Edmonton Composite Assessment Review Board

Citation: Dan Slaven, Carrington Charlesworth Ltd. v The City of Edmonton, 2013 ECARB 01089

Assessment Roll Number: 10292282
Municipal Address: 5515 7 AVENUE SW
Assessment Year: 2013
Assessment Type: Annual New

Between:

Dan Slaven, Carrington Charlesworth Ltd.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Robert Mowbrey, Presiding Officer
Jasbeer Singh, Board Member
Taras Luciw, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties indicated they had no bias with the composition of the Board. In addition, the Board members stated they had no bias with respect to this file.

Preliminary Matters

[2] The parties requested that file numbers 10292189 and 10292282 be heard together. The evidence package from both parties was identical. The lead file being 10292189 would be heard and all testimony, both oral and written, would carry forward to file number 10292282. The Board agreed with this request.

Background

[3] The subject property, being file number 10292189 is a 1.57 acre property of undeveloped land zoned RA7 (Low Rise Apartment Zone). The 2013 assessment if for $1,529,500.

[4] The second subject property, being file # 10292282 is a 2.95 acre property zoned as RA7 located at 5515 7th Avenue SW. The 2013 assessment is $2,643,500.

Issue(s)

[5] What is the market value of the subject property?

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 subject property assessment of $1,529,500 was inequitable and in excess of market value. In support of this position, the Complainant submitted a 22 page evidence package marked as Exhibit C-1.

[8] The Complainant presented an appraisal of the subject property that confirmed the value of the property at $1,334,500 or $850,000 per acre (Exhibit C-1 page 16).

[9] The appraiser had comparables that ranged from just under $700,000 per acre to over $1,150,000 per acre. All of the comparables were multi-family apartment sites with RA7 zoning and similar development potential (Exhibit C-1 page 15).

[10] During argument, the Complainant advised the Board that the Respondent's sales comparable #10 (723 172 Street SW) was assessed at $3,477,000 and has an adjusted selling price for $4,669,815 (Exhibit C-1 page R3).

[11] The Complainant requested the Board to reduce the 2013 assessment from $1,529,500 to $1,350,000 based on the appraisal for file # 10292189.

[12] In addition, the Complainant requested the Board to reduce the 2013 assessment based on the appraisal from $2,643,500 to $2,500,000.

Position of the Respondent

[13] In defending the current year's assessment, the Respondent submitted a 39 page evidence package marked as Exhibit R-1.

[14] The Respondent presented nine sales comparables to the Board. The Respondent utilized the same sales as the Complainant, but time adjusted the sales to the valuation date. The Respondent then eliminated sales with non-comparable locations, different zonings and special financing needs from the analysis and arrived at an average of $1,013,905 per acre, which is higher than the assessment unit price of the subject property (Exhibit R-1 page 10).

[15] In addition, the Respondent presented two equity comparables that were extremely close to the subject property and had the same RA7 zoning. The Respondent stated this shows the subject property was assessed in a fair and reasonable manner (Exhibit R-1 page 11).

[16] During argument and summary, the Respondent noted that the Complainant's appraisal did not apply any time adjustment to the sales comparables.

[17] Again, during argument and summary, the Respondent noted that sales comparable #10 had an adjusted selling price of $4,669,815, whereas the property had an assessment for $3,477,000.

[18] The Respondent advised the Board that sales comparable #7 (3403 19 Street) was the best comparable to the subject property. The sales comparables were approximately the same size, same zoning and the sale price per acre was $989,689 compared to $975,446 price per acre for the subject property (Exhibit R-1 page 10).

[19] The Respondent requested the Board to confirm the 2013 assessment of $1,529,500 on file #10292189.

[20] The Respondent requested the Board to confirm the 2013 assessment of $2,643,500 on file #10292282.

Decision

[21] The decision of the Board is to confirm the 2013 assessment of $1,529, 500 on file #10292189 and confirm the 2013 assessment of $2,643,500 on file #10292282.

Reasons for the Decision

[22] The Board was not persuaded by the Complainant's appraisal for the subject property. The sales comparables within the appraisal were not time adjusted to the valuation date. In addition, some of the comparables were not within the same quadrant as the subject property.

[23] The biggest obstacle for the Board's non-reliance on the appraisal is the fact that a number of pages were missing from the appraisal and thus damages the credibility of the total appraisal. The Board believes the appraisal should be presented in its entirety and thus the Board put little weight on the appraisal.

[24] The Board was persuaded by the Respondent's analysis of the sales comparables brought forth by the Complainant. The analysis showed that the subject property was assessed in a fair and reasonable manner.

[25] The Board notes that the Respondent's sales comparable #10 (723 172 Street SW) was assessed at $3,477,000 and has an adjusted selling price for $4,669,815 (Exhibit C-1 page R3). This indicates that market value of the property is substantially higher than the current assessment.

[26] The Board was persuaded by the Respondent's best sales comparable to the subject property. Sales comparable #7 was close in location, size and same zoning and the price per acre was somewhat higher than the assessed price per acre of the subject property.

[27] Jurisprudence has established the onus of showing the incorrectness of an assessment rests with the Complainant. The Board is satisfied that the Complainant did not provide sufficient and compelling evidence to enable the Board to form an opinion as to the incorrectness of the assessment.

Dissenting Opinion

[28] There was no dissenting opinion.

Heard commencing June 26, 2013.
Dated this 8th day of July, 2013, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

Dan Slaven, Carrington Charlesworth Ltd.
for the Complainant

Ning Zheng
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.