Edmonton Composite Assessment Review Board

Citation: 471500 Alberta Ltd v The City of Edmonton, 2014 ECARB 00217

Assessment Roll Number:	10232134
Municipal Address:	1235 70 AVENUE NW
Assessment Year:	2014
Assessment Type:	Annual New
Assessment Amount:	$3,464,500

Between:

471500 Alberta Ltd

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
George Zaharia, Presiding Officer
Dale Doan, Board Member
Taras Luciw, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer the parties indicated they did not object to the Board's composition. In addition, the Board members stated they had no bias with respect to this file.

Preliminary Matters

[2] The Respondent advised that although his disclosure had been provided in a timely manner to the Complainant, that it had been disclosed to the Assessment Review Board two days late. He referred the Board to the *Matters Relating to Assessment Complaints Regulation* (MRAC) s. 10 that addresses abridgement or expansion of time.

[3] The Board called a short recess and then advised the parties that since the Complainant had received the disclosure by the deadline, and that a two day delay in the Assessment Review Board getting the disclosure did not prejudice the Board, pursuant to s.10 of MRAC the Board expands the time set out in MRAC s. 8(2) to permit the filing of the Respondent's disclosure to the Assessment Review Board.

[4] The merit hearing would continue.

Background

[5] The subject property is an industrial warehouse building located at 1235 70 Avenue NW in southeast Edmonton. The building built in 2012, comprises 12,112 square feet of total space that includes 4,118 square feet of main floor finished space. The building is situated on a lot 44,916 square feet (1.03 acres) in size with site coverage of 27%.

[6] The subject property was valued on the direct sales approach resulting in a 2014 assessment of $3,464,500 ($286 per square foot). The Respondent made a recommendation that showed on the cover page of his brief to lower the assessment to $3,118,000 ($257 per square foot). This reduced assessment was not acceptable to the Complainant; however, the Respondent maintained this reduced assessment as the 2014 assessment for the subject property. In this decision, the Board will use this lower assessment as the assessment of record.

Issues

[7] Is the 2014 assessment of $3,118,000 of the subject property too high compared to the sale prices and assessments of other similar properties?

Position of the Complainant

[8] The Complainant submitted an appraisal dated August 28, 2013 that established a value of the subject property at $2,500,000. For purposes of the appraisal, all three approaches to value were completed: 1) cost approach, 2) direct sales comparison approach, and 3) the income approach. Since one of the two bays in the building is rented, the income approach was discussed, but little weight will be placed on it. However, the three approaches to value yielded similar values: cost approach - $2,536,000; direct sales comparison approach - $2,486,000 to $2,608,000; and income approach - $2,174,000 to $2,348,000.

[9] In the written appraisal and in verbal testimony, the Complainant, who was also the appraiser of the property, described the subject property as a new office warehouse development offering a combination of good quality office space and clean functional warehouse space providing utility to a wide array of industrial users. Located in southeast Edmonton, the property is fully serviced with good access to arterial roads.

[10] To establish a value of the subject property using the cost approach, Marshall Valuation Service was consulted. This service provides an estimated replacement cost for constructing buildings similar to the subject using benchmark values. It also provides a 5 step ranking of the quality of the occupancy of the property, from low to excellent. A ranking of 4.4 (very good to excellent) was applied to the subject property due to its good quality and high proportion of office space (34%). To arrive at a final total value of $2,536,000, three cost components were calculated: 1) building - $1,732,171, 2) site improvements - $160,100, and 3) land value - $643,750 (Exhibit C-1, pages 28 – 32).

