

Edmonton Composite Assessment Review Board

Citation: Salim Keshwani, Crest Creative Management Inc. v The City of Edmonton, 2013
ECARB 01177

Assessment Roll Number: 10042524
Municipal Address: 16008 Stony Plain Road NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

Salim Keshwani, Crest Creative Management Inc.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

John Noonan, Presiding Officer

Darryl Menzak, Board Member

Lillian Lundgren, 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] The Respondent asked that Complainant's rebuttal disclosure be dismissed as new evidence. The Presiding Officer advised that the Board would hear the evidence in chief from the parties and decide on the admissibility of the rebuttal evidence before its presentation. In the course of questions posed by the Complainant to the Respondent, a sale of a property nearby the subject was brought up, and the Respondent again objected as that sale had only been disclosed in rebuttal. The Presiding Officer ruled that evidence regarding this sale was indeed new evidence and the relevant pages regarding it were removed from the rebuttal document, Exhibit C3. Subsequently, the Presiding Officer accepted the balance of the document as appropriate rebuttal evidence.

Background

[3] The subject property is an 8 bay carwash plus an automatic "touchless" carwash bay. The main floor area of the building is 5,572 sq. ft. with 987 sq. ft of upper floor development, including 195 sq. ft. of mezzanine storage and an unfinished office area of 792 sq. ft. for a total building area of 6,559 sq. ft. The building is a steel panel structure built in 2006. The land area of the subject is 17,997 sq. ft. which equates to 31% site coverage based on the building footprint. The 2013 assessment was prepared by the cost approach, using market typical value for the land and calculations from the Marshall & Swift manual for the building and equipment.

Issues

- [4] From the Complaint form and evidence disclosure, the Board defined the issues as:
1. Is the subject equitably assessed?
 2. Does the assessment reflect the subject's steel panel construction when compared to superior, concrete block construction?
 3. Is the assessment fair in comparison to the sale price of another carwash?

Legislation

- [5] 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

[6] The Complainant took the position that the assessment of the subject property is too high compared to a concrete block building and that concrete block buildings have a greater lifespan. The Complainant compared the subject to a nearby Aamco property on Stony Plain Road and presented evidence that the comparable constructed with concrete blocks was assessed at \$150 per sq. ft while the subject is assessed at \$221.07 per sq. ft. The Aamco building is smaller than the subject, 4770 sq. ft. versus 5572 sq. ft. of main floor area, but the lot sizes are very similar, 17,517 sq. ft. and the subject's 17,997 sq. ft.

[7] The Complainant argued that the 740 sq. ft. mezzanine level office is not finished, having a bare concrete floor, and should be valued in line with the smaller 185 sq. ft. mezzanine storage space. The intent was to use the space as an office but the noise from the automatic carwash below makes it less than conducive for office use. The building permit to construct office space has lapsed.

[8] The Complainant introduced a number of assessment equity comparables, including King's carwash, which is assessed at \$127 per sq. ft. The lot size at King's is 24,114 sq. ft. and

its building size is 8314 sq. ft., both larger than the subject with a 17, 997 sq. ft. lot and 6,559 sq. ft. building or 5,572 sq. ft. considering just the main floor area. In questioning, the Complainant conceded this comparable is not located on or visible from a major thoroughfare, being on 49 Street. However, 50 Street had substantially more daily traffic than Stony Plain Road which sees 20,000 vehicles per day and is expected to decline to 8,000 per day in City projections.

[9] The Complainant compared the subject to a larger property, the Hughes carwash located on 178 St. which is assessed at \$123 per sq. ft. The Hughes property covers 98,726 sq. ft. and has 19,828 sq. ft. of development in four structures: an industrial building, an office building, the carwash and a storage warehouse.

[10] ~~Averaging these three comparables, Aameo, King's, and Hughes, produces an assessment per sq. ft. of \$133. Disregarding superior quality construction, that average of \$133 per sq. ft. indicates the subject assessment should not exceed \$872,000.~~

[11] The Complainant also brought forward the assessment and sale price of the Oasis carwash located at 129 Avenue and 62 Street. The assessment is approximately \$203 per sq. ft. and the sale price of \$1,650,000 equates to \$164 per sq. ft. The comparable was built in 2005, has 10 bays and both the building at 10,039 sq. ft. and the lot size of 33,241 sq. ft. are larger than the subject.

[12] With respect to the 3 assessment comparables presented by the Respondent, the Complainant considered the 10070 178 Street comparable to have better equipment. The comparable at 13404 142 Street was similar to the subject but the Respondent was unsure as to whether the comparable had a 'touchless' system. The comparable at 16815 Stony Plain Road has 10 bays with 2 bays for recreational vehicles and no automatic carwash system.

