

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01759

Assessment Roll Number: 9949706
Municipal Address: 18353 118 Avenue NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Robert Mowbrey, Presiding Officer
Howard Worrell, Board Member
Judy Shewchuk, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board members indicated no bias on this file.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject property was constructed in 1999. The site coverage is 13% and the 2013 assessment is for \$5,062,500. The subject is a 29,495 square foot single tenant warehouse located at 18353-118th Avenue NW in the Edmiston Industrial area. The 2013 assessment equates to \$171.64 per square foot. The assessment is assessed using the direct sales methodology.

Issue

[4] What is the market value of the subject 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
- (c) the assessments of similar property or businesses in the same municipality.

Position of the Complainant

[6] The Complainant filed this complaint on the basis that the subject property's assessment of \$5,062,500 exceeds the best estimate of market value. In support of this position, the Complainant presented the Board with a 22 page evidence package marked as Exhibit C-1.

[7] The Complainant presented the Board with maps, photographs and assessment details detailing the subject property [Exhibit C-1 pages 3-8]

[8] The Complainant presented 9 sale comparables to the Board. The comparables ranged in year of construction from 1958 to 2002. The site coverage ranged from 12.0% to 36.0% and the time-adjusted sale price per square foot of total building area ranged from \$80.66 to \$146.65. The building size of the comparables ranged from 6,546 to 31,429 square feet. The Complainant utilized the time-adjustment factors produced by the City of Edmonton, so the sale price of a comparable could be adjusted from the date of sale to the valuation date [Exhibit C-1 pages 1 and 18].

[9] The Complainant advised the Board that his best sales comparables were numbers 1, 4, 5 and 6. The Complainant also advised the Board that \$150.00 per square foot was a reasonable value for the subject property and that the 2013 assessment should be \$4,424,000 [Exhibit C-1 pages 1-2].

[10] During questioning of the Complainant, the Complainant was asked if comparable #6 at 11848-152nd Street was the best comparable. The Complainant advised that it was not the best comparable, but a CARB on a previous year's complaint had accepted #6. The Complainant made further comments regarding the evidence as follows:

- a. All but one of the Complainant's sales comparables have higher site coverages, but the comparables were in close proximity.
- b. Most of the sales are older than the subject property.
- c. One of the comparables (6,546 square feet) is considerably smaller than the subject.

[11] During summary and argument, the Complainant stated that his sales #1 at 17803-118th, #5 at 4715 Yellowhead Trail and #6 at 11848-152nd Street are the best comparables.

[12] The Complainant requested that the Board reduce the 2013 assessment of \$5,062,500 to \$4,424,000.

Position of the Respondent

[13] The Respondent defended the 2013 assessment by providing the Board with a 53 page disclosure package marked as Exhibit R-1.

[14] The Respondent explained that the assessment and similar assessments were prepared using the direct sales comparison methodology. The Respondent advised the Board that “there is ample data from which to derive reliable estimates and only a portion of the inventory is traded based on its ability to generate income. A large percentage of industrial property in Edmonton is owner-occupied, and as such has no income attributable to it” [Exhibit R-1 page 6].

[15] The Respondent advised the Board that sales occurring from January 2008 through June 2012 were used in the model development and testing. Factors found to affect value in the warehouse inventory are as follows: total main floor area (per building), site coverage, effective age (per building), condition (per building), location of the property, main floor finished area, as well as finished area (per building). The most common unit of comparison for industrial properties is value per square foot of building area [Exhibit R-1 pages 7- 11].

[16] The Respondent provided the Board with maps, photographs and assessment details of the subject property [Exhibit R-1 pages 12-18].

[17] In support of the City of Edmonton’s assessment, the Respondent presented 5 sale comparables to the Board. The comparables ranged in year built from 1973 to 2007, and ranged in site coverage from 8 to 21%. The total building area ranged from 18,137 to 37,678 square feet and the time-adjusted sale price per square foot of total building square footage ranged from \$161.86 to \$244.02 [Exhibit R-1 page 20].

