Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01749

Assessment Roll Number: 9944120
Municipal Address: 5705 103A Street NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
George Zaharia, Presiding Officer
John Braim, Board Member
Pam Gill, 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 a 4 building industrial warehouse project located at 5705 103A Street in the Calgary Trail North neighbourhood in south Edmonton and is grouped in industrial group 18. The complex has changed in nature from a multi-tenant warehouse to a single tenant property. Building no. 1, with an effective year built of 1971, has a gross building area of 47,716 square feet (sq ft) that comprises a main floor area of 42,108 sq ft including 7,567 sq ft of office development plus an additional 5,608 sq ft of finished mezzanine office space. Building no. 2, with an effective year built of 1974, has a gross area of 19,679 sq ft comprising 19,439 sq ft on the main floor with 5,040 sq ft of office space plus an additional 240 sq ft of finished mezzanine space. The total floor area for the two buildings valued on the direct sales approach is 67,395 square feet.

[4] Buildings nos. 3 and 4 contain 1,920 sq ft and 2,280 sq ft respectively and are assessed on a cost basis. The two parties agreed there was no issue with the assessment of these two buildings.

[5] The buildings are situated on a lot 127,257 square feet (2.9 acres) in size with site coverage of 48% for the two buildings valued on the direct sales approach.

[6] The subject property was valued on the direct sales approach resulting in a 2013 assessment of $6,087,500 ($90.33/ sq ft).

Issue(s)

[7] Is the assessment of the subject property in excess of its market value, and is it inequitably assessed compared to similar properties?

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] In support of his position that the 2013 assessment of the subject property is excessive, the Complainant presented a 24-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.

[10] In support of this position, the Complainant provided four comparable sales/equities of properties similar to the subject, in addition to the sale of the subject property itself. The comparables ranged in age from 1956 to 1978, in size from 26,800 sq ft to 115,318 sq ft, and site coverage ratio (SCR) from 38% to 48%. When analyzed and time-adjusted, the sales indicated a range in value of $61.57/sq ft to $86.08/sq ft with the subject being assessed at $90.33/sq ft. The assessments of these comparables ranged from $77.00/sq ft to $96.14/sq ft, with the $90.33/sq ft assessment of the subject at the high end of this range. (Exhibit C-1, page 2)

[11] The Complainant stated that the subject property sold in June 2010, and when time adjusted to the July 1, 2012 valuation date, represents a rate of $85.53/ sq ft.

[12] The Complainant provided a 2011CARB decision for the subject party that confirmed the sale price as the value of the property, or $75.67/sq ft. When time-adjusted to the July 1, 2012 valuation date, the assessment of the subject property would be $85.53/sq ft compared to its 2013

$90.33/sq ft assessment. The Complainant also stated that the 2012 assessment of $81.55/ sq ft, that had not been appealed, would amount to $84.86/sq ft if it was time-adjusted to the July 1, 2012 valuation date.

[13] The Complainant provided the assessments for three of the four comparables which ranged from $77.00/ sq ft to $96.14/ sq ft. The Complainant contended that the change from multi-tenant to single occupancy had resulted in a convoluted floor plan for the subject property. Furthermore the property had received only minimal upgrades/renovations and, in the case of the 1974 building, still had the original roof. The Complainant also contended that the property had no exposure or direct access to either Calgary Trail or Gateway Boulevard.

[14] Based on the analysis of the comparable sales provided, the Complainant requested a rate of $80.00 be applied to the subject property. This would result in the 2013 assessment being reduced from $6,087,500 to $5,391,500.

<u>Position of the Respondent</u>

[15] The Respondent stated that the 2013 assessment of the subject was fair and equitable. To support his position, the Respondent presented a 56-page assessment brief (Exhibit R-1) that included law and legislation.

[16] The Respondent submitted information addressing mass appraisal which is a methodology for valuing individual properties using typical values for groups of comparable properties.

a) The appraisal process recommended by the Appraisal Institute of Canada is essentially the same for mass appraisals and single-property appraisals. To distinguish between mass appraisal and single-property appraisal, the International Association of Assessing Officers provides the following definition: *"...single property appraisal is the valuation of a particular property as of a given date: mass appraisal is the valuation of many properties as of a given date, using standard procedures and statistical testing."*

b) *Industrial warehouses*, as is the subject, *are defined as buildings used for storage, light manufacturing and product distribution. They can be constructed of different materials such as wood, concrete, or metal, and can be single or multi-user in nature.*

c) 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.

d) The burden of proving that an assessment is incorrect lies with the party alleging it. The Complainant therefore *"must provide sufficiently compelling evidence on which a change to the assessment can be based."* (Exhibit R-1, pages 4 to 11)

[17] The Respondent submitted sales of three comparables that occurred between June 30, 2010 and April 13, 2012. The properties sold for time-adjusted sales prices ranging from $81/sq ft to $113/sq ft for total floor space, with the subject's $90.33/sq ft assessment falling within this range. The subject property was one of the three comparables and is a common sale used by both the Respondent and Complainant. Comparable sale no. 1 had an effective age of 1979, site coverage of 44%, and a main floor area of 59,655 sq ft inclusive of 25,930 sq ft finished office space. Sale no. 3 had an effective age of 1978, site coverage of 36%, and a main floor area of

63,093 sq ft inclusive of 24,638 sq ft of finished office space. Neither comparable had any finished space on the upper level, the same as the subject. (Exhibit R-1, page 22)

[18] The Respondent contended that at the time of sale (June 30, 2010) the subject property was leased at below market rents, (in the case of one lease, the affected area was 43,674 sq ft that was leased for $4.83/sq ft NNN until August 2013) and this had a detrimental effect on the sale price which he contended sold for less than market value (Exhibit R-1, page 26). Furthermore, one of the buildings was changed to be assessed on a cost basis in March 2012. When the time-adjusted sale price of the subject property was recalculated using rents more reflective of the market place, the corresponding time-adjusted rates for the subject property were $121/ sq ft based on main floor area and $111/ sq ft based on total area, which gives good support to the assessment.

