ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION 0098 210/10

CVG Canadian Valuation Group
1200 10665 Jasper Avenue
Edmonton AB T5J 3S9

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 23, 2010, respecting a complaint for:

Roll Number	**Municipal Address**	**Legal Description**
10014936	10605 JASPER AVENUE NW	Plan: NB Block: 6 Lot: 66
Assessed Value	**Assessment Type**	**Assessment Notice for:**
$1,459,000	Annual New	2010

Before:

Dean Sanduga, Presiding Officer
John Braim, Board Member
Thomas Eapen, Board Member

Board Officer: Kyle MacLeod

Persons Appearing: Complainant
Tom Janzen, CVG

Persons Appearing: Respondent
Chris Rumsey, Assessor, City of Edmonton
Aleisha Bartier, Law Branch, City of Edmonton
Julia Sproule, Law Branch, City of Edmonton
Ingrid C. Johnson, Law Branch, City of Edmonton

PRELIMINARY MATTERS

The Respondent brought forth an application to exclude the Complainant's rebuttal sales comparables (C-2) on the basis this evidence had not been presented in the original disclosure package. The Respondent cited a recent Assessment Review Board decision, referenced as roll number 2019024.

The Complainant argued the page in question (C-2, pg. 2) replicated information brought forward on the Respondent's disclosure. The Complainant cited sale # 4 as not being included in the original disclosure but was included only to demonstrate a differential analysis between lots fronting Jasper Avenue and lots not fronting Jasper Avenue.

In keeping consistent with the decision for roll number 2019024, the Board found the Complainant's sale number 2 and related formula does not support the Complainant's original argument, but was instead introduced as rebuttal evidence in response to the Respondent's inclusion of location adjustments from

Jasper Avenue to non-Jasper Avenue frontages. The Board finds that this was not a matter reasonably anticipated when the Complainant first provided disclosure.

However, the Board finds that the Complainant's sale #4 is new evidence and is therefore excluded from the rebuttal submission.

BACKGROUND

The subject property comprises a paved corner lot in the downtown core located at 10605 Jasper Avenue NW. It comprises 8,028 sq. ft. of CB2 zoned land with a 2010 assessment of $1,459,000.

ISSUES

Is the subject property assessed equitably and at market value (using both the sales comparison and income approach)?

LEGISLATION

The *Municipal Government Act*, R.S.A. 2000, c. M-26;

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

1. The Complainant submits the subject land has been assessed higher than market value.
2. The subject is assessed higher than comparable lots in the same area.
3. As part of the issues attached to the complaint form, it was also stated the capitalized 2008 actual net operating income of the subject property is less than the assessment amount.
4. The Complainant stated that the four most appropriate sales summarized (C-1, pg. 2, lower table) had a time adjusted value of $82.69/ sq. ft. Therefore, the Complainant requested that the subject property's value be reduced to $75.00/ sq. ft. The Complainant requested a base year market value of $75.00/ sq. ft. which equates to a total amount of $662,310 (including a 5% premium each for Jasper Avenue and corner exposures), plus site improvements totaling $11,450. The total requested assessment is $673,500.
5. The Complainant submitted title transfers between September 2006 and June 2009, which were obtained from the city tax assessment collection system.
6. The Complainant selected 16 title transfers from a total of 362 title transfers and added four of his own sales comparables that were not listed on the city tax assessment collection system (C-1, pg. 2) According to the Complainant, the City indicated these title transfers were used to arrive at the assessment for the subject property.
7. The Complainant stated that sale comparables # 10 to # 14 were not time adjusted values and sales # 15 and # 16 were higher than the current assessment and were acquired by an adjoining property owner as part of a land assembly which has subsequently been

redeveloped as Cecil Place. Sales # 15 and # 16 are not to be considered as a comparison to the subject property.

