Edmonton Composite Assessment Review Board

Citation: AEC International v The City of Edmonton, 2013 ECARB 01380

Assessment Roll Number: 1041037
Municipal Address: 9604 31 Avenue NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

AEC International

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
George Zaharia, Presiding Officer
Howard Worrell, 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.

Background

[3] The subject property is an industrial warehouse located at 9604 31 Avenue NW in the Parsons Industrial neighbourhood. The building comprises 18,549 square feet of total space that includes 2,704 square feet of main floor office space. The building was constructed in 1998, and is situated on a lot 93,523 square feet (2.15 acres) in size with site coverage of 20%.

[4] The subject property was valued on the direct sales approach resulting in a 2013 assessment of $3,550,500 ($191.41 per square foot).

Issues

[5] 1. Is the 2013 assessment of the subject property too high based on sales of similar properties?

2. Is the 2013 assessment of the subject property too high based on assessments of similar properties?

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] In support of his position that the 2013 assessment of the subject property is excessive, the Complainant presented an 11-page brief (Exhibit C-1). The Complainant argued that based on an analysis of: 1) sales of similar properties, and 2) assessments of similar properties, the assessment of the subject property was too high.

[8] The Complainant presented five sales/equity comparable properties in support of his position that the assessment of the subject exceeded its market value, and was not equitably assessed.

a) The comparables sold between July 7, 2009 and May 1, 2012 for time-adjusted sales prices ranging from $133 to $257 per square foot, resulting in a median of $163 per square foot. The building sizes of the comparables ranged from 15,000 to 16,200 square feet, compared to the size of the subject at 18,549 square feet. The site coverage of the comparables ranged from 14% to 22% compared to the subject's 20% site coverage.

b) The assessments of the comparables ranged from $128 to $224 per square foot, resulting in a median of $169 per square foot. The assessment of the subject property is $191 per square foot. (Exhibit C-1, page 7)

[9] Based on an analysis of the five sales/equity comparables, with most weight placed on the sales, the Complainant requested that the assessment of the subject be reduced to $163 per square foot (Exhibit C-1, page 3).

[10] The Complainant submitted a rebuttal, providing the assessments of the Respondent's six sales comparables, since the Respondent had not provided this information. The assessments of the six sales comparables ranged from $116.96 to $204.98 per square foot, with a resulting median of $178.95 per square foot. The assessment of the subject at $191.41 per square foot was only exceeded by the highest assessment of the six comparables which was $204.98 per square foot, and exceeded the $178.95 per square foot median of the six comparables (Exhibit C-2, page

2). The Complainant had reordered the Respondent's comparables in ascending size, stating that there was an inverse correlation between the size and the assessment of a property due to economies of scale.

[11] In argument, the Complainant stated that foreclosure sales should not necessarily be disregarded, and was of the opinion that there was no problem to include a foreclosure sale in an analysis. He also argued that based on the $178.95 median assessment of the Respondent's six sales, the assessment of the subject property should be no more than $178 per square foot.

[12] In conclusion, the Complainant requested that the 2013 assessment of the subject property be reduced from $3,550,500 to $3,023,500, based on a value of $163 per square foot.

Position of the Respondent

[13] The Respondent stated that the 2013 assessment of the subject was fair and equitable. To support his position, the Respondent presented a 64-page assessment brief (Exhibit R-1) that included law and legislation.

[14] The Respondent submitted information addressing mass appraisal which is a methodology for valuing individual properties using typical values for groups of comparable properties. Factors found to affect value in the warehouse inventory in decreasing importance are: total main floor area, site coverage, effective age, building condition, location, main floor finished area, and upper floor finished area (Exhibit R-1, pages 4 to 11).

[15] The Respondent submitted sales of six comparables that occurred between February 27, 2009 and November 3, 2011. The properties sold for time-adjusted sales prices ranging from $186.67 to $261.10 per square foot for main floor space, with the subject's $191.41 per square foot assessment falling at the lower end of this range. The comparables were reasonably similar to the subject as follows: five of the six comparables had one building as does the subject; the age of the subject built in 1998 fell within the range of the comparables that were as old as 1968 (one of the two buildings on that property, the other being 1998) and as new as 2007; the 20% site coverage of the subject fell within the range of the comparables from 19% to 29%; and the subject's main floor space at 18,549 square feet fell within the range of the comparables from 10,050 to 27,800 square feet (Exhibit R-1, page 25).

