



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
1 SIR WINSTON CHURCHILL SQUARE
EDMONTON AB T5J 2R7
(780) 496-5026 FAX (780) 496-8199

NOTICE OF DECISION NO. 0098 129/10

Rainbow Car Wash Inc
7324 Yellowhead Trail NW
Edmonton, AB T5B 4K2

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 July 28, 2010 respecting a complaint for:

Roll Number 9959980	Municipal Address 7324 Yellowhead Trail NW	Legal Description Plan: 9821533 Block: 11 Lot: 3
Assessed Value \$1,896,500	Assessment Type Annual – New	Assessment Notice for 2010

Before:

Darryl Trueman, Presiding Officer
George Zaharia, Board Member
Brian Frost, Board Member

Board Officer: Annet N. Adetunji

Persons Appearing: Complainant

Sam Osman
Ali Ismail

Persons Appearing: Respondent

Allison Cossey, Assessment and Taxation Branch

PRELIMINARY MATTERS

Upon questioning by the Presiding Officer, the parties had no objection to the composition of the Board.

Prior to the commencement of the hearing, the Parties were placed under oath.

BACKGROUND

The subject property is a metal clad, pre-engineered industrial building built in 2002 and which contains 12,300 sq. ft., used as a 15-bay commercial car and truck wash. This property is located just northeast of the intersection of Yellowhead Trail and the old Fort Road. The property

contains a significant number of pumps, motors and other equipment dedicated to the use of its car and truck wash customers. For the past several years this property has been the subject of assessment concerns and on each of these occasions there has been a negotiated or agreed upon assessment amount as between Complainant and Assessor.

ISSUE(S)

The issue in this appeal is the market value difference as expressed by a retrospective valuation of the subject property to July 9, 2009 by an accredited appraisal firm and the market value as expressed by the Assessor. Specifically the complainant feels that:

1. the Assessor has used an incorrect typical rental rate which does not reflect certain negative locational attributes of the subject property, and;
2. the depreciated value of the equipment is not necessarily assessable and if it is, its depreciated value is not accurately reflected by the assessment.

LEGISLATION

The Municipal Government Act, R.S.A. 2000, c. M-26; (MGA)

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.298(1) No assessment is to be prepared for the following property:

- (z) machinery and equipment, except to the extent prescribed in the regulations;

Interpretation

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

The Matters Relating to Assessment and Taxation Regulation, Alberta Regulation 220/2004 (MRAT);

Part 1, Standards of Assessment

Valuation standard for a parcel of land

s.4(1) The valuation standard for a parcel of land is

- (a) market value.

Definitions

s. 1 In this Regulation,

(j) “machinery and equipment” means materials, devices, fittings, installations, appliances apparatus and tanks other than tanks used exclusively for storage, including supporting foundations and footings and any other things prescribed by the Minister that forms an integral part of an operational unit intended for or used in

- (i) manufacturing
- (ii) processing

(iii) the production or transmission by pipeline of natural resources or products or byproducts of the production, but not including pipeline that fits within the definition of new linear property in Section 284 of the Act

(iv) the excavation or transportation of coal or oil sand's as defined in the Oil Sands Conservation Act

(v) a telecommunications system, or

(vi) and electric power system other than a microgeneration generating unit as defined in the Micro-Generation Regulation

whether or not the materials, devices, fittings, installations, appliances, apparatus, tanks, foundations, footings or other things are affixed to land in such a manner that they would be transferred without special mention by a transfer or sale of the land;

POSITION OF THE COMPLAINANT

With respect to issue number one, the Complainant advised the Board that the assessment for this property has increased every year for the past five years. For the purpose of reviewing the 2009 assessment an independent appraisal was obtained as support for a reduction. This year however, the City refused to consider adjustment of the assessment and in particular to accept an independent appraiser's report because the appraiser had not considered the sale of the Oasis Auto Bath, a car wash near to the subject property. The Complainant went on to say that his property location was really quite different from a visibility and access point of view from the aforementioned recent car wash sale.

