Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2014 ECARB 00924

Assessment Roll Number: 10014600
Municipal Address: 12904 54 Street NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: 1,764,000

Between:

CVG for Castlerock Ventures

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
John Noonan, Presiding Officer
Brian Frost, Board Member
Martha Miller, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer the parties indicated they did not object to the Board's composition. In addition, the Board members stated they had no bias with respect to this file.

Background

[2] The subject is a two-story office building with 11,047 square feet (sf) of leasable area built circa 2010 in the Kennedale neighbourhood, a predominantly industrial area in northeast Edmonton. For stratification purposes the property was inserted in the closest available suburban office area, the 118 Avenue district. The building is considered to belong to the "B" sub-class, a change negotiated last year, and the 2014 assessment reflects typical parameters for the district in the capitalized income approach to valuation.

Issues

[3] The Board heard evidence and argument on the following:

1. Is the $15 lease rate excessive for this property?

   a) Would the "C" sub-class parameters be more appropriate?

Position of the Complainant

[4] The Complainant presented rent roll information dated December 31, 2013 showing lease rates in the subject since the building commenced operations. The entire second floor was rented to three tenants at annual rate of $12 per sf, one of the leases being month-to-month. Approximately half the main floor was rented in 2010 to a tenant at the rate of $13.50 per sf and the other half had remained vacant until being leased in mid-May 2013, shortly before valuation date, at a rate of $10 per sf.

[5] In the Complainant's view, the historical vacancy of some 25% until the recent lease-up, the subject's location in an older industrial area not on a major roadway, and the recent lease at $10 established the market rent for the property. It was noted that the 118 Avenue "C" sub-class valuation parameters used a $10 lease rate, 15% vacancy which better reflected the building's history rather than the 9% "B" rate applied, a lower vacancy shortfall, and a 7.5% cap rate rather than 7%. Using the "C" sub-class parameters, a revised proforma calculated a net operating income of $76,501 and a capitalized value of $1,020,000. This was the requested assessment.

Position of the Respondent

[6] The Respondent presented a revised proforma and a corrected 2014 rental rate study for the 118 Avenue "B" sub-class properties. The rental rate study removed two leases previously used and added another, showing a range of time-adjusted rents for the study area of $11.91-$19.06. The six leases produced average and median time adjusted rents of $15.13 and $14.13 and $14.50 was the decided typical rate, revising the previous $15. Incorporating the $14.50 lease rate and correcting a previous allowance for unfinished space, now obviously leased space according to the Complainant's information, the revised proforma calculated a value for the subject of $1.87 million. However, the Respondent was not requesting an increase to the assessment; the assessment of $1,764,000 was being defended.

[7] The Respondent's brief contained a copy of the Request for Information (RFI) form submitted by the owner dated February 13, 2013. It was noted that the RFI showed an appraisal of the property in January 2011 determined a value for the subject of $2,193,000. The tenant roll information in the RFI differed from that shown by the rent roll dated December 31, 2013 in the Complainant's evidence. Obviously, the main floor vacancy as of February had been subsequently leased, but there were discrepancies elsewhere. The RFI showed a net monthly rent of $3764 for unit 102, versus $2784 in December. On a per square foot basis, this was a decline from $18.30 to $13.50. Similarly, unit 202 showed a rent per sf of $6.82 in the RFI versus $12 on the December rent roll. Knowing these discrepancies, the Respondent queried whether the Board could be convinced of the reliability of the information presented to justify a change to a $10 lease rate for the subject.

[8] Also included in the brief was a list of all the suburban 118 Avenue "B" class office properties showing these had been assessed equitably with the same income approach parameters, interior and exterior photos of several "B" and "C" subclass properties meant to show the subject was not a "C" property, and several MGB decisions upholding the use of market typical lease rates and cap rates. The Respondent stressed the requirements of *Matters Relating to Assessment and Taxation Regulation* AR 220/2004, that mass appraisal demanded the use of current market rents. In the Respondent's view, the recent lease at $10 per square foot was but one lease, in itself insufficient to justify a change to the assessment.

Decision

[9] The Board confirms the 2014 assessment of $1,764,000.

Reasons for the Decision

[10] The Board spent greater than normal effort considering the views of the parties on this file. While the photos indicate the subject is superior to a "C" class property, its location in an industrial area removed from similar office buildings might limit its appeal in the eyes of prospective tenants. The Board noted that a great many of the comparable "B" offices in the 118 Avenue area are located on major roads like Kingsway and 118 Avenue.

[11] The Board finally concluded that the most persuasive argument was that advanced by the Respondent: could the Board justify a change to the assessment given the discrepancies between the year end rent roll and the RFI? The Board found inconsistencies in the rent roll versus the RFI. The Board also found inconsistencies in the calculation of occupancy costs. As a result, the Board could not justify a change to the assessment based on this evidence. Whatever the challenges facing the subject, the request to assess the property with "C" subclass parameters would be a stretch given the property has some three quarters of its area leased at rates substantially greater than $10 per square foot.

Dissenting Opinion

[12] There was no dissent.

Heard August 12, 2014.
Dated this 9th day of September, 2014, at the City of Edmonton, Alberta.

JPNoonan

John Noonan, Presiding Officer

Appearances:

Tom Janzen, CVG
for the Complainant

Cameron Ashmore, City of Edmonton
James Cumming, City of Edmonton
Marsali Huolt, City of Edmonton
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.

Appendix

Legislation

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.

Exhibits

C1 – Complainant's Submission – 8 pages
R1 - Respondent's Submission – 125 pages
R2 - Revised Proforma – 1 page
R3 - Revised 2014 Rent Rate Study 118 B – 1 page