

Edmonton Composite Assessment Review Board

Citation: Beta Management Inc. v The City of Edmonton, 2013 ECARB 00990

Assessment Roll Number: 3107216

Municipal Address: 8525 DAVIES

ROAD NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

Beta Management Inc.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
James Fleming, Presiding Officer
Martha Miller, Board Member
Mary Sheldon, Board Member

Procedural Matters

[1] Legal Counsel for the Complainant advised that he had gone to Law School with one of the panel. There were no objections by either party to the composition of the panel. There were no other conflicts identified and no one expressed any bias or other conflicts.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] This is a complaint filed because the property was purchased in 2011, and the assessment for 2012 was reduced (on complaint) to reflect the purchase price paid. In the current year, the Respondent valued the property on the Income Approach to Value (IAV) which resulted in a significant increase in value. The Complainant thought the property should be valued, for the current year, based on the 2011 purchase price, adjusted for the amount spent on renovation and upgrading, plus an estimate for inflation for the period from July 2011 to July 2012.

[4] The subject property is a 30,512 square foot (sq. ft.) class B one storey building located at 8525 Davies Rd. in south east Edmonton. The building has a small basement and a main floor atrium. The property was built in 1970 and was expanded

in 1976 and 1981. No mention of zoning was noted by either party and the property was assessed based on the Income Approach to Value.

Issues

- [5] What is the most appropriate method of valuation for the subject?
- a. In order to address this issue, it is necessary to consider two sub-issues:
 - i. Does the Mass Appraisal process produce a reasonable estimate of value?
 - ii. Is the Subject Property so unique that it requires an alternate method of valuation, and if so why?

[6] What weight should be afforded the letter of opinion on value provided by Avison Young?

Legislation

[7] **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

[8] All but five of 124 pages submitted by the Complainant (Exhibit C1) were copies of information and the decision which reduced the Assessment in 2012 to \$3,500,000. The remaining five pages were an opinion of value from Avison Young (a well known national Real Estate Brokerage with offices in Edmonton) (Exhibit C1, pages. 121-125).

[9] The Complainant argued that functionally not much had changed in the building since 2012. They indicated that they had spent roughly \$100,000 on further

upgrading, repair and renovation, bringing the total spent on the building to \$3,600,000, and that was the amount they were requesting for a 2013 value. They admitted that this did not include an estimate for inflation, which they estimated at 3.0%, and so, suggested that the assessment be changed to \$3,700,000 which reflected the percentage increase (rounded). It was noted in the 2012 information included in Exhibit C1, that there was some asbestos discovered during the 2011 renovations, but this was not emphasized as a reason for the value.

[10] The Complainant argued that clearly the sale in 2011 was an outlier for valid reasons, and thus the mass appraisal process did not adequately capture the attributes of value which existed in the subject property. They indicated that the property was not like other buildings in the area. It had very wide hallways, a partial (and largely unusable) basement, an atrium, and they also suggested there was inadequate parking at the building. They summarized that they were not sure why, but the sale/purchase price should be evidence enough that this was not like other buildings.

[11] Finally, they highlighted the Avison Young letter (which they called an Appraisal). They indicated that the firm was well respected and that they were very well versed in the market, and their opinion should be accepted. They noted that the Avison Young value was \$4,180,000, far lower than the City's value.

[12] They concluded their initial presentation by asking for a reduction in the assessment from \$4,689,000 to \$3,700,000.

[13] The Complainant also provided Rebuttal to the City's evidence (Exhibit C2). They highlighted that neither the condition nor the occupancy had changed in the past year, and so wondered how the value could increase so drastically (from \$3,500,000 to \$4,689,000). They also noted that the landlord and tenant were not arms length and so the rent rate could not be depended upon.

Position of the Respondent

[14] The Respondent provided their Suburban Office Assessment Summary for 2013 which detailed the attributes used (Exhibit R1, page 10), and supported the Assessment. They also provided 51 properties they asserted as comparable, demonstrating that they all had similar attributes as those used in the subject property (Exhibit R1, page 33).

[15] Further, the Respondent included a Capitalization Rate Analysis (Cap Rate) with 13 properties asserted to be similar (Exhibit R1, page 16). The Analysis produced a median of 6.98% which supported the 7.00% used by the Respondent.

[16] They also provided a summary of suburban office valuation rates around the City (Exhibit R1, page 30) which supported the variables used in the SSA (South Side Area) for B class buildings (the Classification of the subject). As further support, the Respondent provided 47 lease rate comparables (Exhibit R1, page 31), which provided a time adjusted median and a mean greater than \$14.00, which was supportive of the rental rates used for the subject assessment.

[17] Lastly, the Respondent noted several flaws in the Avison Young document (Exhibit R1, page14). They pointed out the date was May of 2013, and thus *post facto* to the July 1st, 2012 valuation date.

[18] They noted that the document had applied a discount to the land value which was inappropriate appraisal methodology, and if no discount was used (which they argued was the proper procedure), the resulting value supported the assessment, even in spite of the fact that the City disagreed with the use of the entire method.

[19] They further noted that there was no evidence for the Avison Young cap rate of 8.5% in the IAV, noting that if the City's cap rate was used (7.0%), the resulting value was greater than the assessment the City was requesting. As part of this analysis, they also noted that there was no support for the Avison Young rental rate of \$12.50.

