Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01731

Assessment Roll Number: 9547985
Municipal Address: 9015 46 STREET NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Harold Williams, Presiding Officer
James Wall, Board Member
Randy Townsend, Board Member

Procedural Matters

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

Preliminary Issues

[2] There were no preliminary issues.

Background

[3] The subject property, is a three building industrial complex located in Lambton industrial in the City's Study Area (SA) 18, in the Southeast quadrant of the City. The combined gross building area of the three improvements is 19,265 square feet (2,768, 12,273 and 4,224 square feet) and the effective year built is 1991, 1997 and 2007 (buildings #1, #2 and #3 respectively). The first two buildings are of good design and quality and have substantial office areas, while the third building (4,224 square feet) is a storage building and is inferior to the other buildings in type and design (Exhibit R1, page 18).The two superior buildings are assessed by the Direct Sales approach and the storage building by depreciated cost ($103,876). The subject property is located at 9015 - 46 Street and NW. The site has an area of 2.31 acres and the site coverage ratio is 19%. The subject property's 2013 assessment is $4,137,500.

Issue

[4] Is the 2013 assessment of $4,137,500 fair and equitable when considering the sales of comparable property?

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

[6] (c) the assessments of similar property or businesses in the same municipality.

[7] The ***Matters Relating to Assessment and Taxation Regulation***, Alta Reg 220/2004, reads:

> s 2 An assessment of property based on market value
>
> (a) must be prepared using mass appraisal,
>
> (b) must be an estimate of the value of the fee simple estate in the property, and
>
> (c) must reflect typical market conditions for properties similar to that property.
>
> s 3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

Position of the Complainant

[8] The Complainant provided the Board with a 43 page submission (Exhibit C-1) in support of their position.

[9] The Complainant stated that the subject property's 2013 assessment was in excess of its market value based on an analysis of sales of similar industrial properties.

[10] The Complainant confirmed that their method of valuing the subject property was to combine the area of each of the three improvements into one large area, and then apply a square

foot rate. The Complainant explained that they disagreed with the City's method of valuing the buildings on a multi-building site, on an individual basis.

[11] The Complainant stated that the subject property consists of two tenant office/warehouse buildings containing a total area of 15,041 square feet. In addition, there is a 4,224 square foot storage building on the site which is assessed based on its depreciated replacement cost. The total building area, including the storage building, is 19,265 square feet . Based on this area, the 2013 assessment is $214.77 per square foot. The 2013 assessment on record is $275.08 per square foot (two main buildings plus a depreciated cost of $103,876 for the third building)

[12] The Complainant's evidence included copies of a previous Edmonton Assessment Review Board (ECARB 2012-001376) decision on the subject property. This decision (Exhibit C-1, pages 37 - 43) was a result of a complaint filed regarding the 2012 assessment of the subject property. The decision reduced the 2012 assessment of the subject property from $3,793,500 to $3,229,500 or $162.50 per square foot, based on the combined area of the three buildings.

[13] The Complainant provided the Board with "twelve" sales comparables (Exhibit C-1, pages 9 - 36) with a Time Adjusted Sale Price (TASP) range of $96.48 to $139.73 per square foot of total gross floor area. The 2013 assessments for these properties ranged from a low of $106.75 per square foot to a high of $174.32 per square foot. The Complainant's sales comparables were constructed between 1972 and 2006. The subject improvements were constructed between 1991 and 2007. The site coverage ratios range from 16% to 52%, the subject property's site coverage is 19%.

[14] The Complainant provided the Board with a commentary on each sale. After an analysis of the sales comparables, the Complainant placed the greatest weight on comparables #1, #4, #5, #7, #8 and #9.

(a) #1- 11610 - 178 Street - improved with one single story industrial building with a total floor area of 26,200 square feet. Constructed in 1997. Sold June 2009 at a Time Adjusted Sale Price (TASP) of $96.48 per square foot; site coverage of 26%, 2013 assessment was $143.31 per square foot.

(b) #4 - 15404 – 121 A Avenue - improved with two single story industrial buildings with a combined floor area of 50,797 square feet. Constructed in 2006. Sold July 2010 at a TASP of $103.04 per square foot; site coverage of 31%, 2013 assessment was $142.94 per square foot.

(c) #5 – 7603 - McIntyre Road - improved with one single story industrial building with a floor area of 40,000 square feet. Constructed in 2001. Sold December 2010 at a TASP of $120.75 per square foot; site coverage of 25%, 2013 assessment of $156.24 per square foot.

(d) #7 – 803/19 - 77 Avenue - improved with two industrial buildings with a combined floor area of 24,485 square feet. Constructed in 1982/1994. Sold March 2011 at a TASP of $104.46 per square foot; site coverage of 29%, 2013 assessment was $159.85 per square foot.

