EDMONTON
Assessment Review Board

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NOTICE OF DECISION NO. 0098 201/12

AEC INTERNATIONAL INC.
1120, 10201 SOUTHPORT RD SW
CALGARY, AB T2W 4X9

The City of Edmonton
Assessment and Taxation Branch
600 Chancery Hall
3 Sir Winston Churchill Square
Edmonton AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on August 16, 2012, respecting a complaint for:

Roll Number	**Municipal Address**	**Legal Description**	**Assessed Value**	**Assessment Type**	**Assessment Notice for:**
9977985	6510 - 20 STREET NW	Plan: 0020008 Block: 1 Lot: 6	$14,350,500	Annual New	2012

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.

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cc: MORGUARD INDUSTRIAL PROPERTIES (1) INC

Edmonton Composite Assessment Review Board

Citation: AEC INTERNATIONAL INC. v The City of Edmonton, ECARB 2012-000254

Assessment Roll Number:	9977985
Municipal Address:	6510 20 STREET NW
Assessment Year:	2012
Assessment Type:	Annual New

Between:

AEC INTERNATIONAL INC.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Warren Garten, Presiding Officer
Darryl Menzak, Board Member
Judy Shewchuk, Board Member

Preliminary Matters

[1] Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board Members indicated no bias with respect to this file.

Background

[2] The subject property consists of a 144,975 square foot warehouse and a 5,400 square foot greenhouse situated on 16.4 acres of land for site coverage of 21%. The property is an irregular shape.

Issue(s)

[3] Is the sales comparison approach used by the Respondent the most appropriate method of assessing the subject?

[4] Is the property assessment of the subject equitably assessed when compared to other similar properties?

Legislation

[5] The Municipal Government Act reads:

***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;
>
> 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 took the position that the income approach to value should be used to assess the property. The subject is an income earning property and there has been a recent renewal of the lease for 5 years. The Complainant was of the opinion that the income approach provided a value for the subject that was closer to market value. The Complainant stated that there were too few sales of large warehouses to properly use the direct sales comparison approach. The Complainant stated that they had presented a prima facie case and therefore the Respondent was required to respond to the position prepared by the Complainant.

[7] The property's access is limited by a narrow laneway and the majority of the irregular lot is unpaved. Access to the warehouse is to drive across the property. The building is constructed with prefab tilt up panels and the office finish is typical, circa 1998-2000.

[8] The Complainant provided a current operating statement which included the current rent for the property.

[9] Third party reports from Colliers were provided indicating vacancy rates and asking lease rates in various quarters for 2010 and 2011. Building sales and land transactions were also provided in the reports. The Complainant relied on Colliers International Market Report (exhibit C-1, page 38) indicating Q4 2010 lease rate of $6.10 for buildings over 50,000 square feet located in SE Edmonton, and on page 43 indicating Q2 2011 vacancy rate of 3.2% in SE Edmonton. The vacancy rate differs for 2011 between NW and SE as noted on pages 42 and 48. The industrial capitalization rate for Q2 on page 50 is stated at 7.50%. The Complainant noted a sale on page 46 indicating a sale unit price of $82.40 per square foot.

[10] The Complainant provided a suggestion of value based on the income approach (Exhibit C-1, page 53). The calculation is based on 167,298 square feet (including greenhouse and mezzanine), rental rates of $6.00,(which is the current recently negotiated lease rate) a vacancy rate of 3.2%, operating costs of $3.00, and a cap rate of 7.50% resulting in a value of $12, 480,000.

[11] The Complainant provided an income analysis for four comparable properties which sold between July 29, 2010 and August 29, 2011(C-1page 54). A lease rate of $6.00 and a vacancy rate of 3.2% in the SE and a vacancy rate of 4.42% in the NW was used. The shortfall allowance and the non-recoverable allowance used was the same for the four comparables. The complainant calculated a cap rate based on the sale price and an estimated NOI for each of the four properties. These were compared to an estimated cap rate determined from the current assessment and an estimated NOI for each of the properties. The range of market cap rates calculated for the Complainant's comparables range from 5.02% to 8.53%. The range of cap rates calculated from the assessment is from 6.26% to 11.07 %. The range suggests that the cap rates increase with size. The Complainant provided support for the analysis with the sales sheet and assessment information for the comparables (C-1 pages 55-62).

[12] Under questioning the Complainant stated that 144,975 square feet represents the main floor of the building. The $6.00 lease rate was determined based on the actual lease rate and the typical rate established in the market. The Colliers report indicates lease rates increasing based on quarterly reports from Quarter 4 2010 to Quarter 3 of 2011.

[13] The Complainant stated that he made a subjective and arbitrary decision based on his analysis to use a 7.50% cap rate. There is a range of cap rates with respect to the comparables and the decision was made to use the information available. The average of the first three cap rates, excluding the 8.54%, in C-1 page 54 is 6.17%.

[14] The Complainant also took the position that modeling is best at predicting an assessment when there are sufficient sales. He also stated that due to the size of the property increases there are fewer sales of those types of properties in the larger size ranges. He also suggested that the subject property would trade in the market place based on its NOI.

<u>Position of the Respondent</u>

[15] The Respondent took the position that the property was assessed using the mass appraisal process and the sales comparison model. The Respondent outlined the factors found to affect value in the warehouse inventory which include location, lot size, age and condition of building, area of the main floor, finished area of main floor and the developed area of any upper area. The Respondent provided the model output for the property on R-1 page 8.

[16] The Respondent stated that the lot is large and given the shape of the lot it can be further developed or subdivided. He stated that there were not many comparables that were over 100,000 square feet and with low site coverage similar to the subject.