[11] The Complainant provided a comparable sales data chart that included five properties, three of which had been sold and two that were current listings. The three sales occurred between September, 2012 and January, 2013. The properties sold for unadjusted sales prices ranging from $182 to $239 per square foot for total floor space, with the subject's $257 per square foot assessment exceeding this range. The sales comparables were built between 1991 and 1998, had site coverage ratios from 8.0% to 24.55%, ranged in total building space from 10,480 to 14,049 square feet all, and had finished office space from 1,257 to 3,549 square feet. The two listed properties had asking prices of $230 and $292 per square foot. One of the properties was under construction while the other was built in 2000. The site coverage ratios will be 32.54% for the property under construction and is 14.97% for the existing improvement, ranged in total building space from 12,650 to 13,000 square feet, and finished office space of 2,000 and 260 square feet. (Exhibit C-1, page 44)

[12] The Complainant submitted a rebuttal, questioning the relevancy of dated sales and the time-adjustments used by the Respondent in establishing the time-adjusted sale prices of the sales comparables used by the Respondent in defending the assessment of the subject property. The Complainant stated that "*While market conditions improved during the latter portion of 2009 and 2010, the market generally stabilized during 2011, 2012, and 2013.*" (Exhibit C-2, page 2) Thus he disagreed with the time adjustments that ranged from 6.22% to 11.84% per annum.

[13] In summary, the Complainant questioned "*why the value of a property would be higher than the total cost of development including all contractor's profits and fees.*" (Exhibit C-2, page 7)

[14] The Complainant requested the Board to reduce the 2014 assessment from $3,118,000 ($257 per square foot) to $2,500,000 ($206 per square foot).

Position of the Respondent

[15] The Respondent stated that the 2014 assessment of the subject was fair and equitable. To support his position, the Respondent presented a 116-page assessment brief (Exhibit R-1) that included law and legislation and the appraisal completed on the subject property.

[16] The Respondent submitted information addressing mass appraisal which is a methodology for valuing individual properties using typical values for groups of comparable properties. Factors found to affect value in the warehouse inventory in order of decreasing importance are: total main floor area, site coverage, effective age, industrial group location, building condition, main floor finished area, and upper floor finished area (Exhibit R-1, pages 90 to 95).

[17] The Respondent submitted sales of four comparable properties that occurred between October 8, 2009 and July 6, 2012. The properties sold for time-adjusted sales prices ranging from $234 to $274 per square foot for total floor space, with the subject's $257 per square foot assessment falling within this range. The comparables were reasonably similar to the subject as follows: the age of the subject building built in 2012 was slightly newer than the comparables that were built between 2001 and 2007; the 27% site coverage of the subject fell at the higher end of the range of the comparables from 16% to 28%; and the subject's main floor finished space at 34% exceeded the range of the comparables that had 10% to 24% of finished main floor space. (Exhibit R-1, page 69)

[18] The Respondent submitted five equity comparables all located industrial group 20. The equity comparable properties were assessed from $246 to $296 per square foot with the $257 per square foot assessment of the subject property falling within this range. The equity comparables were reasonably similar to the subject as follows: the age of the subject building built in 2012 fell at the high end of the range of the comparables that were built between 2009 and 2012; the 27% site coverage of the subject fell within the range of the comparables from 9% to 33%; and the subject's main floor finished space at 34% exceeded the range of the comparables that had 0% to 19% of finished main floor space. Only equity comparable number 4 had a -5% adjustment in its assessment, but was still assessed at $269 per square foot. (Exhibit R-1, page 74)

[19] The Respondent provided a review of the sales comparables included in the appraisal that had been provided by the Complainant, excluding index 4 which was undeveloped land at the

time of writing. The properties sold for time-adjusted sales prices ranging from $201 to $265 per square foot for total floor space, with the subject's $257 per square foot assessment falling at the higher end of this range. The comparables were reasonably similar to the subject as follows: the age of the subject building built in 2012 was newer than the comparables that were built between 1991 and 2000; the 27% site coverage of the subject exceeded the range of the comparables from 8% to 25%; and the subject's main floor finished space at 34% exceeded the range of the comparables that had 2% to 29% of finished main floor space. (Exhibit R-1, page 87)

[20] The Respondent included a July August 2012 Avison Young Real Estate Alberta newsletter addressing industrial properties that concluded "*owner/users are willing to spend more money than investors for like properties*" (Exhibit R-1, page 75).

