Edmonton Composite Assessment Review Board

Citation: Frost & Associates Realty Services Inc. v The City of Edmonton, 2013 ECARB 01184

Assessment Roll Number:	1112952
Municipal Address:	12815 170 Street NW
Assessment Year:	2013
Assessment Type:	Annual New

Between:

Frost & Associates Realty Services Inc.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Petra Hagemann, Presiding Officer
Mary Sheldon, Board Member
Judy Shewcuk, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties before the Board indicated no objection to the Board's composition. In addition, the Board Members indicated no bias with respect to this file.

Background

[2] The subject property is a multi-tenant industrial warehouse located at 12815 - 170 Street zoned IM. The property is comprised of four buildings. Building #1 built in 1973 has a total main floor area of 7,000 square feet (sq ft), with 722 sq ft of finished office and 570 sq ft of finished mezzanine space. Building #2 built in 1974 has a main floor area of 13,999 sq ft, of which 288 sq ft is finished office space. The total assessed building area is 21,000 sq ft. The remaining two buildings are much smaller and are assessed on the cost approach. The subject is situated on a 220,660 sq ft partially serviced lot representing a site coverage ratio of 9.5%.

[3] The subject is assessed on the direct sales comparison approach at $4,165,500.

Issue

[4] Is the assessment of the subject correct?

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 presented Douglas Slavik as their expert witness, and submitted his curriculum vitae (Exhibit C-1) for informative purposes. Mr. Slavik had prepared an appraisal to support a reduction in the 2013 assessment of the subject from $4,165,500 to $3,300,000.

[7] In response to the Respondent's allegation that Mr. Slavik may be biased, since he is both the author of the appraisal and a partner in Frost & Associates, the firm representing the Complainant, the Board was assured that there was neither a conflict of interest nor bias.

[8] The appraisal (Exhibit C-2) was prepared specifically for the purpose of appealing the assessment. It focused on both the income and sales approaches to value to arrive at market value as of July 1, 2012.

[9] The Complainant advised that although the subject was not contaminated, it had various chemicals stored on site. It backs onto a waste management facility and landfill with a direct view of a large mountain of garbage. The presence of the Waste Management Centre with its foul odour and flocks of seagulls is referred to as having external obsolescence. All of these factors severely affect its market value.

[10] The Complainant informed the Board that although the subject had been acquired by the present owner in February 2009 for a value of $4,250,000, it was not a typical sale. According to the owner, who was present at the hearing, the agreement had been negotiated at the peak of the market in early 2008, and was originally structured as a joint venture for redevelopment as the

Waste Management Centre was slated to cease operations. The decision to close the site was later reversed by the City and the Waste Management Centre is operational to this date. The sale of the subject is, therefore, not an accurate indicator of its current market value.

[11] The Complainant noted that since the property is a leased multi-tenant industrial building, the income approach to value using typical rather than actual rental rates was the preferred method of establishing market value. This was then supported with the direct sales comparison approach.

[12] The Complainant explained that using the income approach, they derived the typical rent of $8.75/sq ft for office space, 5% vacancy rate, and 7.75% capitalization rate to determine the subject's estimated value of $3,225,000 (Exhibit C-2, pages 14-22).

[13] To determine the typical office lease rate of $8.75/sq ft, actual leases in eleven properties were analyzed and compared to third party reports from Avison Young and Colliers International for the second quarter of 2012. A rate of $9.38/sq ft was applied to The Bay, a department store which had been renovated. The rental rates were determined on a net basis and a 2.5% allowance for structural repairs and maintenance was used. A typical rental income of $81,675 for the excess land was included in the income calculation (Exhibit C-2, page 15).

[14] Colliers International also applied a 4.42% vacancy rate to the second quarter of 2012 for Northwest Edmonton. For this appraisal, a further 5% stabilized vacancy and collection loss allowance was applied (Exhibit C-2, pages 18-19).

[15] The Complainant further explained that they arrived at the 8.55% capitalization rate by analyzing the subject along with four sales comparables (exhibit C-2, pages 20-22). This rate was changed to 7.75% to reflect the age of the subject and the effect of the proximity to the waste management facility.

[16] The derived market value of the subject using the income approach was calculated at $3,224,955, and rounded to $3,225,000.

[17] The Complainant noted that when valuing properties based on the sales comparison approach, the values are compared on a price per square foot basis. The site coverage ratio plays an important role in this value because a property with low site coverage such as the subject has additional available land for parking, loading expansion, etc.. Therefore the value of the excess land must be accounted for.

[18] In the appraisal, five comparable sales located south of Yellowhead Trail between 142 Street and 170 Street were compared to the subject. The sale dates ranged from April 2011 to October 2012. Their sizes ranged from 12,000 sq ft to 20,440 sq ft compared to the subject building area of 21,000 sq ft. The site coverage ratios ranged from 10% to 24% and the time adjusted sale prices from $107.98/sq ft to $179.62/sq ft compared to the subject's at $198.36/sq ft.

