

NOTICE OF DECISION NO. 0098 65/12

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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 June 26, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
1560127	10335 172 STREET NW	Plan: 7720926 Block: 1 Lot: 5	\$5,964,000	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.

cc: METIS SETTLEMENTS GENERAL COUNCIL

Edmonton Composite Assessment Review Board

Citation: Metis Settlements General Council v The City of Edmonton, ECARB 2012-000445

Assessment Roll Number: 1560127

Municipal Address: 10335 172 STREET NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

**Metis Settlements General Council
Represented by Michael Uhryn, MNP LLP**

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

**DECISION OF
Don Marchand, Presiding Officer
George Zaharia, Board Member
Howard Worrell, Board Member**

Preliminary Matters

[1] The Parties at the onset of the hearings were sworn in and no objection was raised as to the composition of the CARB to hear and decide the complaint. The Board members indicated no bias with respect to this file. No preliminary matters were raised by the Parties.

[2] At the onset of this hearing the CARB was advised by the Complainant that only two items within the grounds of complaint identified would be argued. These are set out in the issues of this order.

Background

[3] The subject property consists of 1.49 acres located in the Stone Industrial Neighbourhood at the intersection of 103rd Avenue and 172nd Street; access to the site is along 172nd Street. It is improved with a 1979 built, three storey suburban office containing a total of 39,194 square feet of leasable office space plus 14,884 square feet of basement. The basement area has been reduced to 12,651 square feet to reflect effective and useable storage space. (14,884 x 85% = 12,651). The subject is classified and grouped with similar "B" suburban offices locating in the West End Area (WEA). The 2012 assessment under complaint is \$5,964,000.

[4] The above property description and facts were all agreed to by the Parties.

[5] The direct capitalization methodology within the Income Approach to valuation is used by the Parties to argue against and in support of the assessment.

Issue(s)

[6] Is the market rental assessment rate for the subject's office space \$13.00 per square foot or should it be revised to \$12.00 per square foot.

[7] Should the amount of effective and useable basement storage be reduced an additional 25% to 9,488 square feet instead of the current assessed basement area of 12,651 square feet.

Legislation

[8] The CARB's jurisdiction is with the ***Municipal Government Act, RSA 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.

[9] The CARB gave consideration to the meaning of market value and to the requirements of an assessment made pursuant its market value.

s 1(1) in this Act,

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 289(2) Each assessment must reflect

a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

b) the valuation and other standards set out in the regulations for that property.

[10] The valuation standard as set out within

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.

Position Of The Complainant

[11] The Complainant presented rent roll evidence from the subject itself (The Centurion Building) and rent roll evidence from the adjacent property (Quickcard Building) in support of an argument for a rate of \$12.00 per square foot rather than the current assessed rate of \$13.00 per square foot.

[12] Six new leases from the Quickcard building and four leases from the Centurion Building, representing 21% of the new leases in the two building were supplied. They indicate a median rental rate of \$12.00.

Bldg	Unit	Area	Start Date	Rate
Quickcard	140	1,102	1-Oct.-10	\$12
Quickcard	170	1,207	1-Sept.-10	\$14 (\$15*)
Quickcard	180	1,065	1-Nov.-10	\$12
Quickcard	190	1,975	1-Jan.-11	\$12 (\$13*)
Quickcard	210	2,174	1-Dec.-10	\$12
Quickcard	200	3,780	1-Dec.-10	\$12
Centurion	100	1,864	1-Jun-10	\$14
Centurion	300A	1,000	1-Apr.-11	\$10
Centurion	307	1,427	1-Dec.-11	\$11
Centurion	308	1,299	1-Jan.-12	\$12
total		16,893		

*amended to at the hearing.

[13] The Complainant submits that the above rental rate with a median rate of \$12.00 per square foot is representative of the typical for the subject's suburban office space.

[14] The Complainant asked the CARB to review and give consideration to the photographs provided that show mechanical, common area, electrical rooms. It is the Complainant's estimate that an additional 25% allowance should be applied. The Complainant mentioned that this would include the approximately 500 square feet for a fitness room.

[15] The following charts summarizes the Complainant's assessment request: an assessment based on a market rental rate of \$12.00 per square foot and the basement storage being reduced by an additional 25%.

Class within WEA	B
Office Space in square feet	39,194
Typical rental rate from \$13.00/sf to	\$12.00
Basement storage reduced from 12,651sf to 9,488sf	1.50
Vacancy allowance	7%
Operating Cost allowance	\$14.
Non-recoverable allowance	2.0%
Capitalization Rate	7.5%
Requested assessment	\$5,425,800

Position Of The Respondent

[16] The Respondent presented a copy of the building's tenant roll wherein each rental is identified as to the amount of space, the floor located, the business name, and the occupancy type. The Respondent advised that a large portion of the subject is held by the owner and related tenancies and cited the Settlement Investment Corp. and Peavine Metis Settlement Corporation, and Region 10 as examples.

[17] The Respondent presented a Collier's lease listing information brochure indicating an asking rate of \$16.00 for two spaces totaling just over 5,000 square feet.

[18] The Respondent asked the CARB to observe the most recent leasing activity within the subject building that of unit 100 with 1,864 square feet leasing for a five year term commencing in June 2012 at a rate of \$14.00 per square foot.

[19] The Respondent also presented a summary of 6 WEA located "B" suburban rents in support of the assessed market rental rate of \$13.00 per square foot. The rents range from \$10.97 to \$15.00 with a mean average of \$12.98 and a median of \$13.20.

[20] The Respondent provided a sketch of the subject's various floor dimensions and advised the CARB the gross area of the basement was 14,884 square feet and that the basement area has been reduced by 15% to 12,651 square feet to reflect effective and useable storage space. This is a consistent practice applied throughout the Municipality. The use of 85% of the gross area gives an allowance to the unusable space that typical exists in a basement. The Respondent advised that based on their review of the storage space an additional 25 % is unwarranted.

[21] The Respondent expressed concern that the Complainant's lease data is site specific and limited to the subject property. The typical market conditions for properties similar are not being considered in the request of \$12.00 per square foot as the assessed market rental rate for the subject.

[22] The Respondent also expressed concern that some of the actual leases may have a motive influence and that there was no evidence provided as to why the storage should be reduced by an additional 25%.

[23] The Respondent requested a confirmation of the assessment at \$5,964,000 on the basis that the subject has been assessed using typical rental rate of similarly classed suburban offices and the allowance given for the basement storage space is reasonable.

Findings

[24] The assessed market rental rate of \$13.00 per square foot is within the range of lease rates provided and is supported.

[25] The measure of the subject's basement storage is 12,651 square feet.

Decision

[26] The assessment of roll number 1560127 is confirmed at **\$5,964,000.**

Reasons For The Decision

[27] The Complainant provided two new leases considered to be arms length, which indicates rental rates in the range of \$11.00 to \$14.00 per square foot within the subject.

[28] The assessed rate of \$13.00 is supported by an inventory of 6 similarly classified spaces indicting a median of \$13.20 per square foot. The CARB is satisfied that the typical market conditions for properties similar to the subject property are being reflected in the rental rate applied to the subject. Regulation AR 220/2004 is clear that the assessment must be prepared with the use of typical data.

[29] The CARB received no evidence in support of reducing the amount of storage space from 12,651 square feet to 9,488 square feet.

Dated this 17th day of July, 2012, at the City of Edmonton, Alberta.

Don Marchand, Presiding Officer

Appearances:

Michael Uhryn, MNP LLP
for the Complainant

Brennen Tipton, Assessor, observing
John Ball, Assessor
Steve Lutes, Legal Counsel
for the Respondent