[18] The Respondent advised the Board regarding law and legislation issues as follows:

- a. Market value within a range. “The MGB has ruled on a number of occasions that market value encompasses a range of values and the issue is whether the assessment falls within that range of values” [Exhibit R-1 page 42].
- b. The 5% Range. “Both the ARB and MGB have ruled on numerous occasions that it would not alter an assessment, if the requested change to the assessment, or if the evidence indicates a change to the assessment within 5%” [Exhibit R-1 page 43].
- c. Burden of Proof or Onus of the Parties. “The onus rests with the Complainant to provide sufficiently convincing evidence on which a change to the assessment can be based. The Complainant’s evidence needs to be sufficiently compelling to allow the Board to alter the assessment” [Exhibit R-1 page 45].
- d. Post-Facto Sales. “It is important to note that the use of a post facto, a sale which occurs after July 1st of the assessment year, is restricted. The Board may consider such post facto evidence to confirm market trends, however, post facto evidence cannot be used in setting value” [Exhibit R-1 page 47].

[19] The Respondent advised the Board that the neighborhood group 17 was valued lower than group 20 and higher than group 22 with respect to location. The Respondent advised the Board that if a property was located on a major arterial roadway, the grouping would be 2 [Exhibit R-1 page 10].

[20] The Respondent stated that the City's sale comparable #2 at 12150-154th Street is older, and smaller than the subject property and therefore inferior as a sale comparable.

[21] The Respondent stated the City's sale #4 at 17440-116th Avenue has superior site coverage at 8%, but that the subject is well within the site coverage range.

[22] The Respondent made a number of comments regarding the Complainant's sale comparables:

- a. Sale #1 at 17803-118th Avenue has a much different size than the Respondent's evidence indicates [Exhibit R-1 page 26]. The Respondent advised the Board that the City verified and measured the building and the main floor space is 8,732 square feet. The Respondent noted that with the size being substantially smaller than the Complainant stated, the TASP per square foot of total building area would now be \$297.58.
- b. Sale #7 at 14649-115th Avenue is a condo and not assessed in the same manner as the industrial group valuation.
- c. Sale #4 at 14511-156th Street is a non-arm's length sale and should not be used for comparison purposes [Exhibit R-1 pages 29-33].
- d. Sales 2,5,8 and 9 are all older and have inferior site coverage.
- e. Sale #3 at 16807-114th Avenue NW is a cement plant and not a typical warehouse. The cement plant is assessed as special purpose and is not assessed under the direct sales comparison methodology [Exhibit R-1 27-28].

[23] During questioning the Respondent stated that comparable #5 at 2110-70th Avenue is in southeast Edmonton.

[24] During argument and summation, the Respondent stated that with the 14 sale comparables from both parties, the subject is within the range.

[25] The Respondent requested that the Board confirm the 2013 assessment of \$5,062,500.

Decision

[26] The decision of the Board is to confirm the 2013 assessment of \$5,062,500.

Reasons for the Decision

[27] The Board was not persuaded by the Complainant's sale comparables. There were a number of issues with the sales including building size, a non-arm's length sale, a special purpose property and a property valued as a condominium. Therefore the sales put forth by the Complainant do not meet the Board's standard of comparability.

[28] A number of the Respondent's sale comparables were older than the subject property. In addition, a number of the Respondent's sale comparables had much higher site coverage.

[29] The Board is somewhat persuaded by the Respondent's sale comparables. The comparables were somewhat similar in terms of age, condition and size.

[30] The median of the Respondent's 5 sale comparables is \$195.13 TASP per square foot of total building area and this supports the assessment of \$171.63.


[31] Jurisprudence has established the onus of showing the incorrectness of an assessment rests with the Complainant. The Board is not satisfied that the Complainant provided sufficient and compelling evidence to enable the Board to conclude the assessment was incorrect.

Dissenting Opinion

[32] There was no dissenting opinion.

Heard commencing October 7, 2013.

Dated this 5th day of NOVEMBER 2013, at the City of Edmonton, Alberta.



Robert Mowbrey, Presiding Officer

Appearances:

Tom Janzen
for the Complainant

Cherie Skolney
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.