

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 2147

Assessment Roll Number: 3811445
Municipal Address: 5604 76 Avenue NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Robert Mowbrey, Presiding Officer
Jack Jones, Board Member
Pam Gill, Board Member

Preliminary and Procedural Matters

[1] Upon questioning by the Presiding Officer, each of the parties stated that they had no objection to the composition of the Board. In addition, each Board Member indicated that they had no bias with respect to this matter.

[2] The hearing was scheduled for the afternoon of October 11th, 2012, however, the parties agreed to hear this matter on October 10th, 2012. The hearing concluded October 10th 2012. On the afternoon of October 11th, the parties advised the Board that they had failed to make representations respecting the subject's tax exempt status. The Respondent's exemption officer was available at the required scheduled time on October 11th, knowing nothing of the October 10th hearing.

[3] At the October 10th hearing, the pages referring to the exemption issue were returned to the Respondent, as the parties were able to make any representations as to the substance of that information. The parties therefore the Board to reopen the hearing to hear the evidence respecting the subject's tax exempt status.

[4] The Board deliberated and rendered a decision. The decision was to reopen the hearing and only deal with the exemption issue. The Board believed the circumstances were exceptional and that reopening the hearing was within the Board's purview.

[5] To reopen the hearing was fair and followed the principles of natural justice.

Background

[6] The subject property is a multi-tenant warehouse building containing a total of 39,254 square feet and located at 5604-76 Avenue. The effective year built for the subject property is 1976 and the site coverage is 36%. The assessment methodology is direct sales comparison and the 2012 assessment is for \$3,709,500.

Issues

[7] The Board considered the following issues:

- a. What is the market value of the subject property?
- b. Should the exemption portion of the property be increased, on account of one of the tenants?

Legislation

[8] 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

[9] The Complainant filed this complaint on the basis that the subject property assessment of \$3,709,500 is in excess of market value.

[10] In support of this position, the Complainant presented seven sale comparables that were time adjusted from the date of sale to the valuation date, using the time adjusted factors from the City of Edmonton (Exhibit C-1 page 1). The Complainant stated that most weight was placed on sale comparable #'s, 2, 3, 5 and 7.

[11] During argument and summation, the Complainant advised the Board that the Respondent's sale comparable #'s, 5 and 6, were, in effect, retail properties and should not be included in the chart to compare to the subject property.

[12] With the Complainant having the last word, the Complainant requested the Board to reduce the 2012 assessment to \$3,340,000, based on the combination of size, condition, site coverage and sale comparable #'s 2, 3, 5 and 7.

[13] The Complainant agreed to the exemption recommendation presented by the Respondent.

Position of the Respondent

[14] The Respondent presented six sale comparables to the Board. The Respondent noted that the first four sale comparables were common to the Complainant. The sale comparables were similar in age, condition and site coverage. The time-adjusted selling price per square foot of total building area ranged from \$ 91.13 to \$113.11 (Exhibit R-1 page 19).

[15] The Respondent also presented six equity assessment comparables. The Respondent advised the Board the equity assessment comparables were similar to the subject property in terms of condition, age and site coverage. In addition, the equity assessment comparables ranged from \$76.66 to \$113.02 assessment per square foot of total building area (Exhibit R-1 page 22).

[16] The Respondent assessor, exemption unit, presented an exemption request for one of the tenants in the complex. The result would increase the total tax exemption to 7.53% of the complex. The exemption request would account for 2,958 square feet out of a total of 39,255 square feet. The exemption request would be effective April 1st 2012.

[17] The Respondent asked the Board to confirm the 2012 assessment of \$3,709,500.

Decision

[18] The decision of the Board is to confirm the 2012 assessment of \$3,709,500.

[19] The decision of the Board is to agree with the recommendation regarding the exemption issue and increase the exemption to 7.53% for the complex, effective April 1st, 2012.

Reasons for the Decision

[20] The Board was persuaded by the four common sale comparables to both parties. The average of the four time adjusted selling prices per square foot of total building area was \$105.24, which supports the assessment of \$94.50 per square foot.

[21] The Board was persuaded by the Complainant's best four sale comparables as put forth by the Complainant as sale #'s 2, 3, 5 and 7. These four time adjusted sales averaged \$99.77 per square foot, which supported the assessment.

[22] The Board noted the equity assessment comparables averaged \$97.35 assessment per square foot. The Board further noted the equity assessment comparables had a median of \$98.08 per square foot of total building area. Both figures supported the subject's assessment.

[23] The Board accepted the recommendation of the Respondent regarding the exemption issue, effective April 1st 2012, as it was agreed to by both parties.

Dissenting Opinion

[24] There was no dissention opinion.

Heard October 10, 2012.

Dated this 22 day of October, 2012, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

Peter Smith, CVG
for the Complainant

Suzanne Magdiak
for the Respondent

Moreen Skarsen
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.