Edmonton Composite Assessment Review Board

Citation: Michele Warwa-Handel, APTAS v The City of Edmonton, 2013 ECARB 00808

Assessment Roll Number:	10015903
Municipal Address:	11350 182 STREET NW
Assessment Year:	2013
Assessment Type:	Annual New

Between:

Michele Warwa-Handel, APTAS

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Petra Hagemann, Presiding Officer
Pam Gill, Board Member
John Braim, Board Member

Procedural Matters

[1] The parties indicated they had no objection to the composition of the Board. In addition, the Board members indicated they had no bias on this file.

Preliminary Matters

[2] There were no preliminary matters relating to this file.

Background

[3] The subject property comprises a multi-tenant Industrial Flex Building constructed in 2004 and located in the Edmonton Industrial District of the North West. The building is a multi-bay office - warehouse of 28,711 square feet (sq ft) and is situated on a 2.067 acre lot resulting in a site coverage ratio of 32%. The location is non-arterial and the lot is zoned IB. It has a main floor office area of 15,005 sq ft and is reported to be in average condition.

[4] The subject property has been assessed on the direct sales comparison approach method and the assessment of $4,341,000 equates to a unit rate of $151.20/ sq ft of building area.

Issue(s)

[5] Is the assessment of the subject property correct?

Legislation

[6] The *Municipal Government Act*, RSA 2000, c M-26, reads:

> 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

[7] The Complainant filed this complaint on the basis that the assessment of the subject property was much higher than the market value (C-1, page1). In particular the Complainant argued that both the direct sale comparison approach and the equity approach indicated that the assessed value was incorrect.

[8] The Complainant provided a chart of 3 sales comparables (exhibit C-1, page 13) located in the north-west industrial quadrant of the city that ranged in size from 23,750 sq ft to 36,764 sq ft. The land sizes ranged from 1.00 to 3.09 acres resulting in site coverage ratios ranging from 24% to 50%. The unit sale values were time adjusted to valuation day, and the adjusted rates ranged from $95.20/ sq ft to $132.0/ sq ft with an average of $119.0/ sq ft. The assessments on these 3 sales ranged from $103.68/ sq ft to $128.74/ sq ft with an average of $115.09/ sq ft. The 3 sales were then each adjusted for the differences, namely date of sale, site coverage ratio and age, to make them similar to the subject property. After adjustment the 3 sales indicated a range in value for the subject property from $116.62/ sq ft to $138.98/ sq ft with the subject being assessed at $151.19/ sq ft.

[9] The Complainant provided an additional chart of 12 equity comparables (C-1, page 20) from the north-west industrial area 5 of which the Complainant contended were the best indicators of value for the subject property. The properties ranged in age from 1981 to 2002; in building size from 18,766 sq ft to 54,127 sq ft; finished office areas from zero to 46,215 sq ft and site coverage ratios from 30% to 52%. The unit assessments on the 12 sales ranged from $85.45/ sq ft to $147.45/ sq ft. The Complainant contended that equity comparables #1 - #5 (inclusive) were close in location to the subject property and had an average of $131.48/ sq ft. The balance of 7 comparable sales had an average of $100.35/ sq ft

[10] The Complainant also provided a CARB decision from the 2012 appeal on the same property wherein the assessment for that year had been reduced on the basis of equity

comparables. The previous Board had found no evidence of sales similar in age, size or site coverage.

[11] In the second exhibit the Complainant included a chart of 3 comparable sales (Exhibit C-2, page 11) extracted from the Respondent's disclosure from the 2012 hearing on the subject property. The Complainant had added a column that showed the 2013 assessments ranging from $110.50/sq ft to $128.75/sq ft with an average of $118.74/ sq ft.

[12] A second chart was included in the Complainant's exhibit also extracted from the Respondent's same disclosure from the 2012 hearing (C-2, page 15). This comprised the Respondent's equity argument to which had been added an extra column containing the 2013 assessments. The 2013 assessments ranged from $129.6/sq ft to $155.45/ sq ft with an average of $144.59/sq ft.

[13] The Complainant provided a third chart (C-2, page 23) which comprised the comparable sales, again extracted from the Respondent's disclosure from the 2012, again with an additional column, that appeared to demonstrate that there was no correlation between the time adjustment process and successive annual assessments.

[14] The Complainant argued that all 3 charts in exhibit C-2 clearly demonstrated that the subject property had been assessed higher than all of the comparable sales and equity comparables and requested a reduction of the assessment to $3,732,430 or $130.00/ sq ft.

[15] **In rebuttal** of the Respondent's comparable sales evidence (C-3, pg 2) the Complainant argued that the Respondent's sales 1 to 4 were dated sales, one of which was the only sale in the same industrial area as the subject; 4 sales were in the south industrial area and would require a downwards adjustment; 3 of the sales had site coverage ratios of 21%, 24% & 25% which would also require adjusting downwards and sale #6 was not similar.

[16] The Complainant provided a chart (C-3, page 2) of the Respondent's sales to which a column had been added to show added showing the 2013 assessments. The assessments were all less than the time adjusted sale prices (TASP) except for sale #6.

