

Edmonton Composite Assessment Review Board

Citation: Michele Warwa-Handel, APTAS v The City of Edmonton, 2012 ECARB 1272

Assessment Roll Number: 1525781

Municipal Address: 18004 107 Avenue NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

Michele Warwa-Handel, APTAS

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
John Noonan, Presiding Officer
Brian Hetherington, Board Member
James Wall, Board Member

Preliminary Matters

[1] The assessment complaints for this and four other roll numbers were heard by the CARB in July, 2012. After the hearings concluded, it was discovered that the Respondent's evidence for the five roll numbers had not been disclosed to the CARB, contrary to *Matters Relating to Assessment Complaints (MRAC)* AR 310/2009 s 8(2)(b). The original panel decided that the five complaints should be reheard by a newly constituted Board, untainted by exposure to the Respondent's evidence package. Consequently, the five complaints were heard Oct. 31 and Nov. 1, 2012 by this CARB panel. The Respondent was limited to questions, argument, and presentation of the standard law and legislation brief.

Background

[2] The subject property is a medium warehouse in the Wilson Industrial neighbourhood of west Edmonton. The 15,608 sq.ft. improvement was constructed in 1996 and covers 30% of a 51,885 sq.ft. lot (1.19 acres). The subject has 4 bays and 7804 sq.ft. (50%) of main floor office space. The 2012 assessment of \$2,506,500 equates to \$160.59 per sq.ft. of improvement.

[3] The subject is one of five similar properties in close proximity and all owned by the same person. The parties asked the Board to carry forward questions and argument from the first file, roll 1098789, to similar evidence where applicable to this and other roll numbers.

Issue(s)

- [4] Is the subject property over-assessed in light of:
1. a value of \$132.69 per sq.ft. indicated by sales comparables?
 2. a value of \$116.47 per sq.ft. indicated by equity comparables?

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 requested the assessment be reduced to \$1,818,000 or \$116.48 per sq.ft.

[7] The Complainant presented four sales comparables from northwest Edmonton, warehouse properties built between 1992-2002, with site coverages of 21-38%, and building areas of 10,936-32,339 sq.ft. The four sales showed average and median per sq.ft. values of \$110.96 and \$117.54, respectively, time-adjusted by the City’s factors. The 2012 assessments were also presented to the Board; in each case the assessment was higher than the time-adjusted sale price, producing average and median per sq.ft. assessments of \$132.69 and \$134.21, respectively. Attention was drawn to features of these properties such as lower site coverage, greater wall height, cranes, and superior electrical systems that made these properties better than the subject.

[8] Twelve equity comparables were presented, nine of them owned by the same owner as the subject. Focus was placed on four of these comparables with building sizes of 17,700-29,500 sq.ft. They were built from 1995-2001, had a site coverage range of 35-44%, and showed an average assessment of \$117.55 per sq.ft. These four comparables were selected for similarity in age, site coverage, and proximity to the subject and were the basis for the requested assessment of \$116.48 per sq.ft.

[9] In support of the requested assessment, the Complainant presented an income approach test that employed a \$9 per sq.ft. rent rate, allowances of 3% vacancy, 3% management and 2% non-recoverables. The resulting net operating income was capitalized at rates of 7% and 7.5% to produce value estimates of \$1,849,214 and \$1,725,933 or \$118 and \$111 per sq.ft. The income approach parameters were developed from third party industry sources including Cushman & Wakefield, with rental availability brochures from York Realty, CB Richard Ellis and Colliers.

[10] The Complainant also showed a 2012 assessment summary of a “B” Class, west end office building, that assessment developed by the capitalized income approach. The rent rate for this property was attributed at \$13 per sq.ft. and, after allowances, a cap rate of 7.5% yielded an assessed value of \$134.47 per sq.ft. The Complainant argued that an office building would be expected to be valued higher than warehouse space, and this again indicated the assessment of the subject was excessive.

Position of the Respondent

[11] The Respondent established in questions the difference between the subject, with 50% office space, and the four sales comparables with 5.7%, 8%, 11% and the last with no mention of office in the Anderson Data sheet. The Respondent also pointed out that three of the sales comparables were larger than the subject, and no adjustments had been made to account for economies of scale. None of the sales were located on a major road, unlike the subject which enjoyed a location on 107 Avenue.

[12] In a similar vein, no size, age or location adjustments had been applied in the presentation of the equity comparables. Although the Complainant advised that the owner’s properties on 105 Avenue and elsewhere in the area were of similar design and office space percentage of total building area, in the 50%-60% range, this information was not specified in the equity comparables chart. The Respondent also noted that two reasonably similar equity comparables, both of about 29,000 sq.ft. and 40% site coverage, displayed an assessment per sq.ft. differential of about \$20. The Respondent advanced the idea that the major difference between the two comparables was location, the higher valued property also located on 107 Avenue.

[13] The Respondent argued that insufficient compelling evidence had been advanced to cause the Board to alter the assessment.

Decision

[14] The Board reduces the 2012 assessment to \$2,122,500.

Reasons for the Decision

[15] The Board found insufficient reason to alter the assessment on the basis of the sales comparables due to substantial differences in location, lot size, and site coverage. The closest sale comparable in size was the 118 Avenue sale, at 17,400 sq.ft. As mentioned in the first file, the Board discounts that sale, having previously encountered it in the course of other hearings.

The Board is aware that there is some doubt as to the proper measurement of the building's area due to the presence of a covered breezeway.

[16] This hearing was the third of five complaints involving the same parties and similar evidence. In two previous files, the Board had discounted the applicability of the equity comparables to two subjects in the range of 11,000-12,500 sq.ft. on lot sizes less than 1 acre. Although some of the same concerns arise in this file, the Board notes that the differences are diminishing in comparing some of the comparables to the current subject, a 15,608 sq.ft. building on a 1.19 acre lot. The Board noted four comparables, 2 on 105 Avenue and 2 on 107 Avenue, with site coverages of 31%, 35%, 35%, and 34% and main floor sizes in a range from 18,322 sq.ft. to 25,457 sq.ft. These four comparables were assessed at an average rate of \$123.60 per sq.ft. To account for the subject's smaller size, the Board estimated that a 10% premium to that average was justified. The Board decided that on the basis of the evidence available, an assessment of \$136 per sq.ft. was equitable. Applied to the subject's 15,608 sq.ft., the rounded result is \$2,122,500.

[17] For the same reasons outlined with regard to roll 1098789, the Board rejects the idea that the income test has application here. The implication of such a test is that the same rental and other parameters ought to apply to a 10,000 sq.ft. building as a 30,000 sq.ft. building, regardless of lot size, age, or location. Again, and for similar reasons, the Board discounts the comparison between the subject(s) of this and other complaints and a "B" Class office building.

Heard October 31, 2012.

Dated this 20 day of November, 2012, at the City of Edmonton, Alberta.

Brian Hetherington, signing for
John Noonan, Presiding Officer

Appearances:

Michele Warwa-Handel, APTAS
for the Complainant

Luis Delgado, Assessor
Tanya Smith, Solicitor
for the Respondent

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.