[19] Adjustments were made for the differences in building size, site coverage ratios, location, age, available services, condition and amenities. After additional consideration for the proximity of the Waste Management Centre, an overall unit price of $162.50/sq ft was determined providing a value of $3,410,000 using the sales comparison approach to market value.

[20] By blending the resulting values from the income and direct sales comparison approach, the Complainant requested that the Board reduce the 2013 assessment of the subject to $3,300,000.

Position of the Respondent

[21] The Respondent submitted a brief (Exhibit R-1) in defense of the subject property's assessment. The brief referenced the mass appraisal process and factors affecting value such as main floor area, site coverage, effective age, condition, location, main and upper finished areas, as well as other adjustments applied on a site specific basis to recognize various influences on value (Exhibit R-1, pages 8-10). The brief also included excerpts from *The Appraisal of Real Estate, Second Canadian Edition,* referring to the three approaches to valuing properties and specifics on deriving capitalization rates from comparable sales (Exhibit R-1, pages 25-30).

[22] The Respondent advised the Board that in Edmonton, owners (especially owner users) have outbid investors in the industrial sales market by a 2:1 ratio. Also, since significant sales data is available, the sales comparison approach has been used to evaluate and assess industrial buildings.

[23] Four comparable sales were presented by the Respondent to support the assessment of the subject (Exhibit R-1, page 42). The first two sales were the subject property dated December 2007 and February 2009, with values of $4,859,040 and $ 4,433,600 respectively. Although the remaining two sales were similar to the subject in some attributes, they still needed adjustments for site coverage, servicing, building count and total building area. The time adjusted sales prices for total building area ranged from $205.54/sq ft to $230.41/sq ft, supporting the subject's assessment at $198.36/sq ft.

[24] When the Complainant asked whether the subject's assessment had been adjusted for the negative influence of the nearby waste management site, the Respondent answered "no".

[25] In summary, the Respondent reminded the Board that no evidence had been provided by the Complainant as to how much the proximity of the waste management site affected the market value of the subject. Furthermore, the Respondent alluded that an appraisal prepared solely for the purpose of an assessment complaint makes it suspect.

[26] The Respondent requested that the Board confirm the assessment at $4,165,500.

Decision

[27] The decision of the Board is to reduce the assessment of the subject property from $4,165,500 to $3,412,500.

Reasons for the Decision

[28] The Board discussed the proximity of the waste management centre to the subject. Although no specific evidence was provided to indicate that this attribute contributed to reducing

the property's value, it is reasonable to assume it would have a significant negative effect on the market value of the subject.

[29] The Board considered the two sales of the subject, in particular the most recent one in Feb 2009. It was purchased for $4,433,600 with the expectation that the waste management site would be closed and the property, in time, would be restored to a more appealing state. The time adjusted sales price of $205.54/sq ft for the total building area appears to support the assessment of the subject at $198.36/sq ft. To date, the waste management centre is still in operation. Therefore, the Board agrees with the Complainant that this sale is not typical. Furthermore, since no site specific adjustment had been made to the assessment to account for the negative influences of the subject's proximity to the waste management facility, the Board finds that the sale of the subject is, in fact, evidence that the assessment is excessive.

[30] The Board reviewed the income approach as shown by the Complainant. Since the subject is an income producing multi-tenant building, it appears to be a reasonable approach to value. However, although the Complainant submitted a detailed report on the calculation of the income approach components, the Board was not convinced that the lease rate study represented typical lease rates that the City would apply for industrial buildings. For the same reason, the Board also questioned the vacancy, collection loss and capitalization rates applied in the study. The Board therefore places less weight on the Complainant's income approach evidence.

[31] The Board reviewed the 5 sales comparables provided by the Respondent: the first two sales of the subject were discussed in paragraph 30; sale #3 was removed from the evidence; sale #4 located at 5915 - 99 Street, which sold in March 2009, differs from the subject in location and age, is fully serviced, and has a superior site which is fully paved; sale #5 located at 17515 - 106A Avenue, which sold in June 2009, was a multi parcel sale which also needed several adjustments. Despite these differences in attributes, the Respondent provided no adjustments to determine how the time adjusted sales prices might be affected. The Board therefore places less weight on the Respondent's sales comparables.

[32] The Board placed the most weight on the Complainant's five comparable sales which were more current, ranging in date of sale from September 2010 to June 2012. These also needed some adjustments for location, site coverage ratio and building size to make them comparable to the subject. The Board is satisfied with the Complainant's explanation (Exhibit C-2, pages 30-31) as to how each of the comparable sales were adjusted, arriving at an average time adjusted sales price of $162.50/sq ft.

[33] The Board thus reduces the assessment of the subject by applying a unit price of $162.50/sq ft to the 21,000 sq ft size of the subject to arrive at a value of $3,412,500.

Heard commencing July 31st, 2013.
Dated this 19th day of August, 2013, at the City of Edmonton, Alberta.

Petra Hagemann, Presiding Officer

Appearances:

Brad Daviss (Frost & Associates)
Douglas Slavik (Frost & Associates)

Trina Gendall (Spruce Land Properties)
Mark Giampa (observer)
for the Complainant

Joel Schmaus
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.