[17] The Respondent referred to a table of comparable properties on page 17 of R-1. Sales #2 and #3 were the best comparables because they were similar in size with #2 being slightly larger, but also having less than half the land area. Sale #4 was older with greater site coverage in comparison to the subject. Comparables #3, #4 and #5 were used by both parties.

[18] The Respondent also argued that the lease rates for similar properties are $5.45 to $6.50 per square foot as noted on page 19 of R-1. He also added that there were plenty of properties where the owner/buyer will use the property versus leasing it out.

[19] Under questioning the Respondent stated that the City of Edmonton in their sales analysis, used market transactions that are valid arms length sales which are validated by inspections and/or interviews with the buyer or seller. The Respondent also felt that even though

Sale #3 was a lease back where the vendor would now lease the property for 20 years, this factor was not a consideration in the sale price. The cap rates in R-1 pages 19-22 were provided by The Network and were not analyzed by the Respondent. The Respondent stated that comparables were selected based on age, size, site coverage, lot and office size and location. The Respondent stated that the comparables were extended to include the NW area of the city but that the NW area was inferior to the SE area where the subject is located. The Respondent stated that more sales were available but the sales provided were the best comparables while there were some differences between the sales. An interior inspection of the subject was completed last year with an exterior inspection completed this year.

[20] The Respondent in R-1 page 23 stated that the income approach used by the Complainant did not provide a complete and comprehensive analysis to support the vacancy, structural allowance or cap rate. There were no details in the Complainant's chart to show how these were derived.

[21] The Respondent stated that all assessments for properties similar to the subject were prepared using the Direct Sales Comparison Approach and that they are owner/users in nature. All of the Respondent's five comparables are income earning assets. Approximately 260 sales are available to assist the assessor in the determination of an assessment for properties similar to the subject.

[22] The Respondent, when asked if the market would use 144,000 square feet in the sale, stated that the mezzanine does not add value.

[23] The Respondent felt that the assessment sales ratio indicates that there is equity in the assessments and that they appear to actually be under assessed. The assessment model is understating the value of all properties including the subject. He also felt that he did not have to respond to the income approach used by the Complainant because the sales are good indicators of where market value should be.

Rebuttal

[24] In rebuttal(C-2 page 2), the Complainant provided the assessments for the five sales comparables used by the Respondent. Comparables #3, #4 and #5 were used by both the Complainant and Respondent in their presentations. The Complainant calculated assessment sales ratios for the three common sales which were 0.80, 0.73, and 0.90 and the assessments per square foot were $89.33, $59.97 and $72.02 respectively. The average assessment per square foot for the three comparables was $73.77. The Complainant was requesting an assessment of $86.08 per square foot based on 144,975 square feet.

[25] The Complainant stated that the assessments, on average, were 17% lower than market value. Therefore, there was doubt that the assessment of the subject was equitable with other similar properties. The Complainant brought forward in his rebuttal, various court and board decisions with respect to equity and mass appraisal and that the onus of proof has shifted to the Respondent.

Decision

[26] The 2012 assessment is reduced to $12,480,000.

Reasons for the Decision

[27] The Board placed little weight on the Complainant's income approach to value as there was insufficient evidence to determine typical income, operating costs, vacancy rates and capitalization rates. The Board found that the Complainant had not presented a prima facie case as it was based on actual lease rates, vacancy rates, operating costs or capitalization rates as determined by the Complainant. Quarterly asking lease rates per square foot from Colliers report in C-1 indicate the following for 50,000 square feet and up; Q4 2010 $6.10 (page 38), Q1 2011 $7.44 (page 41), Q2 2011 $8.15 (page 44), and Q3 2011 $9.06 (page 47). This shows a clear uptrend.

[28] The Board reviewed the Respondent's direct sales comparison approach to value. The average of the time adjusted sales prices (TASP) of the Respondent's two sales comparables in the south east quadrant of the city (at 4103-84 Avenue and at 7612-17 Street) was $95.97 per square foot (R-1, page 17). The average TASP of the three newer Respondent's comparables (at 18507-104 avenue, 4103-84 avenue, and 7612-17 Street and built in 2007, 1998, and 1995 respectively) was $105.88. The average TASP of all five of the Respondent's comparables was $96.04 per square foot. The average TASP of the three comparables used by both parties (at 7612-17 Street, 17915-118 Avenue, and 16304-117 Avenue) was $91.35 per square foot all of which support the assessment at 98.99 per square foot.

[29] Since the subject has significantly more land than any of the Respondent's comparables an upward adjustment would be appropriate, therefore supporting the assessment of the subject at $98.99 per square foot.

[30] The Board considered the assessments of the Respondent's sales comparables provided by the Complainant in rebuttal (C-2, page 2). The per square foot assessments ranged from $59.97 to $104.73. The average of the two comparables in the south east quadrant was $82.88per square foot while the average of the three newer comparables was $90.16. The average of all five comparables was $80.49, while the average of the three comparables used by both parties was $73.77, and the weighted average of all five comparables was $79.97.

[31] The Board found that all of the Respondent's sales comparables have sold at higher rates than their 2012 assessment indicating they may be under assessed. The Respondent stated that the assessments were equitable but also admitted that they were "under assessing". The Board concluded that, based on the Respondent's sales comparisons, the subject is assessed at fair market value. However, the Board also concluded that the subject was not assessed equitably with the sales comparables brought forward by the Respondent and Complainant. The Board felt that when compared to similar properties the subject was not assessed equitably and should therefore receive a reduction to the assessment.

Dissenting Opinion

[32] There was no dissenting opinion.

Heard commencing August 16, 2012.

Dated this 14th day of September, 2012, at the City of Edmonton, Alberta.

Warren Garten, Presiding Officer

Appearances:

Brock Ryan
for the Complainant

Luis Delgado, Assessor
Suzanne Magdiak
for the Respondent