

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01395

Assessment Roll Number: 8635674

Municipal Address: 5405 99 S treet NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Patricia Mowbrey, Presiding Officer

Jack Jones, Board Member

Jasbeer Singh, Board Member

Procedural Matters

- [1] Upon questioning by the Presiding Officer, 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 requested the Board to disallow the 2010 appraisal of the subject property submitted by the Complainant because the Complainant did not have the appraiser's written permission to use the appraisal to support the request for a reduction in the subject property's 2013 assessment.
- [3] The Complainant argued that the appraisal document had been provided by the owner of the property, who had paid for the appraisal and owned the report. The appraisal had been done for the purpose of establishing market value of the subject property and the Board may choose to put whatever weight deemed appropriate on this appraisal report.
- [4] The Decision of the Board is to allow the 2010 appraisal document to remain in the Complainant's evidence package. The Reason was the Complainant stated emphatically that the owner paid for the appraisal and therefore owned it and had given the appraisal to the Complainant to present to the Board. The Board accepted it as evidence and stated it would place the appropriate weight on it.

Background

- [5] The subject is a one building, multi-tenant office/warehouse complex located at 5405 – 99 Street NW in Coronet Industrial neighbourhood in southeast Edmonton. Built in 1976, the property consists of a 49,975 sq ft main building that has 21,818 sq ft of main floor finished office space and 9,688 sq ft of upper finished space on mezzanine level.
- [6] The Complainant has appealed the 2013 assessment of \$5,160,500, or \$103/ sq ft, on the grounds that the assessment is substantially higher than market value.

Issue(s)

- [7] Is the subject property assessed in excess of market value?

Legislation

- [8] *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

- [9] The position of the Complainant is that the subject property assessment of \$5,160,500 is in excess of market value. In support of the position, the Complainant presented an 11 page assessment brief (Exhibit C-1) and a 160 page document (Exhibit C-2) that included a 2010 appraisal of the subject property, in addition to oral testimony and argument.
- [10] The Complainant provided a chart of four sales comparables that were built between 1977 and 1998, building sizes varied between 44,994 sq ft and 162,860 sq ft and the time adjusted sale prices varied between \$90.19 and \$102.70/ sq ft (C-1, page 1). The subject property is shown below the table of the Complainant’s four sales comparables.

	Address	Year Built	Total Area	Sale Date	TASP \$ / sq ft
1	4101 - 84 Ave	1998	162,860	Jul-08	90.47
2	4900 - 93 Ave	1977	64,149	Nov-11	90.19
3	4115 - 101 Str	1978	44,994	Feb-09	94.61
4	4704 - 97 Str	1979	58,837	Apr-10	102.70
Sub	5405 - 99 Str	1976	49,975		103

[11] The Complainant requested the Board to consider sales comparables #2, #3, and #4, as they had the most characteristic similarities with the subject (C-1, page 2). However, at the hearing, the Complainant put more reliance on sales comparables #3, along with the Respondent's sales comparables #1 and #2.

[12] The Complainant stated that:

- a. The Respondent's sale comparable #1 with a time adjusted sale price of \$84/ sq ft is a good indication of value for the subject.
- b. The Respondent's comparable #2, although smaller in size supports the Complainant's requested \$90/ sq ft assessment.
- c. Only comparables from the southeast industrial quadrant should be considered and therefore the Respondent's comparables #3 and #4, from the NW quadrant, should be disregarded.
- d. The occupancy situation in respect of comparable #5 had changed after the sale in January 2011 (R-1, page 21) and as such it is not a good comparable.
- e. The Respondent's sales comparable #6 is a retail complex and should not be compared with office/warehouse properties like the subject.

[13] The Complainant argued that the 2010 appraisal of the subject property could be relied upon to support the Complainant's request for a reduction in the 2013 assessment.

[14] The Complainant argued that the Respondent's sale #1 provided a very good basis for comparison and requested the Board to reduce the assessment to \$90/ sq ft or \$4,500,000 (C-1, page 2).

Position of the Respondent

[15] The Respondent presented a 69 page document (Exhibit R-1) that included an assessment brief and a Law & Legislation brief.

[16] The Respondent's assessment brief included a chart of six sales comparables. The sales comparables (R-1, page15) and the subject property with 2013 assessment of \$103/ sq ft are as follows.

	Address	Loc. Grp.	Year Built	Site Cover %	Main Total Flr	Main Floor Office	Upper Finish	Total Area	Cond.	Sale Date	TASP \$/ sq ft
1	3304-Parsons R	12	1979	39	31,335	7,533	7,533	38,868	Avg	Jun-10	84
2	3704 - 93 Str	18	1980	42	26,541	4,220	4,964	31,506	Avg	Jan-08	90
3	11565 - 149 Str	2	1971	43	35,380	10,116	0	35,380	Avg	Apr-11	99
4	12930 - 148 Str	17	1972	34	44,101	5,880	0	44,101	Avg	Sep-10	106
5	8210 McIntyre	18	1974	28	41,991	13,165	0	41,991	Avg	Jan-11	119
6	4004 - 99 Str	12	1974	45	38,859	2,583	0	38,859	Avg	Jan-09	123
Sub	5405 - 99 Str	12	1976	37	40,287	21,818	9,688	49,975	Avg	Asmt	103