[13] The Complainant argued that the vacant land sales presented by the Respondent were not representative of vacant land specifically when sale #1 was sold in 2007 prior to a drop in land values. The Complainant had derived his requested assessment using the land value from the sale that the Board had disallowed as not being rebuttal but new evidence. An alternative was presented, the average of the other two City sales which yielded \$29.98 per sq. ft.

[14] The Complainant suggested that the wrong kind of equipment was assessed by the Respondent. The Complainant presented a quote for an equipment package replicating the equipment in the subject property (Exhibit C3 page 15). The cost of the equipment in the quote is lower than the assessment of the equipment in the subject. The Complainant brought forward specific examples such as vacuums, where the assessed value is higher than the actual costs. Each vacuum was said to be worth almost \$2900 apiece when in fact its cost was closer to \$850. As well, the cost of a dryer was \$9,495 while the assessor used a manual rate of \$34,100. The total cost of the equipment was \$100,483 (US) for equipment from US suppliers, plus \$120,750 Cdn. Included in the latter figure was a charge of about \$29,500 for installation labor and materials, including the US automatic (touchless) equipment. The total quote, exclusive of GST, is about \$221,000. In contrast, the Respondent has attributed a new replacement cost for equipment of almost \$407,000 and \$317,351 depreciated.

Complainant's Comparables:

Address	Age	Bldg (sq.ft.)	Lot Size (sq.ft.)	Assessment per sq. ft.	Bays	Other information
16008 Stony Plain Rd (subject)	2006	6,559 incl. mezzanine	17,997	\$221	8 + 1	
9280 49 St (Kings)	2006	8,314	24,114	\$127	8 + 1	Same equipment as subject
15831 Stony Plain Rd (Aamco)	1981	4,770 (concrete block)	17,517	\$151		
10308 178 St (Hughes)	1980	19,828	98,726	\$123		4 buildings
104 Mayfield Rd (neighbourhood ctr.)	2005	21,669	41,354	\$162		
129 Ave 62 St (Oasis)	2005	10,040	33,241	\$203	10	Sale of \$1,650,000

[15] The Complainant presented for the Board's consideration various scenarios (Exhibit C-4 page 5) using a lower land value, a building value and amended equipment value. The Complainant then concluded that a land assessment (\$539,640) based on the Respondent's comparables #1 and #2 combined with the building cost (\$325,412) and undepreciated equipment costs of (\$234,507) would equate to an assessment of \$1,099,599, the request by the Complainant.

[16] The rebuttal evidence provided by the Complainant, which was accepted by the Board, largely provided further information with respect to the comparables brought forward by the Complainant initially in the assessment complaint.

Position of the Respondent

[17] The Respondent argued that the 2013 assessments of all carwashes were prepared using the cost approach (Exhibit R-1 page 11). Prior to 2013 carwash assessments were prepared on the income approach but little income information was available and the approach was changed.

[18] The Respondent stated the building was assessed using the Marshall & Swift Valuation Guide which placed the subject in the average/steel carwash category and suggested that it could have been placed in the 'good' category. The average category is not heated and has only end and bay walls.

[19] The Respondent also used the Marshall & Swift Valuation Guide to value the carwash equipment. (Exhibit R-1 page 10) The depreciated replacement cost new of the equipment is \$317,351.

[20] In support of the land valuation of \$744,670 or \$41.38 per sq. ft., the Respondent presented three vacant land sales (see table below) selected for their corner locations on commercial corridors. The sales averaged \$38.78 per sq. ft. and supported the land assessment.

Respondent's Land Sales

Address	Lot Size (sq.ft.)	Sale Price	Price per sq.ft.	Sale Date
13615-66 St.	24,542	\$1,100,000	\$56.37	April 17, 2007
12141-97 St.	20,514	\$675,000	\$32.90	January 21, 2011
13208-66 St.	13,298	\$360,000	\$27.07	February 3, 2009

[21] The Respondent took the position that the Complainant's comparables were drawn from a wide mix of properties; in contrast, the Respondent presented three equity comparables, all carwash properties in the west end (see table below). These comparables produced an average assessment of \$232.50 per sq. ft., compared to the subject assessed at \$221.08 per sq. ft.

Respondent's Comparables

Address	Age	Bld (sq.ft.)	Lot Size (sq.ft.)	Assessment	Assmt per sq.ft.	Bays / Equip.
10070-178 St	1989	8,200	28,022	\$1,735,000	\$211.65	
13404-142 St	2004	7,750	73,650	\$1,774,500	\$228.98	
16815-Stony Plain Rd.	1983	6,480	38,222	\$1,664,500	\$256.88	10 and 2 RV bays

Decision

[22] The assessment of the subject property is confirmed at \$1,450,000.

