Edmonton Composite Assessment Review Board

Citation: Liz McLeod MNP LLP v The City of Edmonton, 2013 ECARB 01063

Assessment Roll Number: 1523315
Municipal Address: 16411 118 Avenue NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

Liz McLeod MNP LLP

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
John Noonan, Presiding Officer
John Braim, Board Member
Judy Shewchuk, Board Member

Procedural Matters

[1] When asked by the Presiding Officer, the parties did not object to the composition of the Board. In addition, the Board Members indicated no bias in the matter before them.

Preliminary Matters

[2] There were no preliminary matters or recommendations.

Background

[3] The subject property comprises an industrial complex of 3 buildings located in the north-west industrial district. The buildings were constructed in 1979, which is also their effective age, and extend to a total area of 86,797 sq ft with 30,139 sq ft (35 %) of main floor offices and an additional 704 sq ft of mezzanine offices. The lot size is 4.46 acres resulting in a site coverage ratio of 44.27%. Respectively the 3 buildings are 15,956 sq ft with 6,760 sq ft offices; 55,056 sq ft including 22,231 sq ft office and 704 sq ft mezzanine offices; and 15,784 sq ft with 1,147 sq ft offices.

[4] The property has been assessed by the direct sales comparison method and the assessment of $9,237,000 equates to a unit rate of $106.42/ sq ft of total building area.

Issue(s)

[5] Is the subject property fairly assessed in light of sales comparables?

[6] Should the income approach to value be considered?

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] The Complainant filed this complaint on the basis that the assessment of the subject property was much higher than the market value suggested by comparable sales. As well, the Complainant argued that the assessment methodology of valuing the subject's three buildings individually resulted in a value excessively high in comparison to a single building of the same area. Because the property is larger than typical the Complainant contends it is primarily of interest to investors and consideration should be given to using the income approach to value.

[9] In support of this position the Complainant provided a chart of 7 comparable sales from the north-west industrial area. The sales were time adjusted to valuation day and the resulting rates ranged from $65.98/ sq ft to $88.06/ sq ft with an average of $79.71/ sq ft and a median of $79.93/ sq ft. The Complainant contended from this analysis a rate of $88.00/ sq ft should be applied to the subject property for a market value of $7,638,000.

[10] The 7 sales took place between 2009 and 2012 and had site areas ranging from 2.16 acres to 7.0 acres; 5 of the parcels each had only 1 building and two had 2 buildings. The buildings ranged in size from 52,048 sq ft to 135,562 sq ft; site coverage ratios ranged from 37.40% to 55.32%.

[11] The Complainant contended the assessments of warehouse properties with more than one building were 10.0% higher than single building property assessments and a 10.0% adjustment should be applied to correct the assessment and produce a value of $8,318,000 or $95.78/ sq ft for the subject property. This contention was based on the economies of scale principle wherein it would be more expensive to buy three separate buildings as opposed to buying 3 buildings in one transaction.

[12] In support of this contention the Complainant provided a chart of all the warehouse sales, over 70,000 sq ft in size that had sold between January 1, 2008 and July 1, 2012. The 12 sales were time adjusted and included a 3 building property that sold for $15,000,000 and was assessed at $19,945,000. The assessment to sale ratios (ASR) had a median of 1.000 and an average of 1.009 with a co-efficient of dispersion (COD) of 13.205%. To further demonstrate this point the Complainant provided two tables that segregated the single building properties together and the multi-building properties together. The single building properties resulted in a median ASR of 0.932; an average ASR of 0.957 with a COD of 15.037% whereas the multi-building properties had a median ASR of 1.090; an average of 1.112 with a COD of only 10.622%.

[13] The Complainant contended that the subject property is an income producing property and as such will trade on its ability to produce income. The Complainant provided a pro-forma income valuation using rental rates of $7.00/ sq ft; vacancy rates of 3.0%; operating cost allowance of $4.50/ sq ft; a non-recoverable allowance of 2% and a cap rate of 6.5%. The resulting net operating income (NOI) of $565, 841 was then capitalized to indicate a market value of $8,705,000.

[14] The Complainant contended that the rental rates were typical and the other allowances were all at market levels in support of which two graphs were provided each of 9 sales. The capitalization rate (cap rate) of 6.5% was calculated by a graph that plotted the cap rates from the 9 sales against time and projected the rate trend forward to July 1, 2012. As further support the Complainant provided a chart of the same nine sales and injected typical rental rates, market vacancy and operating cost allowances and produced updated assessment value conclusions that were then compared to the time adjusted sale prices. This resulted in ASR's ranging from 0.88 to 1.17 with a median of 0.994; an average of 0.996 and a COD of 6.268%.

[15] In summation the Complainant stated that all the comparable sales were income producing and the subject falls into that category. As such the income approach to value was a prime consideration. The economies of scale had not been considered by the Respondent. The income approach produced a valuation of $8,705,000 and the direct sales approach a value of $7,638,000., the requested assessment.

Position of the Respondent

[16] The Respondent directed the Board's attention to the Mass Appraisal Brief and factors effecting value with special reference to the multiple building accounts whereby it is policy to estimate the contributory value of each building and then aggregate the respective values.