[17] In summation the Complainant requested the Board to consider only the comparable sales located in the north-west industrial area. Furthermore the Complainant's sales had been adjusted for the differences whereas the Respondent's had not. The Complainant also contended the Respondent had not provided any evidence to show that varying percentages of finished office area had an effect on the sale price. Finally the Complainant stated there was no evidence provided to demonstrate that the property located at 1215 160 Street which had been sold twice in a short period was an invalid sale.

Position of the Respondent

[18] In defence of the assessment the Respondent provided a chart of 7 comparable sales that sold between February 2008 and January 2012 (Exhibit R-1, page12). The buildings ranged in age from 1974 to 2007; in size from 21,875 sq ft to 32,354 sq ft and the site coverage ratios from 21% to 50%. The time adjusted sale prices ranged from $122.70/ sq ft to $195.13 sq ft.

[19] The Respondent provided a chart of 8 equity comparables to demonstrate the subject property had been assessed equitably (R-1, page 20). The comparables ranged in age from 1980 to 2007; in size from 23,589 sq ft to 32,621 sq ft; main floor offices from 4,855 sq ft to 14,965 sq ft and site coverage from28% to 39%. The Respondent contended that 5 of the sales (coloured green) were the best indicators of value for the subject property. Of these five, sale #5, #7 & #8 are the strongest and support the assessment.

[20] The Respondent drew the Board's attention to a sale located at 12150 160 Street which the Complainant had show (C-1, pg 13) as having sold November 30, 2012 for $3,500,000. This same property was resold only 2 months later (Jan 29, 2013) for $5,375,000. Although considered an arm's length sale, the Respondent suggested these two sales may have been motivated as there was a great disparity in values and therefore should not be considered by the Board.

Decision

[21] The decision of the Board is to confirm the 2013 assessment at $4,341,000.

Reasons for the Decision

[22] The Board was not persuaded by the CARB decision pertaining to the subject property for the 2012 assessment year. No evidence was provided which led the previous board to this decision. (That decision was based primarily on the Complainant's evidence as the Respondent had no disclosure to the CARB in accordance with MRAC s. 8 (2) (b).) In any event the Board is not bound by previous CARB decision.

[23] The Board was not persuaded by the sales evidence of the Complainant. Although the sales were all located in the north-west industrial district, similar to the subject property, the buildings were substantially older than the subject building. In addition although the site coverage ratio (SCR) of one sale was reasonably similar to the subject the other two required significant adjustments. The Board accepts that many adjustments are subjective but considers the age differential and the site coverage ratio have not been fully taken into consideration in this case.

[24] The Board was not persuaded by the equity argument of the Complainant. The first five comparables suggested by the Complainant to be their best, were analyzed. They were located fairly close to the subject property and the building ages, sizes and site coverage ratios were very similar to the subject. The Board noted that the proportion of finished office space was virtually nil in the first 3 comparables compared to the subject that has 52% of the total area developed as offices. The fourth and fifth equity comparables had 20% and 58% of their office area finished. The fifth property at $147.45/ sq ft tends to be more supportive of the subject assessment of $151.19/ sq ft.

[25] Although no evidence was specifically provided at the subject hearing, the Board is aware from numerous findings and decisions that the proportion of office space in an industrial building is a factor affecting value, especially if on the main floor. This factor is outlined in the Respondent's evidence (R-1, page 35).

[26] With respect to the balance of the Complainant's equity comparables the Board finds these are not comparable to the subject as they are dissimilar in age, size and finished area and thus were given little weight.

[27] The Board was not persuaded by the sale comparison approach of the Respondent. Only 2 sales were in the north-west industrial district; only 3 were similar in age and SCR; only 1 sale had a similar proportion of developed office area, and at least 2 of the sales were dated. Sale #1 at $158.18/ sq ft and sale #2 at $158.45/ sq ft appeared to be the best comparables as they were the most similar, in terms of a combination of age, SCR; condition; lot size and building size. Though dated sales, they were time adjusted; but they require downward adjustments for location and upward adjustments for finished main floor areas. These negative and positive adjustments would have the approximate net effect resulting in the $158.00/ sq ft area supporting the assessment.

[28] The Board then considered the equity approach of the Respondent. All the comparables were in the north-west industrial district similar to the subject. Although the Respondent contended that the comparables in green (R-1, page 20) were the best comparables, the Board noted the first 4 properties had older buildings. The second 4 were very similar, in terms of a combination of age, SCR, building size and developed main floor area, the one exception being sale #6 with a finished office area of 29% that would require an upwards adjustment to make it similar to the subject.

[29] In conclusion the Board finds that the Respondent's equity approach offers the most meaningful single approach to value of the respective market and equity approaches proffered by the two parties. It was somewhat supported by the 2 sales in the Respondent's market analysis and one sale in the Complainant's market analysis. The balance of sales put forward by both parties was considered to be less meaningful. In the final analysis the Board finds for the Respondent as there was insufficient evidence to support a reduction in the assessment.

<u>Dissenting Opinion</u>

Heard commencing July 10, 2013.

Dated this 8th day of August, 2013, at the City of Edmonton, Alberta.

Petra Hagemann, Presiding Officer

Appearances:

Michele Warwa-Handel, APTAS
for the Complainant

Luis Delgado, Assessor
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.