

## **Edmonton Composite Assessment Review Board**

**Citation: CVG v The City of Edmonton, 2012 ECARB 2377**

**Assessment Roll Number:** 10235926  
**Municipal Address:** 1150 50 STREET SW  
**Assessment Year:** 2012  
**Assessment Type:** Annual Revised

Between:

**CVG**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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### **DECISION OF**

**Dean Sanduga, Presiding Officer**  
**Petra Hagermann, Board Member**  
**Dale Doan, Board Member**

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### **Preliminary Matters**

[1] The parties indicated they had no objection to the composition of the panel, and the Board members indicated that they had no bias to declare with regard to the matter.

### **Background**

[2] The subject property is a 43.98 acre parcel of land. It is located in southeast Edmonton at the southwest corner of Ellerslie Road and 50 Street with a municipal address of 1150 50 Street SW. The 2012 assessment of \$9,755,500 is based on the sales comparison approach model.

### **Issue(s)**

[3] Was the subject parcel of land used for farming operations as of December 31, 2011?

[4] Is the 2012 assessment too high based on the number of acres farmed?

## **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.

### ***Matters Relating to Assessment and Taxation Regulation (220/2004)***

s.1(i) “farming operations” means the raising, production and sale of agricultural products and includes  
(i) horticulture, aviculture, apiculture and aquaculture,  
(ii) the production of horses, cattle, bison, sheep, swine, goats, fur-bearing animals raised in captivity, domestic cervids within the meaning of the Livestock Industry Diversification Act, and domestic camelids, and  
(iii) the planting, growing and sale of sod;

s.2 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market

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

- (a) market value, or
- (b) if the parcel is used for farming operations, agricultural use value.

(2) In preparing an assessment for a parcel of land based on agricultural use value, the assessor must follow the procedures set out in the Alberta Farm Land Assessment Minister’s Guidelines.

(3) Despite subsection (1)(b), the valuation standard for the following property is market value:

- (d) an area of 3 acres that
- (i) is located within a parcel of land, and
- (ii) can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;

### **Position of the Complainant**

[6] The Complainant requested a reduction in the assessment of the subject property from \$9,755,500 to \$2,327,500 and submitted a brief (C-1) to support this request.

[7] The Complainant advised the Board that in 2011 and previous years the subject had been farmed and been assessed as such. In 2011, some of the subject property had been stripped along the southern border for future development. However, as per the photo (C-1, pg 4), dated Sept 2011, the Complainant informed the Board that 80% (35 acres) of the subject was still being farmed during 2011. This should be reflected in the 2012 assessment.

[8] The Complainant submitted that the subject property was used as farmland in a sharecropping arrangement for the production of hay. Therefore 35 acres would qualify to be assessed as farmland and the remaining 8.98 acres valued as non agricultural land at \$257,987 per acre.

[9] The Complainant acknowledged that the land was being developed and not being farmed in 2012.

[10] During argument the Respondent inquired as to the reason for the change in assessment of farmland from 50% as stated in the original complaint form to 80% as being requested in the hearing. The Complainant advised the Board that following a discussion with the owner, the 80% had been verified by the farmer of the subject lands.

[11] The Complainant stated that the owner of the property had taken the aerial photographs himself in September 2011. This in his opinion was evidence that the subject land was a viable farming operation.

[12] When asked about evidence of a lease agreement between the farmer and the owner, the Complainant stated that they did not have the agreement in their evidence package as that had not been an issue in dispute.

[13] The Complainant requested that the assessment be adjusted to reflect 35 acres as farmland and therefore be reduced to \$2,327,500.

### **Position of the Respondent**

[14] The Respondent provided a 23-page assessment brief (Exhibit R-1) in support of the 2012 assessment of the subject property.

[15] The position of the Respondent is that only 6.18 acres be assessed as farmland and the remaining 37.8 acres should not be assessed at an agricultural use value, since it did not qualify as farming operations as per *Matters Relating to Assessment and Taxation (MRAT) 220/2004* s 1(i).

[16] The Respondent referred the Board to two photos taken on January 25, 2012 (R-1, pages 4-5) showing the subject land was stripped in preparation for development purposes. It is the opinion of the Respondent that the stripping of the subject land would have likely taken place in

the fall of 2011, prior to condition date of December 31, 2011 and therefore would not qualify to be assessed as farmland.

[17] The Respondent submitted four photos taken on September 7<sup>th</sup>, 2012 (R-1, pg 6-9) showing land development work in progress on the subject property.

[18] In response to a question by the Board as to the location of the 6.18 acres assessed as farm land, the Respondent advised that this encompassed the subject Homestead.

[19] The Respondent argued that the aerial photographs presented by the Complainant failed to confirm any farming activities on the subject land, and therefore requested the Board confirm the assessment at \$9,755,500.

### **Decision**

[20] The decision of the Board is to confirm the 2012 assessment at \$9,755,500.

### **Reasons for the Decision**

[21] The Board considered the limited evidence presented by both parties.

[22] The Board carefully examined the photograph dated Sept 11 and noted no evidence of bales of hay or other crops, and therefore was unable to determine conclusively how much or if any of the land had been farmed in 2011.

[23] A lease agreement between the owner and the farmer would have provided evidence as to the farming operation; however in the absence of this, the Board is not in a position to come to a conclusion as to the actual use of the subject land.

[24] The Board noted that the Respondent's photographs illustrated that large tracts of the land were without vegetation or other evidence of farming activity. The Board however, is not able to establish the exact condition of the subject lands as of the condition date of Dec 31, 2011.

[25] In summary, the Board was not provided with sufficient and compelling evidence in order to alter the assessment of the subject and therefore confirms the assessment at \$9,755,500.

**Dissenting Opinion**

[26] There was no dissenting opinion.

Heard commencing October 12, 2012.

Dated this 13<sup>th</sup> day of November, 2012, at the City of Edmonton, Alberta.

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Dean Sanduga, Presiding Officer

**Appearances:**

Tom Janzen

for the Complainant

Bozena Andersen

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.*