[17] In defence of the market value aspect of the assessment the Respondent provided a chart of 5 comparable sales: two from the north-west industrial and three from the south industrial. They ranged in age from 1972 to 1977/2006; site coverage from 28% to 44% and size from 41,991 sq ft to 66,720 sq ft. The sales were time adjusted to valuation day and produced values ranging from $101.30/ sq ft to $118.63/ sq ft compared to the subject at $106.42/ sq ft. The graph was colour coded to inform the reader that further adjustments were required.

[18] The Respondent further presented an equity argument by providing a chart of 5 comparable properties from the north-west industrial area. They were all multi-building properties ranging in age from 1969 to 1977/2006; site coverage from 34% to 48% and area from 40,077 sq ft to 123,516 sq ft with office proportion ranging from 21% to 39%. The assessments values ranged from $97.61/ sq ft to $112.45/ sq ft. The chart was colour coded to inform the reader that further adjustments were required.

[19] In response to the Complainant's contention that the income approach should be considered for the subject property the Respondent argued that the income approach to value can be particularly unreliable for industrial properties where owner occupiers outbid investors. In support of this argument the Respondent produced extracts from third party publications; - "The Appraisal of Real Estate" states that direct sales approach provides the best indication of value for owner occupied properties; "Avison Young Real Estate Alberta" indicates that owner/users outbid investors as they spend more money for like properties. The chart indicates that owner users pay a higher price per square foot than investors; "The Networks 2012 Market Overview" illustrated that owner/users purchased 60% of the industrial properties that sold in 2010, 2011 and 2012.

[20] The Respondent informed the Board that 6 of the 12 sales used by the Complainant in the ASR analysis could be flawed. There had been changes to those 6 properties subsequent to the sale which were reflected in the assessment but not in the sale price and this would affect the ASR as provided by the Complainant and make it less meaningful.

[21] In summation the Respondent contended that both the direct sales approach and the equity comparison support the assessment. With respect to the Complainant's income approach the Respondent contended it was flawed; in deriving a cap rate the Complainant had inconsistently used triple net rents or rents to which allowances for vacancy had already been applied. The net operating incomes calculated were thus suspect.

Complainant's Rebuttal

[22] The Complainant provided a rebuttal document contending the Respondent's third sale was not a good comparable as it was a superior quality building.

[23] The Complainant contended that the Respondent's argument that more properties were purchased by owner/users, though true numerically, did not represent the overall picture. In support of this the Complainant provided a 5 year synopsis of the

industrial market (C-2, page 26) relating to the owner user chart provided by the Respondent. The first chart shows that owner users purchased between 63% and 74% of the properties sold in any one year. However the average value of the properties transacted was heavily in favour of the investors (chart #3) and the investors also purchased more square feet (chart #4) and paid much higher prices per transaction (chart #5) than the owner/users. This fact also provides credence to two contentions: that investors are the principal purchasers of the larger properties and, investors purchase properties considering the income approach.

Respondent's Sur-Rebuttal

[24] The Respondent provided income information pertaining to the Complainant's sale at 12930 – 148 Street contending that the lease rates were higher than the rates estimated by the Complainant.

Decision

[25] The Board reduces the assessment from $9,237,000 to $8,158,500.

Reasons for the Decision

[26] The Respondent provided an equity argument to show the subject property had been assessed equitably. However this was not an issue brought forward by the Complainant and therefore the Board focused on other matters to reach a decision.

[27] The Board gave credence to a portfolio sale that included the subject property. The subject and two other properties sold for a unit rate of $94.00/ sq ft which projects a value of $8,158,500 when applied to the subject property. As April 13, 2012 is very close to valuation day no time adjustment was necessary. There was a lack of information regarding the details of the other properties in the portfolio, simply the transaction price and the square foot measurements of the properties. A fourth property had also transacted between vendor and buyer, but a specific value had been attributed to that property. Furthermore, the Respondent informed the Board that the (fourth property) sale had been validated and used in the model.

[28] As there appeared to be no decisive margin when both parties' sales analyses were examined, the Board also gave credence to the combined average of all the sales. This produced an average of $92.70/ sq ft which resulted in a value estimate of $8,046,000 when applied to the subject.

[29] The Board noted that the 2 most comparable sales in terms of age, site coverage and size were the sales at 4704 – 97 Street and 11761 – 167 Street. The two sales produced an average value of $94.15/ sq ft which when applied to the subject property produces a value of $8,171,500.

[30] The Board was persuaded that the income approach is a valid approach for larger properties but accepts the prerogative given to the Respondent to choose the assessment methodology.

[31] Having found three indicators that clustered around the $94 per sq ft mark, the Board decided that to be a fair estimate of the subject's value, and so reduced the assessment to $8,158,500.

Heard August 8, 2013.

Dated this 6th day of September, 2013, at the City of Edmonton, Alberta.

JP Noonan

John Noonan, Presiding Officer

Appearances:

Walid Melhem

for the Complainant

Marcia Barker

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.