Edmonton Composite Assessment Review Board

Citation: AEC International v The City of Edmonton, 2013 ECARB 01382

Assessment Roll Number:	9995436
Municipal Address:	12835 170 Street 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] The Respondent advised that the copy of the disclosure that was to be submitted to the Assessment Review Board was late, although the disclosure that was to be submitted to the Complainant was on time. The Complainant did not find this oversight as a problem.

[3] The Board ruled that since the Complainant was not disadvantaged, and that the late disclosure had no negative impact on the Board, pursuant to MRAC s. 10(3), the time for disclosure was abridged and the merit hearing proceeded.

Background

[4] The subject property is an industrial warehouse located at 12835 170 Street NW in the Kinokamau Plains Area. There are three improvements on site. Building one comprises 14,052 square feet of total space with 12,052 square feet of main floor space inclusive of 4,454 office space, and 2,000 square feet of finished mezzanine space. Building one has an effective year built of 1983. Building two, which is a cost building, comprises 12,390 square feet of total space and has an effective year built of 1993. Building three, which is a cost building, comprises 9,800 square feet of total space and has an effective year built of 2009. The three buildings are situated on a lot 238,575 square feet (5.5 acres) in size with site coverage of 5%.

[5] The subject property was valued on the direct sales approach resulting in a 2013 assessment of $3,768,000 ($268.14 per square foot).

Issues

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

2. Is the condition of the subject property correctly shown as "average" or should it be changed to "fair"?

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] In support of his position that the 2013 assessment of the subject property is excessive, the Complainant presented a 29-page brief (Exhibit C-1). The Complainant argued that due to the unusual and challenging shape of the lot, and height restrictions in the main building, the condition of the property should be considered as "fair" rather than the "average" condition attributed to it by the Respondent. As well, based on an analysis of assessments of similar properties, the assessment of the subject property was too high.

[9] In support of his position that the subject should be classified as "fair", the Complainant submitted a total of twelve pictures; one aerial picture, three exterior pictures of the three buildings, and eight interior pictures from the three buildings (Exhibit C-1, pages 8 to 19).

[10] The Complainant presented six sales/equity comparable properties in support of his position that the subject was not equitably assessed.

a) The comparables sold between February 11, 2010 and November 4, 2011 for time-adjusted sales prices ranging from $101 to $277 per square foot, resulting in a median of $143 per square foot. The building sizes of the comparables ranged from 11,615 to 18,733 square feet, compared to the size of the subject at 14,000 square feet. The lot sizes of the comparables ranged from 1.32 to 2.65 acres compared to the subject's 5.48 acres.

The site coverage of the comparables ranged from 11% to 18% compared to the subject's 14% site coverage.

b) The assessments of the comparables ranged from $90 to $198 per square foot, resulting in a median of $171 per square foot. The assessment of the subject property is $269 per square foot (Exhibit C-1, page 20).

c) The Complainant acknowledged that an adjustment would have to be made to the assessment of the subject to account for the subject's additional land compared to the land size of the comparables.

[11] Based on an analysis of the six sales/equity comparables, the Complainant requested that the assessment of the subject be reduced to $101 per square foot (Exhibit C-1, page 4).

[12] To adjust for the extra land of the subject due to its additional land compared to the comparables, the Complaint calculated a value of the extra land to be $1,400,775 based on an assessment of another parcel of land at the rate of $423,195 per acre (Exhibit C-1, page 4).

[13] To account for the two "outbuildings", the Complainant applied a nominal value of $10 per square foot to the 22,190 square feet of space for a total of $221,190 (Exhibit C-1, page 4).

[14] In response to the Respondent's question, the Complainant admitted that he had not measured the ceiling heights, and that no study had been undertaken to substantiate that a lower ceiling height would have a detrimental effect upon market value if the property were to be traded.

[15] In argument, the Complainant was displeased that the Respondent had shown the site coverage of the subject property as 14% on the "ANNUAL REALTY ASSESSMENT DETAILS 2013", while the detailed report included in the Respondent's disclosure showed the site coverage as 5%.

[16] In conclusion, the Complainant revised his original requested reduction to the 2013 assessment. Originally, he had requested the 2013 assessment of $3,768,000 be reduced to $3,036,000, based on a value of $101 per square foot, plus an additional $1,400,775 to account for the extra land, and $221,190 for the cost buildings. To account for the value of the land covered by the two cost buildings, the Complainant calculated an additional $9.72 per square foot for a total additional amount of $215,689. Consequently, the Complainant's revised request was to reduce the 2013 assessment of the subject property from $3,768,000 to $3,251,500.

Position of the Respondent

[17] The Respondent stated that the 2013 assessment of the subject was fair and equitable. To support his position, the Respondent presented a 50-page assessment brief (Exhibit R-1) that included the City's law and legislation brief.

[18] 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 5 to 12).

[19] In response to the Complainant's position that the subject's condition would be more appropriately designated as "fair" rather than the "average" condition attributed to it, the Respondent highlighted a statement from the mass appraisal section of the disclosure that defined "fair" as follows: *discernable deterioration; deferred maintenance requiring rehabilitation and/or replacement; reduced utility with signs of structural decay.* "(Exhibit R-1, page 10).