[17] The Respondent stated that the most significant factors affecting value, in the order of importance were:

1. Total main floor area (per building)
2. Site Coverage
3. Effective age (per building)
4. Condition (per building)
5. Location
6. Main floor finished area
7. Upper finished area (per building)

[18] The Respondent noted that the Complainant's sales comparables needed adjustment in multiple dimensions and further argued that:

- a. Sale comparables #2 and #4 are multi-building properties whereas the subject is a one building property.
- b. Sale comparable #2 is in 'fair' condition and is not comparable with the subject property that is in 'average' condition (R-1, page 16).
- c. Sale comparable #1 has a very large building that is four times the size of the subject building on a lot that is nearly three times the lot size of the subject and therefore, is not a good comparable.
- d. Sales comparable #3, #1 and #4 are from a less desirable location and need upward adjustment for comparison with the subject property (R-1, page 16).

[19] The Respondent argued that the appraisal was based on the income approach and should not be considered as that was not the methodology used by the City for assessment purposes.

[20] The Respondent stated that:

- a. For all practical purposes, there was no difference in zoning IB or IM and the market as well did not differentiate between the two.

- b. Addressing the Complainant's concern that some properties had been purchased for the buyers' use, the Respondent informed the Board that almost two-thirds of such properties are acquired by owner/operators. This is evident from the market statistics (R-1, page 39).
- c. The Complainant's comparables are unsuitable as they are either too large, are in less desirable locations, are multi-building properties or are in fair condition.
- d. The subject property, on the other hand, is in a very desirable location (Loc. Grp 12) and has exposure to a major traffic artery (99 Street).

[21] The Respondent requested the Board to confirm the 2013 assessment of \$5,160,500.

Decision

[22] The Board confirms the 2013 assessment at \$5,160,500.

Reasons for the Decision

[23] The Board reviewed the 2010 appraisal document of the subject property and noted that it was prepared for the owner of the property to estimate the current market value. The terms of reference stated the report was prepared only for the owner and only for the specific use stated. The Board also noted that the report considered an "as is" valuation of the subject property on June 1, 2010. For these reasons, the Board placed little weight on the appraisal report.

[24] The Board considered the Complainant's sales comparables and noted the following:

- a. Sales comparable #1 is dissimilar as the building is over 3 times the size of the subject and the site is nearly 3 times the size of the subject.
- b. Sales comparable #2 is a 4 building complex and was vacant at the time of sale. The larger 53,281 sq ft building was noted as in fair condition and is considered not comparable to the subject.
- c. Sales comparables #3 is close to the subject in location but inferior in location grouping, is older by 7 years, similar in size, site coverage and condition, but has one third the finished main floor office space of the subject. Considering additional value for the subject main floor finished space and the age difference, the Board finds the time adjusted sale price of \$95/sq ft indicates support for the subject assessment.
- d. Sales comparable #4 is a two building property, close to the subject's location but inferior in location grouping, has similar site coverage, age and condition, but is larger by one third. Considering the economies of scale for a large building, the Board finds the time adjusted sale price of \$101/sq ft indicates support for the subject assessment.

[25] The Board reviewed the six sales comparables presented by the Respondent and noted the following:

- a. Sale comparable #1 is close in location and is in the same location grouping as the subject, is similar in total building area, age and site coverage. However, it has one third of the finished main floor space of the subject and is located on a smaller lot size. Considering additional value for lot size, finished main floor space and the below market lease rates, the Board considers the time adjusted sale price of \$84/sq ft as below market.
- b. Sale comparable #2 is an older sale which occurred in January 2008 and is in a less desirable location grouping. It is similar in site coverage to the subject but has smaller building and lot sizes. It also has less than one quarter of the finished main floor office space of the subject. Considering additional value for lot size and main floor finished space, the Board finds the comparable at the low end of the range for comparability to the subject.
- c. Sale comparables #3 and 4 are located in the NW quadrant of the city and are in a less desirable location group than the subject. They are similar to the subject in age, condition and size. However, they have one half and one quarter (respectively) of the finished main floor office space as the subject. Their time adjusted sales prices are \$99/sq ft and \$106/sq ft respectively. Considering additional value for location and main floor finished space, the Board is of the opinion that the comparables support the subject assessment or \$103/sq ft.

[26] Sale comparable # 6 is in the same location group to the subject property, is of similar age, site coverage and building size but has approximately 10% of the main floor finished space as the subject. The use of the property is retail. Therefore the Board finds that although the comparable time adjusted sale price of \$123/sq ft supports the subject assessment of \$103/sq ft, it is an unsuitable comparable.

[27] The Board finds that the Complainant's evidence, testimony and argument did not provide sufficient and compelling reasons for the Board to reduce the assessment. Jurisprudence has established that the burden of proof of demonstrating an assessment is incorrect, rests with the Complainant.

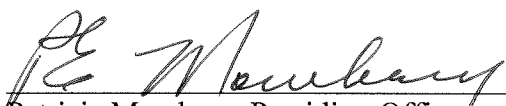
[28] The Board finds the subject 2013 assessment of \$5,160,500 is correct, fair and equitable.

Dissenting Opinion

[29] There was no dissenting opinion.

Heard September 26, 2013.

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


Patricia Mowbrey, Presiding Officer

Appearances:

Peter Smith
for the Complainant

Jason Baldwin, City of Edmonton
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.