[20] In summary, the Respondent pointed out that there was considerable evidence in support of the City's variables. They also noted that the valuation had been prepared using mass appraisal techniques, and the large number of comparables tended to validate the use of the mass appraisal method. On the other hand, they said that the Complainant's value was based on the use of the purchase price from a year before the valuation date, and an attempt to adjust that sale price by unsupported renovation expenditures, and a further unsupported inflation rate. They argued that this calculation was not appropriate methodology. As well, the only new evidence to this appeal, an opinion of value from Avison Young, was not from Appraisers qualified to render an opinion, and the methodology and data were demonstrated to have several flaws. All of this evidence justified the City request for confirmation of the assessment.

Decision

[21] The Complaint is denied and the assessment is confirmed at **\$4,689,000**.

Reasons for the Decision

[22] This was a difficult situation for the Complainant. Assessment and Appraisal theory contemplates three approaches to value.

[23] Based on the information available to the Complainant without significant additional effort, the Complainant attempted to meld a value using parts of at least two methods of valuation. Starting with a number best described as a product of a Comparable Sales Analysis (i.e.: the sales price from June 17th 2011) they then added an estimate of the amount they had spent on renovation, repair and upgrading. This is somewhat akin to the Cost Approach to value, although depending on the nature of the expenditure, some of these expenses would be classed as betterments, some as capital items, and some perhaps as normal operating expenses. Each of these types of expenses would receive a different treatment under a cost analysis. Finally, there was an attempt to recognize value increases with an unsupported 3% inflation increase.

This component as well mirrors the cost approach to value, inasmuch as it is applied to what the Complainant would call “the capital cost” and is similar to time adjustments to recognize increasing costs.

[24] Unfortunately, this mixing of methods results in inappropriate methodology in either Assessment or Appraisal theory, and does not produce a reasonable value outcome. The industry does not recognize these types of calculations as producing a valid estimate of value.

[25] This CARB understands the reasons which led to the assessment last year. The value of the sale 13 days before the valuation date is a strong indicator of value, and the CARB chose to recognize the additional improvements (reflecting the Dec. 31st 2012 condition date) by accepting the cost estimate as a proxy for the “improved” condition.

[26] The fact that another year has passed and the fact that there is a need to recognize changes in value during that period (which should be calculated using recognized and accepted theory) results in this CARB finding insufficient support for the Complainant’s request.

[27] Turning to the Respondent’s evidence, the CARB found strong support for virtually all of the variables used by the Respondent to develop the value. There was good support for the rents and good support for the cap rates. This support gave the CARB confidence in the value calculated by the Respondent.

[28] Finally, the CARB reviewed the opinion of value rendered by Avison Young, and placed lesser weight on this evidence for the following reasons;

- a. Although well respected, the company and the signatories were not qualified appraisers. They did not provide evidence to support their opinions, and were not presented as experts who are qualified to provide opinions of value.
- b. The signatories were unwilling to attend the hearing so could not be questioned about their opinion. Further they indicated a potential conflict of interest as one of their reasons for not attending.
- c. The opinion was almost a year post-facto.
- d. The CARB accepts that there were flaws in the valuation methods which limit the confidence which can be placed on the conclusions.

[29] Furthermore, the CARB accepts the analysis of the Respondent (Ex. R1, pgs 14 & 15) which showed that reasonable adjustments to the Avison Young calculations provide support for the assessment.

[30] In the final analysis, the CARB finds that the mass appraisal process is well documented and provides a reasonable estimate of value. In addition, the Complainant provided little evidence to challenge the variables.

[31] The CARB notes that the Complainant's argument for a lower value was based on the assertion that the property was atypical. This assertion was based largely on the fact that in their opinion, this was the most compelling reason to explain the "low" purchase price in 2011.

[32] The CARB would observe that to prove the property was atypical would normally require significant evidence to demonstrate that the property was NOT like other properties. The Complainant provided little evidence beyond the sales price and anecdotal comments on such features as hallway width, the existence of an atrium and insufficient parking. For this type of argument to succeed, far more information and evidence would be required to demonstrate that the property is indeed atypical.

[33] The CARB further observes that the opinion of value from Avison Young highlights a number of positive factors for the building and does not mention the fact that the property is atypical in any way.

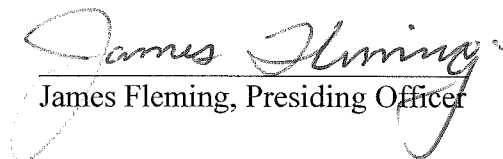
[34] Accordingly, based on the strong evidence from the respondent and the insufficient support from the Complainant's presentation, the CARB finds no compelling reason to disturb the assessment as is noted above.

Dissenting Opinion

[35] There was no dissenting opinion.

Heard on July 11, 2013.

Dated this 23rd day of July, 2013, at the City of Edmonton, Alberta.


James Fleming, Presiding Officer

Appearances:

Brian Brendzan

Brian Salisbury

for the Complainant

Cameron Ashmore, City of Edmonton Law Branch

Darren Davies, City of Edmonton 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.