

Edmonton Composite Assessment Review Board

Citation: AEC International v The City of Edmonton, 2013 ECARB 01706

Assessment Roll Number: 4071130

Municipal Address: 10430 178 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

Larry Loven, Presiding Officer

Darryl Menzak, 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] At the outset of the hearing, the Complainant advised the Board that the Respondent's disclosure had not been received within the stipulated time frame. The Respondent acknowledged the failure on its part to have the disclosure package delivered to the Complainant and did not cite any exceptional circumstances that resulted in this lapse. The Complainant objected to the inclusion of the Respondent's evidentiary package or any new evidence at the hearing.

[3] Pursuant to the provisions contained in *Matters Relating to Assessment Complaints Regulation (MRAC) s 9.2*, the Board disallowed any evidence from the Respondent to be disclosed at the hearing.

Background

[4] The subject is a single-tenant medium warehouse property comprised of five buildings built between 1979 and 1985, and is located at 10430 – 178 Street NW in Morin Industrial neighborhood. The subject lot measures 13.405 acres and improvements on the site have a 10%

site coverage. The details according to the City of Edmonton Assessment Detail Report (C-1, pp. 6-7), are:

Assessment Detail Report (Roll # 4071130)						
10430 - 178 Street, Edmonton						
Bldg #	Effective Year Built	Main Flr (Ft ²)	Finished Office (Ft ²)	Mezz Office (Ft ²)	Gross Bldg (Ft ²) (C-1, pg. 6)	Cost Building
1	1979	52,116	12,879	6,217	64,995	No
2	1980	4,971	0	0	4,971	No
3	1992	2,403	0	0	2,403	No
4	1981	280	280	0	280	Yes
5	1985	998	998	0	998	Yes
Total (Ft ²)		60,768	14,157	6,217	73,647	

Issue(s)

[5] Is the 2013 assessment of \$11,126,500 for the subject property correct?

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.

[7] The *Matters Relating to Assessment Complaints Regulation, Alta Reg 310/2009*, reads:

s 8(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 42 days before the hearing date,

- (i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and
 - (ii) provide to the respondent and the composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence;
- (b) the respondent must, at least 14 days before the hearing date,
 - (i) disclose to the complainant and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and
 - (ii) provide to the complainant and the composite assessment review board an estimate of the amount of time necessary to present the respondent's evidence;
- (c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

s 9(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

s 10(3) A time specified in section 8(2)(a), (b) or (c) for disclosing evidence or other documents may be abridged with the written consent of the persons entitled to the evidence or other documents.

Position of the Complainant

[8] The Complainant filed this complaint on the basis that the subject property assessment of \$11,126,500 for 2013 was in excess of market value. In support of this position, the Complainant presented a 29 page assessment brief, Exhibit C-1 ("C-1").

[9] To support the position that the assessment was not fair, the Complainant provided a table of four sales comparables (C-1, p. 20), and provided an analysis summarized as follows:

- a. The four sales comparables were shown to have median site coverage of 48%.
- b. When this site coverage was applied to the subject's building size of 69,966 square feet, it was shown that 145,763 square feet, or 3.346 acres is the resulting or corresponding equivalent lot size. In other words, if the subject property's improvements were located on a 3.346 acre lot, the site coverage of 48% would make it a perfect match, to the four sales comparables, in this regard.
- c. The Complainant separated an area of 3.346 acre that was required to provide a 48% site coverage from the total area of the subject lot, and treated the remaining

area of 10.059 acres (=13.405 – 3.346) as *excess land* for the purposes of valuation.

- d. To establish the land value for the *excess land*, the Complainant provided sales information in respect of a similarly sized unimproved industrial site in the same market area as the subject property (C-1, pp. 26-28). Based on this land sales comparable, the Complainant calculated the value of the *excess land* for the subject property to be \$5,399,900 (C-1, p. 29).
- e. The median Time Adjusted Sale Price (TASP) per square foot for the four sales comparables was given as \$73 (C-1, p. 20). Based on this rate, the assessment value for the improvements on the subject property was given, by the Complainant, to be \$5,107,518 (or 69,966 sq.ft x \$73/sq.ft) (C-1, p. 29).
- f. After adding a nominal value of \$34,000 (at \$10/sq.ft) for the cost buildings, the Complainant indicated that the fair market value of the subject property on the valuation date should be \$10,541,400 (C-1, p. 29).

[10] The Complainant further argued that because of the locations of the buildings on the subject property (C-1, p. 11), it would likely be difficult to separate a 10.059 acre parcel of excess land for subdivision and sale or possible future development; therefore, this area of land would have a lesser value than a comparable sized plot of land that could be developed to suit the business needs more efficiently.

[11] In the written submission to the Board, the Complainant stated that “... *The City has additionally assessed outbuildings which, in some cases, are wrongly identified as “office” or do not appear to exist at all.*”, and “... *and the smallest, Building 4, does not appear to exist.*” (C-1, p. 3).

[12] The Complainant stated that Building #3, measuring 2,403 square feet, (C-1, p. 6, 15) was an unheated shed, and perhaps had a dirt floor. As such, this building was inferior to other larger improvements on the property. However, during questioning by the Respondent, the Complainant was unable to confirm, this building did not have concrete floor.

