Edmonton Composite Assessment Review Board

Citation: Michelle Warwa-Handel, APTAS v The City of Edmonton, 2012 ECARB 1279

Assessment Roll Number:	1098789
Municipal Address:	18003 105 Avenue NW
Assessment Year:	2012
Assessment Type:	Annual New

Between:

Michelle 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 small warehouse in the Morin Industrial neighbourhood of west Edmonton. The 11,128 sq.ft. improvement was constructed in 1997 and covers 37% of a 30,377 sq.ft. lot (.697 acres). The subject has 4 bays and 5,916 sq.ft. (53%) of main floor office space. The 2012 assessment of $1,594,500 equates to $143.29 per sq.ft. of improvement.

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

Issues

[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 $117.55 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 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, 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. 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.

[7] 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 $117.55 per sq.ft. A map of the immediate neighbourhood highlighted the subject, assessed at $143.29 per sq.ft., and six other properties close by on 105 Avenue, carrying assessed values per sq.ft. ranging from $109 to $158.70.

[8] 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 $1,318,430 and $1,230,534 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.

[9] The Complainant also showed a 2012 assessment summary of a "B" Class west end office building. That assessment was developed using 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

[10] In questioning, the Respondent established the difference between the subject, with 53% 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.

[11] In a similar vein, no size or age 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.

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

Decision

[13] The Board confirms the 2012 assessment of $1,594,500.

Reasons for the Decision

[14] The sales comparables presented were significantly different from the subject. The first three sales were 26,200 sq.ft., 17,400 sq.ft. and 32,339 sq.ft. with site coverages of 21%-26% versus the subject at 11,128 sq.ft. and 37% coverage. The smallest of those comparables, at 17,400 sq.ft. was the TireCraft sale on 118 Avenue, and the Board has encountered this as a

problematic sale in other hearings. There is some question as to the proper area of the improvement in third party data due to a roofed breezeway.

[15] The best sale comparable of the four presented was a 10,936 sq.ft. warehouse on a .64 acre lot on 152 Street. The building area and lot size are very comparable to the subject, as is the assessment; $142.19 per sq.ft. compared to the subject's $143.29 per sq.ft. The 152 Street property sold in May 2011, close to the valuation date, for $121.16 per sq.ft. The building details described grade loading, a 1,130 sq.ft. mezzanine not included in the building area, 30 ft. clear ceiling height, sumps and an electrical system the Complainant advised would support welding and large machinery. According to the Complainant, the subject has a 14 ft. wall height. From the description of features of the 152 Street property, it appears significantly superior to the subject from the viewpoint of an industrial user. That it sold for $1,325,000 or $121.16 per sq.ft. appears to bolster the Complainant's requested assessment of $1,308,000. However, the Board notes the subject property contains over 50% office space, a far higher proportion than usual for a warehouse property. Details are lacking as to the amount of office space in the 152 Street comparable. Given this information gap, the Board is not convinced the properties are sufficiently similar to justify a value conclusion for the subject based on the 152 Street sale. In any event, the Board is mindful of the adage that one sale does not a market make.

[16] Of the four equity comparables suggested by the Complainant, three were more than double the size of the subject's 11,128 sq.ft. building. The fourth was 17,700 sq.ft., 59% larger than the subject. Street view photos show that the developments along 105 Avenue, a good number of them under the same ownership as the subject, look very similar. The Complainant also advised that the owner's properties had a very similar composition, with 50-60% office space. Despite the similarities of these properties, in the ballpark as to age but some differences in site coverage, the Board cannot accept the reasoning that the assessment of an 11,000 sq.ft. building should be based on the average per sq.ft. assessment of buildings 17,700-29,500 sq.ft. in size. In dollar terms, three of the equity comparables cluster around a value of $3,000,000 versus the subject at almost $1.6 million. The Board would similarly reject the notion that a 29,500 sq.ft. building should have its value determined by the average of four buildings 1/3 to ½ the size.

[17] The Complainant's income approach test of the assessment did not appear unreasonable, though the Respondent drew attention to the fact the "for rent" brochures were undated, and some of the space advertized was on a sub-let basis. These documents were in support of the chosen $9 lease rate employed in the test, and seemed to fit a Cushman & Wakefield 2011 survey of "New Product Northwest Edmonton" industrial rent range of $8-$10 per sq.ft. However reasonable or typical any individual parameter in a capitalized income test may appear, the difficulty arises from the implication that all the properties presented as good equity comparables ought to be assessed with those same parameters. In the case of the subject, using that income approach would produce an assessment reduction of about $276,000 ($1,594,500 - $1,318,430). Using the same parameters for the 29,500 sq.ft. equity comparable would produce an assessment increase from $3,226,500 to $3,495,000 or a difference of $269,000. The Board observes there is insufficient sales evidence presented to show that the 29,500 sq.ft. property is under-assessed or that the subject is over-assessed. In other words, the concept has not been tested.

[18] The Complainant's point that the subject was assessed at a greater per sq.ft. value than a "B" Class west end office building, contrary to the expectation that office should be worth more than "warehouse", leaves the Board in a blind alley. The Board heard that the same property owner constructed a number of properties similar in design to the subject over a period of at least

five years, 1997-2002, if not longer. The Board observes that a knowledgeable developer would not likely continue doing more of the same without reward. Had there been a greater reward in constructing "B" Class offices, no doubt that would have been the developer's direction. The Board cannot say with any degree of conviction that at all times in all districts a run-of-the-mill office building will always be valued more highly than a "warehouse" space with over 50% office.

[19] Accordingly, the Board confirms the 2012 assessment.

Heard October 31, 2012.
Dated this 20 day of November, 2012, at the City of Edmonton, Alberta.

John Noonan, Presiding Officer

Appearances:

Michelle Warwa-Handel, APTAS
for the Complainant

Luis Delgado, Assessor, City of Edmonton
Tanya Smith, Solicitor, City of Edmonton
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.