

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2014 ECARB 00947

Assessment Roll Number: 2704229
Municipal Address: 12220 Stony Plain Road NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: \$26,526,500

Between:

CVG Canadian Valuation Group Ltd.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Jerry Krysa, Presiding Officer
Howard Worrell, Board Member
Jack Jones, Board Member

Procedural Matters

[1] In response to queries from the Presiding Officer, the parties did not object to the composition of the Board, and the Board members confirmed that they have no bias in respect of the matter.

Background

[2] The subject property, known as the West Chambers Building, is a six story suburban office located in the 124th Street district of west-central Edmonton. The structure, constructed in 1982 is comprised of 87,826 square feet of office area, 4,734 square feet of main floor retail area, 218 subsurface parking stalls, and 31 surface parking stalls.

[3] The assessment of the subject property, prepared by means of the income approach to value is founded on the Respondent's 124 Street district "Subclass A" mass appraisal income parameters.

Issues

[4] What is the proper classification of the subject property?

Position of the Complainant

[5] The Complainant argues that the subject's assessed market rent rate of \$18.50 per square foot and corresponding "Subclass A" classification is inappropriate and unsupported by the subject's operating characteristics. The Complainant submits that the assessment of the subject property should be \$19,683,000, as established by the Respondent's mass appraisal income parameters of a proper "Subclass B" classification.

[6] The Complainant maintains that the subject's current contract rents do not support the assessed \$18.50 per square foot market rent rate, but rather, more closely reflect the \$15.50 per square foot market rent rate assigned to "Subclass B" suburban offices. In support of the argument the Complainant provided copies of the subject's rent rolls dated June 2013 and December 2013, exhibiting recent leasing activity within the subject at contract rent rates of \$15.00 per square foot (August 2013), and \$17.00 per square foot (June 2013). The Complainant further pointed out that several leases were signed in 2011 at rates ranging from \$13.00 to \$18.00 per square foot, and that suites #400, #500 and #600 currently leased at \$11.00 per square foot are to increase to \$15.00 per square foot in August 2015; however, the Complainant conceded that little weight should be applied to this dated leasing activity.

[7] The Complainant also argues that the subject's 9.2% vacancy rate exhibited in the June 2013 rent roll, near the valuation date, further supports a "Subclass B" classification which provides for a typical vacancy allowance of 9.0%.

[8] In closing, the Complainant maintains that sufficient evidence was presented to call the assessed market rent rate and corresponding "Subclass A" classification into question. The Complainant submits that the subject's \$17.00 per square foot lease signed in June 2013, only one month prior to the valuation refutes the Respondent's predicted market rent rate for the subject property. The Complainant argues that notwithstanding the *post facto* date of the subject's August 2013 lease, the Respondent ignored this relevant market data and failed to test its assessment of the subject property. The Complainant further argues that in this instance either the market rent rate assigned to all "Subclass A" suburban offices is incorrect, or the subject is not a "Subclass A" suburban office.

Position of the Respondent

[9] The Respondent argues that the subject property is properly classified as a "Subclass A" suburban office, and the resulting assessment reflects the market value of the property. The Respondent asks that the assessment be confirmed.

[10] In respect of the subject's "Subclass A" suburban office classification, the Respondent provided the qualitative and quantitative attributes and the mass appraisal stratification criteria relied upon for the classification of suburban offices set out below:

Quantitative Attributes: Effective Year Built; # of Stories; Gross Leasable Area; Lease Rates

Qualitative Attributes: Interior Finish; Exterior Finish; Condition; Quality; Parking; Lot Location; Transit Access; Traffic Exposure

AA	Highest Rents. Encompasses premium quantitative attributes and premium qualitative attributes.
A	Rents lower than AA offices. Generally, quantitative attributes are slightly inferior to AA. Encompasses a high number of qualitative attributes; some or all may be inferior to AA.
B	Rents lower than A office. Generally, quantitative attributes are slightly inferior to A. Encompasses an average amount of qualitative attributes; some or all may be inferior to A.
C	Lowest rents. Generally, quantitative attributes are slightly inferior to B. Encompasses a low number of qualitative attributes; some or all may be inferior to B.

[11] In support of the subject's "Subclass A" classification, the Respondent provided its' 2014 rental rate study in respect of 124 Street district "Subclass A" suburban offices, comprised of five 2012 leases exhibiting a range of time adjusted lease rates from \$14.51 to \$23.08 per square foot, and average and median lease rates of \$19.21 and \$18.81, respectively.

[12] In further support of the subject's "Subclass A" suburban office classification, the Respondent provided an "Altus InSite" commercial lease listing dated July 2, 2013 in respect of the subject property, exhibiting an asking rent rate of \$20.00 per square foot and an office classification of "A".

[13] In response to the Complainant's evidence and argument, the Respondent submits that the Complainant has not provided sufficiently compelling evidence to establish a prima facie case.

