



ASSESSMENT REVIEW BOARD

Churchill Building
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NOTICE OF DECISION NO. 0098 176/11

Rainbow Car Wash Inc.
7350 - Yellowhead Trail NW
Edmonton, AB T5B 1G3

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 September 6, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9959980	7324 Yellowhead Trail NW	Plan: 9821533 Block: 11 Lot: 3	\$2,057,000	Annual New	2011

Before:

Lynn Patrick, Presiding Officer
Brian Frost, Board Member
Jack Jones, Board Member

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

Samir Osman

Persons Appearing on behalf of Respondent:

Peter Bubula, Assessment and Taxation Branch
Cam Ashmore, Law Branch
Andy Chopko, Consultant– Impact Property Advisors Ltd.

PROCEDURAL MATTERS

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.

PRELIMINARY MATTERS

The Respondent introduced Mr. Andy Chopko, AACI, P.App of Impact Property advisors Ltd., reviewed his qualifications and requested he be accepted as an expert witness.

The Board and the Complainant accepted the qualifications of Mr. Chopko as an expert witness in the field of real property appraisal.

BACKGROUND

The subject property is a metal clad 12,300 sq. ft. building, built in 2002 and operating as a 15 bay car wash facility, on a .99 acre irregular site.

ISSUE(S)

Is the assessment too high?

LEGISLATION

Municipal Government Act, RSA 2000, c M-26

289(1) Assessments for all property in a municipality, other than linear property, must be prepared by the assessor appointed by the municipality.

(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.

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.

s. 3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

POSITION OF THE COMPLAINANT

The Complainant's position is that the property has been assessed higher than the actual appraised value.

The car wash has been a money losing proposition because of limited access and visibility and as a result, ceased operation as a car wash on February 11, 2011.

In support of his position, the Complainant provided evidence in the form of unaudited December 31, 2009 financial statements for the Car Wash (C-1), the August 13, 2010 ARB decision regarding the appeal of the 2009 assessment for this property (C-2), a February 2010 appraisal (effective date July 1, 2009), by Simon J.H. Chin of Bourgeois and Company Ltd. (C-3), and a Supplementary Valuation dated February 2011, (effective date July 1, 2010) by Simon Chin (C-4).

The Complainant asked that the assessment be reduced to \$1,475,000.

POSITION OF THE RESPONDENT

The Respondent's position is that the Assessment is both fair and equitable.

The Respondent provided evidence in the form of a 4-tab submission (R-1), containing its position and requested qualification of an expert witness evidence (Tab 1), a valuation completed by the Respondent's expert witness, Impact Property Advisors Ltd. (Tab 2), a Technical review by Impact Property Advisors Ltd. of the Complainant's appraisal and supplementary valuation (Tab 3), and City of Edmonton Property Assessment Law and Legislation (Tab 4).

DECISION

It is the decision of the Board to reduce the assessment to \$1,639,500.

REASONS FOR THE DECISION

The Board considered the location of the property evidenced by photographs and maps provided by the Respondent (R-1, Tab 1, pages 29 and 56 – 59), and came to the conclusion that the property indeed suffered from both lack of access and lack of visibility given the bulk of the traffic, along Yellowhead Trail, was offered little opportunity to access the property without prior knowledge of its access points along Fort Road, itself only accessible via off ramps from Yellowhead Trail. Visibility is limited. Fort Road access was as well limited to off ramp or service road access with impaired visibility from either direction.

The Board reviewed the Complainant's appraisal report and summary valuation as well as the Respondent's expert witness valuation of the property. The Board acknowledged the Impact Property Advisors Ltd. (Impact) critique of the Bourgeois and Company Ltd. (Bourgeois) Reports.

The Board noted the Impact Valuation report, while completed with a July 1, 2010 effective date, did not properly recognize the December 31, 2010 "property use" date, instead relying on hindsight stating the car wash closed after December 31, 2010 and therefore did not represent highest and best use. Impact's inspection of the property was carried out on June 17, 2011 indicating the car wash equipment appeared to have been removed and the building was occupied as an industrial shop. An interior inspection was not undertaken.

The Board is satisfied that the property was operating as a Car Wash on December 31, 2010 with the result that little weight was placed on the valuations as estimated in the Impact report. The Board did however note that the Impact report suggested market rent for the subject was likely \$13.00 per sq. ft. supporting the market rent suggested in the Bourgeois report.

The Board then turned its attention to the Bourgeois report and the Impact critique and felt that the various comments within the critique were not serious enough to discredit the Bourgeois Reports to the point that the Board could ignore its findings.

The Board reviewed the Respondent's Comparable Sales (R-1, Tab 1, page 60) and found that only one of the three sales was comparable as a stand-alone car wash, the other two, (sales 1 and 2), contained commercial and/or retail components. The remaining sale was superior to the subject in its condition, construction, location and access.

The Board further reviewed the Respondent's Equity comparables (R-1, Tab 1, Page 67) and Equity rents, (R-1, Tab 1, Page 68), and found that of the 9 equity comparables presented, numbers 5, 7 and 8 contained a retail component and were therefore not comparable. Comparables 1, 3 and 9 are of higher quality concrete block construction and all were in good access, high visibility locations including the three remaining properties that were similarly constructed (to the subject). The same comparables were used by the Respondent for equity rents. The Board is of the opinion that Equity Rents are not necessarily deemed comparable just because they have been used by the Respondent in other instances and instead feels more confident in relying on market rent of \$13.00 per sq. ft. as provided by both appraisers. The Board was not persuaded by the Complainant that the final valuation as determined in the Bourgeois appraisal was sufficient to reduce the assessment to the requested level. It was however sufficiently persuaded to reduce the assessment in light of the market rent findings.

The Board therefore substituted the assessor's \$16.25 per sq. ft. rent (R-1, Tab 1, page 30) with \$13.00 per sq. ft., and appropriately applied the assessor's percentage adjustments to arrive at a revised calculated assessment of \$1,639,500.

DISSENTING OPINION AND REASONS

There were no dissenting opinions.

Dated this 21st day of September, 2011, at the City of Edmonton, in the Province of Alberta.

Lynn Patrick, 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, RSA 2000, c M-26.

cc: Samir Osman