Reasons for the Decision

[23] The Board found insufficient evidence with respect to the Complainant's position that steel buildings similar to the subject should be assessed less than a concrete block building. No evidence was presented indicating that the lifespan is greater for a concrete block building.

[24] With respect to the Complainant's position that the upper level above the automatic carwash is only used for storage and should be removed from the assessment was not accepted by the Board as the decision to use the space as such was made by the Complainant and no evidence was presented indicating there was no value to the space.

[25] The Board carefully considered the Complainant's carwash comparable known as King's carwash which was larger than the subject and not located on a major thoroughfare. The Board noted that the assessment of \$127 per sq. ft. was much lower than the subject's assessment at \$221.07 per sq. ft. but did not consider King's carwash to be comparable because of the size and location difference. However, the Board found that the assessments of carwashes brought

forward by the Respondent were comparable to the assessment of the subject and suggested a higher per sq. ft. rate that of King's carwash.

[26] The Hughes carwash was not considered by the Board to be comparable to the subject because it was a much larger site with four buildings and there was a gas bar on the site as well. The Oasis carwash and land upon which it is situated is larger than the subject with similar equipment. The Board found this property to be similar to the subject and assessed at \$203 per sq. ft but found that while there was a difference in the assessment, it did not warrant a change to the assessment of the subject.

[27] The Complainant presented two comparables, Aamco transmission across the street from the subject and a shopping center on Mayfield Road. The Board placed little weight on these properties as they were not carwashes and therefore, not comparable to the subject.

[28] The Complainant's evidence with respect to the carwash equipment was not accepted by the Board. The equipment quote presented by the Complainant did not include complete costs associated with installation or labor and other typical costs. The Respondent used the Marshall & Swift Valuation Guide for all carwash equipment in the City. The Board finds that using an accepted cost guide provides a more equitable approach to valuing carwash equipment and making a change to the equipment assessment would create an inequity. The Board did however note that with respect to certain equipment, the quoted cost was much less than the rate used by the assessor.

[29] The Board considered the sale of the Oasis carwash but determined that insufficient evidence was presented with respect to the sale price. There was a suggestion that this was a sale between related parties and that the actual selling price may have been higher. Without further evidence the Board could not place much weight on the sale.

[30] The Respondent provided three sales of vacant land in northeast Edmonton indicating an average sale price of \$38.78 per sq. ft. which were not considered to comparable taking into consideration their location and the sale dates. One sale was on the corner of 137 avenue and 66 street with a high vehicle count and was considered by the Board to be not comparable to the subject. The two other sales were located in north Edmonton and from the evidence presented could not determine if they were comparable given that they were in different market areas from the subject.

[31] Given that the Board found both arguments to be less than persuasive, the Board decided that no change to the land assessment would be appropriate.

Dissenting Opinion

[32] The Presiding Officer dissented.

[33] The component parts of the assessment are as follows:

Building		\$319,577
Mezzanine	792 sq. ft	\$37,121

Mezz. storage 192 sq. ft	\$3,027
Equipment	\$317,351
Asphalt	\$29,108
Land	\$744,670
Total	\$1,450,000

[34] Just over half the assessed value is attributed to land value at \$41.38 per sq. ft. That may well be an accurate estimate of land value for the subject, but the three land sales advanced by the Respondent do not support it. Two of the sales are \$3 per sq. ft. greater and lesser than \$30. The third sale, from April 2007 or over 5 years prior to valuation date occurred at \$56.37 per sq. ft, some 88% more than the average of the other two. Also of interest was the wide disparity of price between two properties, the highest and lowest, within four blocks of one another on 66 Street: 13208 sold for \$27.07 per sq. ft. and 13615 sold for \$56.37. The high sale likely reflects its location at the corner of 137 Avenue, and as the Board understands it, across the avenue from a shopping centre. The other sale, at \$32.90 per sq. ft, was located at 12141 97 Street. In the opinion of the dissenter, one would be hard pressed to consider the subject location superior to the 97 Street property which had a traffic volume of 49,300 vehicles per day in 2008, according to the Network. Although the Board did not have the benefit of official traffic counts, the Complainant advised that the Stony Plain Road property sees a vehicle count of 20,000 per day. Given the limited information available, the Complainant's requested land value based on the two lowest sales, an average of \$29.98 per sq. ft., appears reasonable. That would decrease the land value from \$744,670 to \$539,550.