[16] The Respondent provided a review of the Complainant's five sales comparables. The building size of sale no. 1 was corrected by reducing its main floor size from 16,200 to 12,460 square feet that resulted in a reduced site coverage from 14% to 8%, and an increased time-adjusted sale price from $205 to $266 per square foot. Sale no. 3 was a foreclosure and therefore not used by the Respondent in its inventory. The building size of sale no. 4 was corrected by reducing its main floor size from 15,915 to 10,500 square feet that resulted in an increased time-adjusted sale price from $133 to $202 per square foot. Sale no. 5 was deemed not a strictly real estate transaction since part of the business and equipment were included in the sale (Exhibit R-1, page 25).

[17] The Complainant had included assessment to sale ratios (ASR) in his evidentiary package for the five sales/equity comparables that he had provided. In cross-examination, the Respondent inquired about the Complainant's sale comparable no. 4 that showed an ASR of 1.27, and whether there had been any changes to the property between the sale date of August 2009 and the valuation date of July 2012. The Complainant answered that he did not know, and agreed that there was nothing in evidence to provide clarification.

[18] To address the issue of physical changes to an improvement between the time of sale and a subsequent assessment, the Respondent provided a surrebuttal that included excerpts from an IAAO document addressing "Standard on Verification and Adjustments of Sales". The IAAO wrote: "*Sales data files should reflect the physical characteristics of the property when sold. For ratio studies, if significant physical changes have occurred to the property between the date of sale and the appraisal date, the sale should not be included. The sale may still be valid for mass appraisal modeling by matching the sale price to the characteristics that existed on the date of sale*" (Exhibit R-2, page 2).

[19] In conclusion, the Respondent requested that the Board confirm the 2013 assessment of the subject property at $3,550,500.

Decision

[20] The decision of the Board is to confirm the 2013 assessment of the subject property at $3,550,500.

Reasons for the Decision

[21] In support of his sales/equity comparables, the Complainant submitted aerial photographs of the properties, rather than detailed reports usually provided by third party sources. These third party reports include zoning, site size and site coverage ratio, building size, sale terms, description of the improvement(s), and a commentary of matters that may affect the value of the property. The aerial photographs lacked detailed information, were not instructive, and therefore of minimal value to the Board.

[22] The Board placed less weight on the evidence and argument put forward by the Complainant for the following reasons:

a) Sales comparables nos. 1 and 4 did not have accurate sizes attributed to them. This was determined by reviewing the third party reports submitted by the Respondent in his evidentiary package. In particular, sale no. 4 included a Quonset building that was attached to the main building. The Complainant had included the size of this improvement in the total size of the improvement as if it were of equal value. The Board did not accept this position.

b) Sales comparable no. 5 was not a clean sale in that it included the acquiring of part of the business along with approximately $500,000 of heavy equipment.

c) Sales comparable no. 3 was a court ordered sale.

[23] By applying the corrected building sizes to the improvements of the Complainant's sale comparables nos. 1 and 4, and discarding sale comparables nos. 3 and 5, the average assessment per square foot of the Complainant's remaining three sales was $192 per square foot, and the average time-adjusted sale price was $203 per square foot, both values supporting the $191.41 per square foot assessment of the subject property.

[24] The Board disagreed with the Complainant's position that there was no problem with foreclosure sales and therefore should be included in an analysis. It would not be known what the circumstance of the foreclosure sale was, and whether the property had transacted at market value or had been discounted in order to meet the directives of the court. It would be very

difficult to accept that a foreclosure sale would meet the definition of "market value" as defined in the *Municipal Government Act*, which states at 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.*

[25] The Board placed greater weight on the evidence provided by the Respondent for the following reasons:

a) The average time-adjusted sale price of the Respondent's six sales comparables for main floor space only was $261.43 per square foot, well in excess of the subject's $191.41 assessment per square foot. Even if economies of scale were considered because four of the six comparables are considerably smaller than the subject, one other comparable is smaller than the subject, while only one is larger than the subject, the assessment of the subject would still be supported.

b) Although the Respondent did not provide equity comparables or the assessments of the six sales comparables, the Complainant had supplied this information in Exhibit C-2. The assessments per square foot of the sale comparables' main floor space only averaged $216.43 per square foot, providing strong support for the $191.41 per square foot assessment of the subject. Again, even if economies of scale were considered because four of the six comparables are considerably smaller than the subject, one other comparable is smaller than the subject, while only one is larger than the subject, the assessment of the subject would still be supported.

[26] The Board concurred with the Respondent's position that if an ASR was significantly higher than "1", it would be necessary to know whether there had been significant changes to the property, causing an increase in the assessment, to reflect its current condition, as outlined in the Respondent's surrebuttal. The Board was not provided any evidence that there had been a change, or conversely, that there had been no change to the property in question.

[27] The Board was persuaded that the 2013 assessment of the subject property at $3,550,500 was fair and equitable.

Dissenting Opinion

[28] There was no dissenting opinion.

Heard September 23, 2013.

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

George Zaharia, Presiding Officer

Appearances:

John Smiley
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.