[14] The Respondent argues that the Complainant's estimate of value is improper due to the inconsistent application of the subject's "actual" rent rates, with "typical" operating characteristics. The Respondent further argues that the Complainant's request of a "Subclass B" suburban office classification is founded exclusively on the subject's 2013 rent rate evidence and ignores all of the qualitative and quantitative attributes considered by the Respondent in its' stratification of the subject property. The Respondent maintains that it was not aware of the Complainant's 2013 leases in the subject property as they both occurred after the April 2013 rent roll was provided to the Respondent in response to a s.295 *MGA* request for information; and further, the August 2013 lease is irrelevant as it occurred after the effective valuation date for this assessment.

[15] The Respondent also argues that the subject's 9.2% vacancy rate in June 2013 does not support a "Subclass B" suburban office classification as the rent rolls in evidence indicate that Unit 200, comprising the majority of vacant space, was leased in August 2013, after a period of only three months.

[16] In cross-examination, the Respondent conceded that no 2013 office leases were analyzed for the 124 Street district suburban office properties, and that the time adjustment factors were derived from other suburban office market areas.

Relevant Legislation

Municipal Government Act, RSA 2000, c M-26

- 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;

Matters Relating to Assessment and Taxation Regulation, AR 220/2004

- s 2 An assessment of property based on market value
- (a) must be prepared using mass appraisal,
 - (b) must be an estimate of the value of the fee simple estate in the property, and
 - (c) must reflect typical market conditions for properties similar to that property.

Decision

[17] The Board finds that the subject property is properly stratified as a 124 Street district, “Subclass A” suburban office. The assessment of \$26,526,500 is confirmed.

Reasons for the Decision

[18] Classification: The Board applied little weight to the Respondent’s suburban office stratification criteria, and finds it to be vague and subjective. Although the Respondent argued that the subject’s market rent rate is insufficient to stratify the subject property, the Respondent failed to provide any other compelling evidence to correlate the subject’s other qualitative and quantitative attributes with those set out in the stratification criteria. In the absence of such evidence from the Respondent, the Board accepts that the subject can be stratified exclusively by its typical market rent rate.

[19] Methodology: The Board rejects the Respondent’s argument regarding the Complainant’s application of “actual” rents with other “typical” market factors, as a property’s recent leasing activity may well reflect “typical” market rent rates. Although the application of contract lease rates from dated leases may not reflect current market rent and therefore may include potential leasehold interests, in this instance the Complainant relied only on recent leasing within the subject property to establish the subject’s potential gross income.

[20] Market Rent Rate: The Board applied little weight to the Complainant’s August 2013 lease at \$15.00 per square foot, as the area of the lease expanded the tenancy of a major tenant at the tenant’s predetermined step-up rate. The Board notes that the Complainant conceded little weight should be applied to the predetermined step-up agreements of dated leases in the subject’s rent roll, and the Board considers this lease to be equivalent in this regard.

[21] The Board applied considerable weight to the Complainant’s June 2013 lease at a rent rate of \$17.00 per square foot; however, the Board was not persuaded that this lease demonstrates the subject is improperly stratified or incorrectly assessed at the \$18.50 per square foot market rent rate assigned to “Subclass A” suburban offices. The Board notes that although

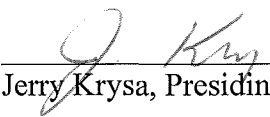
the subject's \$17.00 per square foot lease rate is less than the \$18.50 per square foot market rent rate assigned to "Subclass A" suburban offices, it is greater than the \$15.50 per square foot market rent rate assigned to "Subclass B" suburban offices. Moreover, the subject's \$17.00 per square foot lease rate falls well within the Respondent's range of lease rates exhibited by other "Subclass A" suburban office properties, and appears to reflect a normal variance of lease rates in that stratum.

[22] Consequently, the Board accepts the Respondent's rent rate study, exhibiting a range of time adjusted lease rates from \$14.51 to \$23.08 per square foot as compelling evidence of "Subclass A" suburban office market rent rates. Although the Complainant argued that the assessed \$18.50 per square foot market rent rate may be inaccurate for the entire "Subclass A" suburban office stratum, the Complainant offered little market evidence of 124 Street district "Subclass A" suburban office leases to refute the market rent rate conclusion of the Respondent.

[23] Vacancy: The Board was also not persuaded that the subject's 9.2% vacancy rate in June 2013 supports a "Subclass B" suburban office classification. The Board notes that unit #200, comprising the majority of the vacant space was under lease until April 30, 2013, and was subsequently re-leased in August 2013. Although the subject exhibited a 9.2% vacancy rate in June 2013, the Complainant's rent roll evidence indicates that the subject was fully occupied by December 2013. As such, the Board accepts that the subject is exhibiting normal lease turnover, consistent with the assessed 5% vacancy allowance of 124 Street district "Subclass A" suburban offices.

Heard August 20, 2014.

Dated this 15th day of September, 2014, at the City of Edmonton, Alberta.


Jerry Krysa, Presiding Officer

Appearances

For the Complainant: Tom Jantzen, Canadian Valuation Group

For the Respondent: Joel Schmauss and James Cumming, City of Edmonton
Amy Cheuk (Counsel)

Exhibits

C-1 Complainant's Submission (10 pages)

R-1 Respondent's Submission (83 pages)

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.