[35] The Complainant is a professional engineer, and that designation carries ethical and legal responsibilities in the performance of one's professional duties. Mr. Keshwani was a credible and knowledgeable witness. He led the Board through a list of equipment installed at his carwash, including some higher end equipment that hadn't appeared in the City's valuation. The quote from the equipment supplier, undepreciated and including installation, came to \$221,230 or about \$96,000 less than the Marshall & Swift valuation. The values put forward by the Complainant for land and equipment would justify a decrease to the assessment of some \$311,000.

[36] At first glance, the equity comparables presented by the Respondent appeared to validate the assessment: on a per sq. ft basis, the subject is assessed at \$221.08 and three comparable carwashes were in a range of \$211.65 to \$256.88. Value measured on a per sq. ft basis is a common and widely-used metric in the real estate industry, used by appraisers and assessors alike. However, it can be over-worked, as the present situation shows. To say the subject is valued at \$221 per sq. ft is somewhat a distortion because it "thins out" the value of the property, land and improvements, over 6559 sq. ft. The building footprint is 5572 sq. ft., the difference comprised of 192 sq. ft of mezzanine storage and 792 sq. ft. of what was to be office space. Those two upper level spaces carry an assessed value of a little more than \$40,000. So, a better representation of value per sq. ft would be to remove \$40,000 from the \$1,450,000 assessment and then divide by the footprint size. In this fashion, one sees the subject valued at \$253 per sq. ft.

[37] Included in the per sq. ft calculation is land value. The subject has about 18,000 sq. ft of land versus 28,000 sq. ft., 73,650 sq. ft. and 38,200 sq. ft. for the comparables. The subject has site coverage of 31% and the comparables 29% (8200/28,021), 10.5% (7750/73,650) and 17% (6480/38,222). The property with the lowest site coverage is assessed at \$228.98 per sq. ft. If it had the subject's site coverage, its lot would be 25,000 sq. ft. In other words, this property is valued about \$24 per sq. ft. less than the subject, but has an "extra" 48,650 sq. ft. of land, well over an acre.

Address	Bldg Size (sq.ft.)	Lot Size (sq.ft.)	Assmt per sq.ft.	"Extra" Land*
10070 178 St.	8200	28,022	\$211.65	1,570
13404 142 St.	7750	73,650	\$228.98	48,650
16815 St.Pl. Rd.	6480	38,222	\$256.88	17,319
Subject	6559	17997	\$221.08	

Subject Footprint	5572	17,997	\$253	
Subject Assmt. Request	5572	17,997	\$197.34	

*"Extra" Land – calculated as if the comparable had the subject's 31% site coverage.

[38] The comparable at 16815 Stony Plain Road is closest to the subject by location. Although it is an older building, it is close to the very busy commercial corridor along 170 Street, and across the avenue (Stony Plain Road) from Mayfield Common. Similar to the value discrepancy or range noted earlier on 66 Street, one might expect the property close to 170 Street to have a higher land value than the subject. However, even if one used the Complainant's requested land value of \$30 per sq. ft., the 17,319 sq. ft "extra land" would command a value of \$519,570. Deducted from that property's assessed value of \$1,664,500 would yield \$1,144,930 or within 5% of the subject's requested assessment of just under \$1,100,000.

[39] The sale of the Oasis carwash at 12931 62 Street, near Fort Road, was also interesting. This sale for \$1,650,000 was one month prior to valuation date. Oasis is one year older than the subject and larger, with a 10,040 sq. ft building on a lot of 33,982 sq. ft., almost double the subject. Oasis was assessed at \$2,035,000 or \$202.69 per sq. ft. Unfortunately, the parties had some conflicting information regarding this sale: the Respondent advised the Board that in the sale verification process, the City learned that the purchaser paid an additional \$300,000 for the carwash equipment, although no supporting evidence was introduced; the Complainant was very familiar with the circumstances of the sale, as the buyer was his brother-in-law, and the price was \$1,650,000. The Board decided that it would be best to consider the conflicting information as hearsay evidence, and not place undue reliance on this sale. This point, in microcosm, was a good example of the difficulties encountered by the panel in trying to achieve consensus.

[40] The Board unanimously agreed that the Complainant had presented sufficient evidence to call into question the assessment amount. From that point, the evidentiary burden shifts to the Respondent to defend the assessment. In the judgment of the dissenter, on the balance of probabilities, the Complainant's requested assessment of some \$1.1 million was equitable.

Heard commencing July 22, 2013.

Dated this 19th day of August, 2013, at the City of Edmonton, Alberta.



John Noonan, Presiding Officer

Appearances:

Salim Keshwani, Crest Creative Management Inc
for the Complainant

Tim Dueck, 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.