[13] In summation, the Complainant stated: a nine year age difference for such warehouse properties did not influence the market valuation nor did the upper floor office space add any appreciable value to the property; and, comparison with the best available sales comparables confirmed that the subject property had been assessed excessively. The Complainant concluded by requesting the Board reduce the 2013 assessment of the subject property from \$11,126,500 to \$10,541,500 (C-1 p. 3).

Position of the Respondent

[14] The Respondent’s documentary evidence, had not been received by the Complainant within the stipulated time frame and was disallowed by the Board. The Respondent was not allowed to present any new evidence at the hearing. However, during cross examination of the Complainant’s evidence and argument, the Respondent highlighted the following:

- a. The Complainant had relied on a table of four sales comparables (C-1, p. 20) for which there was no supporting documentation.

- b. The Complainant identified the sources to be *Commercial Edge*, a third-party industry source, and City of Edmonton websites. However, no supporting documentation was provided. Thus, there were no means for the Board to verify the sales comparables information presented.
- c. The Complainant was not able to confirm if the third-party information in respect of the sales comparables had been independently verified.
- d. Details of finished office space on the main or the upper floors were not included in the Complainant's information package.
- e. The Respondent questioned the Complainant's statement that the second floor office space (not shown) had negligible value, and countered that second floor finished space was very valuable, as it provided more useable space without encumbering the land, that is provided more office space with the same Floor Area Ratio ("FAR").
- f. The Respondent pointed out that the site coverage in respect of sales comparable #1 had been wrongly shown to be 49%, the correct coverage should be 58% (C-1, p. 20).
- g. The Complainant was unable to provide any information as to the sale dates for the four sales comparables or whether or not any additions or changes had been made to the sales comparables (C-1, p. 20).
- h. The Complainant was not aware if any industrial adjustments had been applied to the sales comparable properties (C-1, p. 20).
- i. The Complainant was unable to provide any information pertaining to the 2013 assessment value or any easements impacting the vacant land sale that was used to determine the value of excess land.

[15] In summation, the Respondent stated that the sales comparables presented by the Complainant were not comparable to the subject because:

- a. Property with site coverage of 10% could not be easily compared with another property with 50% site coverage.
- b. The subject property, with multiple buildings on site could not be compared with single building properties, and the Complainant had failed to provide the necessary information to the Board.
- c. Factors like finished areas on the main and upper floors and condition of the buildings can have significant influence on per square foot value of the properties; and this information was not before the Board.
- d. Without the sales verification information, it was not possible to establish if the sales were non-arms length sales or full or partial interest sales; or if any additions or improvements had been made subsequent to the sale date.

[16] The Respondent requested the Board to confirm the 2013 assessment at \$11,126,500.

Decision

[17] The decision of the Board is to confirm the 2013 assessment at \$11,126,500.

Reasons for the Decision

[18] The Board accepts the Complainant's statement that it is not always possible to find sales comparables that are identical to the subject property and certain degrees of adjustments are necessary to establish correlation or comparability. However, in order achieve an understanding of the degree of comparability, all relevant and verifiable details with supporting documentation should be provided. In this case, the Board finds the lack of any verifiable information placed serious limitations on the Board's ability to determine if the subject property's assessment was incorrect.

[19] The Board accepts: the Respondent's argument that it is necessary to establish correlation and comparability in more factors than just the building size, year of construction, the site coverage and the time adjusted sales price; and, the necessary information to be able to do so was not placed before the Board.

[20] The Board notes that the \$82 per square foot value for the subject property , presented by the Complainant (C-1, p. 20), was determined by:

- a. Subtracting the value of the excess land from the subject property's 2013 assessment amount, then dividing the remainder by the building size.
- b. The value of the excess land was based on the sale price of undeveloped parcel of land in the same market area.
- c. The building size used by the Complainant to arrive at valuation of \$82 per square foot was 69,966 square feet (C-1, p.20); whereas, the size shown on the City's assessment details for buildings #1, #2 and #3 was 72,369 square feet (C-1, pp. 6-7).
 - i. The Board understands that the Complainant's building size numbers excluded building #3, but the Board was not provided with information to confirm the Complainant's exclusion of this building from the assessment size totals.
 - ii. The Complainant relied on a building area of 69,966 square feet to determine the amount of the excess land; and, if the building area was incorrect, as may be; then the amount and the value of the *excess land*, as well as the value per square foot would vary accordingly.

[21] In consideration of the above variances and uncertainties, the Board is unable to place much reliance on the Complainant's conclusions leading to the requested assessment rate of \$82 per square foot, the very subject of the Complainant's appeal.

[22] In the absence of sufficient supporting documentation, the Board is unable to establish the correctness of the sales comparables' information, the validity of these sales or the comparability of these sales to the subject property.

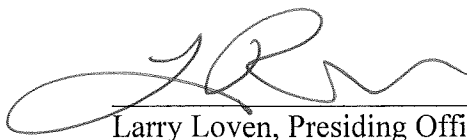
[23] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. The Board is satisfied that the Complainant did not provide sufficient and compelling evidence for the Board to form an opinion as to the incorrectness of the assessment. Accordingly, the Board confirms the 2013 assessment at \$11,126,500 for the subject property.

Dissenting Opinion

[24] There was no dissenting opinion.

Heard commencing October 16, 2013.

Dated this 15th day of November, 2013, at the City of Edmonton, Alberta.


Larry Loven, 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.