(e) #8 – 9515 - 51 Avenue - improved with one single story industrial building with a floor area of 29,492 square feet. Constructed in 1972. Sold May 2011 at a TASP of

$124.50 per square foot; site coverage of 16%, 2013 assessment of $174.32 per square foot.

(f) #9 - 4704 - 97 Street - improved with two industrial buildings with a combined floor area of 58,837 square feet. Constructed in 1979. Sold August 2011 at a TASP of $102.70 per square foot; site coverage of 44%, 2013 assessment was $113.34 per square foot.

[15] The Complainant's evidence included a copy of the Industrial Monthly Time Adjustment Factors (Exhibit C-1, page 36) used by the City in time adjusting sale prices of the comparables where required.

[16] Based on an analysis and comparison of the comparables, the Complainant requested the Board reduce the 2013 assessment of the subject property to $2,889,500 or $150 per square foot.

[17] In answer to questions from the Respondent, the Complainant agreed that:

(a) Three of the Complainant's twelve comparables were located in the Northwest quadrant of the City, whereas the subject is located in the Southeast quadrant.

(b) All of the Complainant's sale comparables, with the exception of #8, would require upward adjustments to reflect their higher site coverage (24.6% to 52%) compared to the subject property's 19%.

(c) Complainant's comparable sales #1, #5 and #11 have some areas rented at rates below market.

(d) Complainant's sale #11 represents a multi-property sale where one of the properties was not located in Edmonton.

(e) Four of the Complainant's "twelve" comparables represent properties which are substantially older (1972, 1974 and 1979 versus 1991, 1997 and 2007) than the subject property.

(f) The gross building areas of 8 of the buildings on the Complainant's sales comparables, are at least twice as large as is the combined area of the two main buildings on the subject property.

Position of the Respondent

[18] The Respondent provided the Board with a 58 page submission (Exhibit R-1) which contained information on Mass Appraisal, maps showing groupings of industrial property in three of the industrial Study areas (SA) of the City, policy on "Assumed Long-Term Leases" and information on "Assessment to Sales Ratios "(ASR). In addition, the Respondent provided charts of direct sales comparables and equity comparables and a Law and Legislation brief.

[19] The information on Mass Appraisal included the normal three approaches to value and highlighted "Factors Affecting Value". In order of importance these factors were, area of building (including methodology in assessing multi-building accounts), site coverage, effective age, condition of building, location, main floor finished areas and upper finished areas. The

Respondent suggested these were the factors (in this order) which affect the assessed value of the subject property.

[20] The Respondent explained to the Board that the assessment of the subject property was based on separate values by direct sales comparison applied to the two main buildings, plus the depreciated cost of the 4,224 square foot storage building.

[21] The Respondent provided the Board with a chart of four sales comparables (Exhibit R-1, page 25). These comparables suggest TASP's of $345.18, $290.63, $300.43 and $270.89 per square foot of main floor area respectively. The sales comparables ranged in effective year built from 1957 to 2006 (the two main buildings assessed through the direct sales comparison approach, were built in 1991 and 1997). The comparables sold between May 2010 and June 2012. The comparables were relatively small in size, 6,750, 6,882, 7,500 and 8,718 square feet respectively. The site coverages ranged from 7% to 25%, compared to the subject's site coverage based on the two main buildings of 15% .

(a) Sale #1 – 4174 - 95 Street improved with a single story industrial building with a gross building area of 6,750 square feet. Constructed in 1997. Sold in June 2012 at a TASP of $345.18 per square foot; site coverage of 7%.

(b) Sale #2 – 9765 - 63 Avenue - improved with a single story industrial building with a total area of 6,882 square feet. Constructed in 1957. Sold April 2012 at a TASP of $290.63 per square foot; site coverage of 16%.

(c) Sale #3 – 8505 -Argyll Road - improved with a single story industrial building with a gross area of 7,500 square feet. Constructed in 2001. Sold in April 2011 for a TASP of $300.43 per square foot; site coverage of 18%.

(d) Sale #4 – 17904 - 118 Avenue - improved with a single story industrial building with a gross area of 8,718 square feet. Constructed in 2006. Sold in May 2010 for a TASP of $270.89 per square foot.

[22] The Respondent stressed to the Board that to achieve overall comparability to the subject property, their sales #1 - #3 inclusive would require downward adjustments. The TASP's of these three sales comparables were all higher than the 2013 assessment of the subject property at $275.08 per square foot.