The Complainant argued that the Assessor's use of typical rental rates for car wash properties of \$15.50 per sq. ft. was derived from car washes which enjoyed a wide variety of positive locational attributes and did not reflect the specific locational constraints demonstrated by his property. He pointed out that while his property enjoyed some visibility from the Yellowhead Trail, its access was specifically off a service road that had to be entered from the old Fort Road. He said that his business would be much improved if new customers could only just find him. The Complainant presented a recent financial statement for his business which suggested that earnings have been in the range of \$235,000 for the year. He pointed out that the use of the city's \$15.50 per sq. ft. would indicate that a car wash operator would need to generate \$185,000 per year to pay the rent. The Complainant provided a witness who, as a business owner in the neighborhood, supported the Complainant's contention that businesses located along the subject service road suffered from poor access.

With respect to issue number two, the Complainant argued that given the locational constraints on his operation together with ever increasing competition, the best use for his property would be in removing the carwash equipment and leasing it as a conventional warehouse. He went on to question whether or not the carwash equipment was properly assessable and that if so, it was in the order of eight or nine years old and its remaining economic value, after depreciation had been accounted for, was roughly \$80,000.

The Complainant said that he would rely on the valuation of \$1,475,000, provided by his appraiser, however wondered if the \$80,000 equipment value shouldn't be properly deducted.

POSITION OF THE RESPONDENT

With respect to issue number one, the Respondent provided the Board with a complete assessment brief outlining legislative authority, adjustment rationale and charts of car wash sales and associated rental rates for car washes throughout the City of Edmonton over the past few years. The Assessor pointed out that this information supported their mass appraisal modeling by supporting the assessed value of \$1,896,500. In particular the Assessor pointed to the chart of typical rental rates for car washes which supported a roughly \$2.00 per sq. ft. net difference from that which was reported by the Complainant's appraiser. The Assessor was adamant that the sale of the Oasis Auto Bath car wash, located within 10 blocks of the subject was a good indicator of market value for the subject property due to its location and recent transaction dates. The Assessor commented on the Complainant's appraisal report which indicated a cost approach value of \$1,783,000 opining that this was a value which supported the assessed value.

With respect to issue number two, the Assessor advised the Board that it was usual practice by the City of Edmonton to place an assessed value on equipment in a car wash property and that this equipment value was captured by typical market rental rates applicable to car and truck washers.

FINDINGS

The Board finds that the subject property has no visibility to either traffic on the Fort Road or westbound traffic on the Yellowhead Trail. As well, the access from eastbound Yellowhead Trail is very difficult.

DECISION

The Board reduces the assessment to \$1,475,000.

REASONS FOR THE DECISION

Regarding issue number one, the Board accepts the testimony and evidence as outlined by the maps and aerial photographs, that the subject business by virtue of its location very likely depends upon repeat customers and will enjoy little benefit of business from motorists passing on either the Yellowhead Trail or Fort Road. The Board found little comfort in the typical rent data as supplied by the City because the comparables are located in prime south side and west end locations. The sale of the Oasis Auto Bath car wash in the neighborhood of the subject was not persuasive in that it appeared to have direct access to the old Ford Road which in the opinion of the board is a main traffic artery. Given the MRAT requirement of 'market value' and its MGA definition, the Board feels that the independent appraiser has better captured the locational attributes of the subject property with his roughly \$13.00 per sq. ft. rental rate.

Regarding issue number two, the Board finds that the MGA provides for the exclusion of machinery and equipment in assessed property and that that specific property is outlined in MRAT (see MGA and Regulations above). There is no mention in MRAT for the exclusion of car wash equipment in car washes and, the Assessor and the independent appraiser have both contemplated the value of the car wash equipment in their rental rates. Further the independent appraiser provided information by way of an expense item for reserve for replacement. Given that real estate is defined as 'land and securely attached fixtures' this suggests to the board that the machinery and equipment in question would not be considered machinery and equipment

(chattels) but rather they are properly part of the real estate. Given that this equipment is a properly assessable item and the independent appraiser has allowed for its value, (he says that the building unequipped would rent in the range of \$8.00 per sq. ft.) then this Board finds no reason to further reduce the assessment applicable to that which the complainant deems machinery and equipment.

Dated this 13th day of August, 2010 at the City of Edmonton, in the Province of Alberta.

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: Municipal Government Board