Alberta

George Zaharia, Presiding Officer

Appearances:

Tom Janzen
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.