[23] The Respondent provided the Board with five equity comparables (Exhibit C-1, page 30), all located in the same study area as the subject property. These equity comparables were all in average condition, as is the subject and they were constructed in 2005, 1993, 2006, 1998 and 2001 respectively. Building sizes ranged from 8,668 square feet to 16,709 square feet. Site coverages ranged from 8% to 14% and the 2013 assessments ranged from $274.86 per square foot to $295.28 per square foot of overall improvement area.

[24] The Respondent stressed that all buildings on the equity comparables compared favorably to the subject buildings in size and all had relatively low site coverage. The Respondent argued that this demonstrated that the subject property is assessed equitably with similar properties.

[25] The Respondent critiqued the Complainants sales comparables, suggesting that comparable #1 represented a duress sale, comparable #4 was non-arms length and comparable #8 represented a sale of a property originally optioned in October 2010.

[26] In questioning from the Complainant, the Respondent agreed that they had used the main areas of the two main buildings, plus the depreciated cost of the storage building in establishing the assessment. The Respondent also agreed their sale comparable #4 represented one side of a duplex building. In addition, the Respondent agreed that the buildings on their sales comparables were approximately half the building size of the combined area of the subject.

[27] The Respondent reminded Board that the reduction in the 2012 assessment was by a different Board, based on different information and that it was not binding on the current Board.

[28] The Respondent pointed out to the Board that the Burden of Proof (Exhibit R1, pages 51 and 52) lies with the Complainant.

[29] The Respondent requested that the Board confirm the 2013 assessment of the subject property at $4,137,500.

Decision

[30] The decision of the Board is to confirm the 2013 assessment of the subject property of $4,137,500.

Reasons for the Decision

[31] Firstly, the Board has considered the methodology employed by each party to establish values of multi-building sites such as the subject. In this regard the Board prefers the Respondent's method, whereby each building is valued separately as this more accurately reflects each buildings value contribution to the overall property. In addition, the Board agrees with the Respondent's recognition of two of the buildings as being of a different type, design and superior to the building known as"the storage building ". The Respondent's depreciated cost valuation of this building at $103,876 seems reasonable.

[32] The Board reviewed all evidence and argument put forward by both parties. In considering the Complainant's sales, the Board finds the overall sizes, ages and site coverage ratios offered by the majority of sales would be difficult to accurately adjust to the subject property. The Board finds the Respondent's sales can best be related to the subject property, when the Respondent's methodology is considered.

[33] The Board accepts the argument of the Respondent, which brings the reliability of several of the Complainant's sales into question. The Board does not place weight on the Complainant's sales #1, #5 and #11 as they represent purchases with an upside due to below market rent levels. The Complainant's sale #4 represents the sale of a partial rather than a 100% interest in the property. Complainant's sale #8 involved substantial marketable excess land and sale #11 represented a multi property sale where individual property values were arbitrarily assigned. The Board finds the balance of the Complainant's sales require adjustments upward to reflect such things as location (North West quadrant versus Southeast quadrant) improvement sizes, higher site coverages and various ages of buildings. Therefore, the Board is not persuaded by the Complainants sales that the subject property's 2013 assessment is not fair and equitable.

[34] Considering the Respondent's sales it is noted that that they are much smaller in building size than the combined building sizes of the buildings on the subject. However, as the Board

previously stated, it preferred the Respondent's methodology (combined value of each main building) to that of the Complainant. Therefore, the Board finds the Respondent's sales more accurately relate to the subject and are considered by the Board to support the 2013 assessment when some adjustments are applied.

[35] The Board has considered the equity comparables provided by each party. The Board has difficulty with the comparability of the Complainant's equity comparables for the same reasons as previously stated when they were considered as sales. However, the Board notes that the majority of the Respondent's equity comparables generally support the subject property's 2013 assessment, when the Respondent's methodology applicable to multi-building properties is taken into consideration.

[36] There was some discussion by all parties at the hearing as to the possible adverse effect of the triangular shape of the subject land. The Board notes no adjustment has been made by the Respondent, and no evidence on this issue was provided by either party. Therefore the Board did not consider the matter in this hearing.

[37] The Board has reviewed and considered the previous ECARB decision (Exhibit C-1, pages 37 - 43), which reduced the assessment of the subject property in 2012. In this regard the Board agrees with both parties that there is no requirement that the Board rely upon any or all CARB decisions by other Boards on previous assessment complaints.

[38] Based on all evidence reviewed and argument put forward by both parties, it is the Board's opinion that the subject property's 2013 assessment at $4,137,500 is fair and equitable.

Dissenting Opinion

[39] There was no dissenting opinion.

Heard commencing October 23, 2013.
Dated this 18th day of November, 2013, at the City of Edmonton, Alberta.

~~Harold Williams, Presiding Officer~~
JAMES WALL

Appearances:

Tom Janzen
for the Complainant

Marty Carpentier
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.