[20] The Respondent submitted an exterior picture of the main building, claiming that the building looked sound and in very average condition" (Exhibit R-1, page 10). He also went on to argue that, as a result of its size, there was nothing wrong with maneuverability on the lot.

[21] The Respondent submitted sales of four comparables that occurred between October 3, 2008 and May 18, 2012. The properties sold for time-adjusted sales prices ranging from $260.49 to $425.20 per square foot for total floor space, with the subject's $268.14 per square foot assessment falling within this range. The similarities of the comparables to the subject varied: the 1983 effective year built of the subject was close in age to two of the comparables while the other two comparables were newer; the 5% site coverage of the subject was the same as two of the comparables and 3% lower than the other two comparables; and the subject's total floor space at 14,052 square feet was greater than the comparables that ranged from 6,236 to 12,460 square feet. The Respondent advised that there would have to be downward and upward adjustments to the various categories to account for the variations (Exhibit R-1, page 28).

[22] To address the issue of physical changes to an improvement between the time of sale and a subsequent assessment, the Respondent included the following statement: "*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-1, page 36). This could explain why an assessment is significantly higher than the time-adjusted sale price of the property.

[23] In response to the Assessment to Sales Ratios (ASR) as shown by the Complainant on his comparables chart, the Respondent acknowledged that MRAT s. 10 directs that all industrial properties have an overall median ASR of 0.95 to 1.05. However, what is before the Board at this hearing is a small number of ASRs that relate to a single property that is under complaint as opposed to all the ASRs of the total industrial property inventory as required by legislation. The Respondent maintains that it has met provincial quality standards, confirming that the overall median ASR for this stratum of property was between 0.95 and 1.05 (Exhibit R-1, page 37).

[24] In response to the Complainant's angst over the site coverage, the Respondent stated that the Complainant could have made a request for information as permitted by MGA s.299 in order to verify the details of the assessment, and what the official site coverage was.

[25] In summation, the Respondent questioned whether or not the Complainant had met onus – proving the incorrectness in the assessment. The Respondent argued that the subject's lot was a giant lot of over five acres, and that there was no need for any adjustment due to the shape of the lot. As well, the Respondent advised that the Complainant had submitted aerial photographs of the properties in support of his sales/equity comparables, rather than detailed reports usually provided by third party sources. Consequently, the Respondent questioned where the Complainant had gotten his 12,056 square foot building size for comparable no. 1 that he showed on his chart of comparables while the detailed report submitted by the Respondent showed the

building size of the property as 7,809 square feet. As well, the Respondent pointed out that the Complainant's comparable no. 2 was valued on the cost approach rather than the direct sales approach used in valuing the subject property. Lastly, the Respondent pointed out that the Complainant was requesting a change in the condition of the total building while only 30% of the building space was affected by the lower ceiling height.

[26] In conclusion, the Respondent requested that the Board confirm the 2013 assessment of the subject property at $3,768,000.

Decision

[27] The decision of the Board is to confirm the 2013 assessment of the subject property at $3,768,000.

Reasons for the Decision

[28] 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.

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

a) The Board could not verify, and therefore rely upon, the time-adjusted sale prices and assessments per square foot provided by the Complainant since detailed information about the property was not provided. In the case of the Complainant's comparable no. 1, by providing a detailed report, the Respondent was able to demonstrate that the $90 per square foot assessment shown by the Complainant was actually $139. As well, the Complainant's comparable no. 2 was valued on the cost approach rather than the direct sales approach used in valuing the subject property.

b) The Complainant was not able to provide substantiated evidence that the lower ceiling heights in the main building had an adverse effect on the market value of the property if it were to be traded.

c) The Board was persuaded that the condition of the subject was not reflective of the definition of "fair" as enunciated by the Respondent in the mass appraisal section of his disclosure.

d) The Board concurred with the Respondent's position that if the Complainant was confused as to the proper site coverage for the subject property, that this confusion could have been answered by an MGA s. 299 request for information.

e) The Board placed little weight on the Complainant's attempt to arrive at values for the excess land, the land under the cost buildings, and the cost buildings.

[30] The Board placed greater weight on the evidence and argument provided by the Respondent, mainly because the Respondent was able to verify his sales comparison chart

information with third party reports. The Board noted that there may have been a mistake in the building size of comparable no. 1 as recorded by the Respondent. On the chart, the Respondent shows a building size of 10,220 square feet, a time-adjusted sale price of $425.20 per square foot, and site coverage of 5%. On the other hand, the third party report shows the building size as 12,460 square feet, a time-adjusted sale price of $341.09 per square foot, and site coverage of 6%. Regardless of this possible error, the time-adjusted sale prices of the Respondent's comparables support the assessment of the subject property.

[31] The Board concurred with the Respondent's position that if an ASR was outside of the plus/minus 5% quality standard as mandated by MRAT, 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. The Board was not provided any evidence that there had been a change, or conversely, that there had been no change to the properties in question. As well, the Board accepted the Respondent's explanation that the overall median ASR for this stratum of property was between 0.95 and 1.05, and therefore met provincial audit.

[32] The Board was persuaded that the 2013 assessment of the subject property at $3,768,000 was fair and equitable.

Dissenting Opinion

[33] There was no dissenting opinion.

Heard September 25, 2013.

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

George Zaharia, Presiding Officer

Appearances:

John Smiley
for the Complainant

Marty Carpentier
Tanya Smith
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.