8. On C-1, pg. 24, the sale 10044-105 Street, is in a middle block location, similar to the subject, which sold for $46.67/ sq. ft., and which, when time adjusted, is $80.81/ sq. ft. This sale did not appear in the City title transfer list.
9. The sale north of 104 Avenue between 101 Street and 104 Street which comprises 10.6 acres sold at $63.41/ sq. ft. and no time adjustment was necessary as it sold in March 2009.
10. The sale at 10085 – 100th Street (C-1, pg. 26) near the Hotel MacDonald was sold for $81.86/ sq. ft. in March 2009. The property has a 'River valley' view, and the City Title Transfer List showed a zero value. The Respondent further stated this was a motivated sale.
11. Sale #4 On C-1, pg. 2 is a resale of sale comparable # 1 (C-1, pg. 26) resold in December 2009 for $104.66/ sq. ft.
12. The Complainant submitted that two of the Respondent's sales comparables (R-1, pg. 16, sales # 1 and # 2) were located with frontages to Jasper Avenue and raised the question of comparability to the subject property which is an inner property on a street location with no frontage or exposure to Jasper Avenue.
13. The Complainant supplied a rebuttal which outlined the Respondent's three comparable sales (C-2, pg. 2). Sales # 1 and # 2 were located fronting Jasper Avenue whereas sale # 3 was an inner Street location (with no frontage to Jasper Avenue). The Complainant further stated that the time adjusted sale prices were between 7 to 31% higher than properties not fronting Jasper Avenue. The Complainant agreed that the 5% corner lot adjustment is appropriate.

POSITION OF THE RESPONDENT

1. The Respondent submitted R-1, R-2, R-3, R-4 and R-5.
2. The Respondent indicated that the City follows a mass appraisal procedure which underwent model testing by the Province. (R-4, pp. 4-6)
3. The Respondent submitted three sales comparables (R-1, pg. 16) with supporting data sheets (R-1 pp. 17-19).
4. The Respondent submitted an excerpt from an appraisal report, comprising one page which was undated and unsigned (R-1, pg. 20).
5. In argument the Respondent further advised the Board that the Complainant's sale number 3 had several restrictive covenants, impacting its value negatively.
6. In addition the Respondent indicated that the Complainant's sale # 1 and # 4 are the same property and are affected by contamination from a dry cleaning plant, and further submitted an e-mail from the owner indicating that there was contamination from the adjoining property (R-1. pg 24).

DECISION

The Board decision is to confirm the 2010 assessment at $1,459,000.

REASONS FOR THE DECISION

The Board reviewed the Respondent's (R-1, R-2, R-3, R-4 and R-5) and the Complainant's (C-1, C-2) evidence.

The Board places less weight on the Complainant sales comparables on (C-1 pg. 2), wherein:

Sales # 1 + # 4 are the same property and are contaminated
Sale # 4 is a post facto sale

Sale # 3 has several restrictive covenants attached to it.
Sale # 2 is a much larger property (473,062 sq. ft., compared to the subject's area.).

The Board noted from the Complainant's evidence (C-2, pg.2) there was no disagreement for the 5% adjustment for the corner lot location. However, the Complainant questioned the Respondent's 4.6% upward adjustment for properties fronting Jasper Avenue. The Respondent had indicated there was a value differential of 4.6% between lots fronting Jasper Avenue and those not fronting Jasper Avenue but provided no evidence to substantiate that figure.

The Board had difficulty utilizing the Respondent's sale # 2 as it was only 3,000 sq ft in size – less than half the size of the subject property and the Board were provided with no information on how to make such an adjustment.

The Board noted the Complainant's rebuttal utilized the Respondent's three sales only to show the per square foot value differential of sites fronting Jasper Avenue and those with no frontage on Jasper Avenue. The Board found there was insufficient evidence to accept the Complainant's rebuttal in which it was suggested a 31% adjustment be applied when comparing to the Jasper Avenue locations.

The Board took into consideration all of the evidence presented by both parties and concluded as follows:

1. The Board placed less weight on the Complainant's sales comparables
2. The Board was persuaded by the Respondent's sales comparables.
3. The Board considered the Complainant's rebuttal submission but was not persuaded, as this evidence was insufficiently compelling to warrant a change to the 2010 assessment.

Dated this 17th day of September, 2010, at the City of Edmonton, in the Province of Alberta.

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Presiding Officer

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, R.S.A. 2000, c.M-26.

CC: Jasper & 106 Properties Ltd.
Municipal Government Board