[19] To account for the below market rent being achieved on the 43,674 sq ft of space as identified in the previous paragraph, the Respondent relied upon data from a report prepared by Colliers International for the second quarter of 2010 wherein it was reported that the asking price for spaces of 50,001 sq ft and up in the southeast quadrant of Edmonton was $8.14/sq ft (Exhibit R-1, page 36). His position was that the market rent that should have been applied to the subject at the time of sale was $8.14/sq ft rather than the $4.83, or an additional $3.31 (the rent shortage). When this additional amount was applied to the 43,674 sq ft of space and capitalized by 7.5%, $1,927.479.20 would have to be added to the sale price at time of sale, or when time-adjusted the value would be increased to $2,178,629.20. Adding this amount to the original time-adjusted sale price of $5,764,530, the corrected value would be $7,943,159.73 or $110.94/sq ft based on a total building size of 71,598 sq ft. (Exhibit R-1, page 26)

[20] The Respondent provided a review of the Complainant's five comparables with additional columns denoting the appropriate industrial group, total main floor area, the finished main floor area, the finished upper level area, and a column indicating rear building adjustments where applicable. The chart was colour coded to indicate that further adjustments were required to account for the differences between each comparable sale and the subject property. A final column indicated the overall adjustment required to the comparable sale. This analysis of the Complainant's sales indicated that overall upward adjustments were required to most of the comparable properties that would suggest the subject is assessed correctly. (Exhibit R-1, page 23)

[21] The Respondent provided four equity comparables in support of the subject assessment. These comprised mainly multi-building properties with SCRs ranging from 41% to 54%, main floor areas from 43,798 sq ft to 67,896 sq ft and finished main floor areas from 1,582 sq ft to 25,925 sq ft. Two of the equity comparables had some development to the upper level as does the subject. The assessments of the equity comparables ranged from $85 to $112/sq ft for total building area, providing good support to the subject's $90/sq ft assessment. (Exhibit R-1, page 26)

[22] In conclusion, the Respondent requested that the Board confirm the 2013 assessment of the subject property at $6,087,500.

Decision

[23] The decision of the Board is to confirm the 2013 assessment of the subject property at $6,087,500.

Reasons for the Decision

[24] The Board placed less weight on the Complainant's sales/equity evidence. Three of the sales were located in the north-west industrial district which is reputed to have generally lower price levels than south/southeast districts. Moreover, two of the sales were of properties almost twice the size of the subject, and based on economies of scale would require upward adjustments. One of the sold properties was less than half the subject's size, but with a time-adjusted sale price \$23.96/sq ft less than the subject, it would appear to be an outlier. It is interesting to note that Network report of this sale stated "*The purchaser plans to lease back a portion of the building for \$50,000/year*", and whether this had any effect on the sale price. Sale nos.1 and 3 had received a negative 10% rear building adjustment in their assessments while the subject did not. This would necessitate an upward adjustment to these two comparables.

[25] Of the Complainant's comparables, no. 1 is the closest in building size and site coverage, and with an assessment of \$96.14/sq ft, inclusive of a 10% rear building negative adjustment, would provide strong support for the subject's \$90.33/sq ft assessment.

[26] The Board placed greater weight on the sales and equity evidence provided by the Respondent for the following reasons:

a) Sales comparables nos. 1 and 3 that had a two building count as does the subject, are close in building size and age, and reasonably close in site coverage. With time-adjusted sale prices of \$101 and \$113/sq ft, these comparables provide strong support for the \$90.33/sq ft assessment of the subject.

b) Equity comparables nos. 2, 3, and 4, that are very similar to the subject in age, total floor area, and site coverage, have assessments that range from \$94 to \$112/sq ft, again providing strong support for the \$90.33/sq ft assessment of the subject property. Even equity comparable no. 1 that is smaller than the subject in total floor space but has higher site coverage, with an assessment of \$85/sq ft, completes the range of the four equity properties within which the subject's assessment falls.

[27] The Board acknowledges that the sale of the subject property can be a reliable indicator of value. In the case of the sale of the subject property the Board accepts the original sale price may have been transacted at a lower than fee simple value due to the influence of the lease rate being below market.

[28] However, the Board placed little weight on the Respondent's attempt to adjust the sale price of the subject to reflect what the Respondent considered to be market rents. The recalculation was far too hypothetical, relying upon third party information to replace the "below market rents" with a higher rental rate as reported by a third party. In this case, the Respondent relied on third party rental rates, information that the Respondent has repeatedly held to be unreliable.

[29] The Board was persuaded that the 2013 assessment of the subject property at \$6,087,500 was fair and equitable.

Dissenting Opinion

[30] There was no dissenting opinion.

Heard October 30, 2013

Dated this 29th day of November, 2013, at the City of Edmonton, Alberta

George Zaharia, Presiding Officer

Appearances:

Tom Janzen
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.