[21] In a 2013 Market Overview prepared by The Network, of 129 total industrial market sales, 78 or 60% were owner user sales. The industrial sector was characterized by a sharp increase in activity during 2013 compared to 2012, with the total number of sales increasing by 47% and the total dollar value of the sales increasing by 39%. (Exhibit R-1, pages 84 and 85)

[22] The Respondent addressed the approach to value used in valuing industrial properties. Since two-thirds of the industrial inventory is owner/user occupied, there would be no rental income information to value these properties using the income approach. As well, if the income approach was used, then information from only one-third of the properties would form the basis of establishing value for this type of property. Since there were many sales of industrial properties, the City used the direct sales approach to establish assessments for industrial properties.

[23] In rebuttal, the Respondent provided amongst other things, information about the cost approach, the City's time adjustment factors, and trend analysis. From "The Appraisal of Real Estate 2nd Edition" AIC, 2005, excerpts on substitution, and supply and demand were provided indicating that prices could increase if there was a delay in supply, and if there is a strong demand, value of existing buildings would increase (Exhibit R-2, page 7). The Respondent also included the 2014 Industrial Monthly Time Adjustment Factors starting in 2008 up to the valuation date of July 1, 2013 (Exhibit R-2, page 11).

[24] In summation, the Respondent argued that his four sales comparables supported the assessment of the subject property at $257 per square foot. He stated that the Complainant had not provided any alternative to the Respondent's time adjustment factors.

[25] In conclusion, the Respondent requested that the Board confirm the 2014 assessment of the subject property at the recommended reduced amount of $3,118,000.

Decision

[26] The decision of the Board is to confirm the 2014 assessment of the subject property at the recommended reduced amount of $3,118,000.

Reasons for the Decision

[27] The Board placed less weight on the sales comparables provided by the Complainant because of the five identified properties, only three sold, one was under construction, and the fifth one was a listing, not a sale. The three properties that sold were considerably older than the subject, but the one that was closest in age sold for an unadjusted sale price of $239 per square

foot, 7% less than the assessment of the subject property. As well, the fifth property that had only a current listing, was listed at an asking price of $292.49 per square foot, although it had only 2% main floor finished space compared to the subject's 34%, and was twelve years older. This property is in closest proximity to the subject, being just three blocks away on the same avenue. In the Respondent's disclosure, it was identified that this fifth property sold April 1, 2014 for $261 per square foot, supporting the $257 per square foot assessment of the subject property.

[28] Although in his rebuttal, the Complainant argued that *"While market conditions improved during the latter portion of 2009 and 2010, the market generally stabilized during 2011, 2012, and 2013"* this argument appeared to contradict his statement in the appraisal where he stated *"As the local economy began recovering from the recession in 2010, demand for industrial space within Edmonton has increased. Further, due to the limited supply of serviced land available within the city limits, increases in land prices have been witnessed."*

[29] Throughout the appraisal and in verbal testimony, the Complainant extolled the virtues of the subject property as to condition (clean industrial space), quality and high proportion of finished office space, and accessibility to arterial roads that would provide utility to a wide array of industrial users. These would appear to be factors that could positively affect the value of the subject property. In terms of the quality of the office finish, from the pictures provided in the appraisal report, the Board would have no reason to dispute the 4.4 ranking attributed to the subject property in the replacement cost section of the appraisal.

[30] The Board placed greater weight on the evidence provided by the Respondent for the following reasons:

a) The assessment of the subject at $257 per square foot fell within the range of the time-adjusted sale prices of the Respondent's four sales comparables for total floor space. These sale comparable prices ranged from $234 to $274 per square foot, supporting the $257 per square foot assessment of the subject.

b) The assessments per square foot of the five equity comparables for total floor space ranged from $246 to $296 per square foot. The assessment of the subject at $257 per square foot fell within this range.

c) The Board was satisfied that both the sales and equity comparables provided by the Respondent reflected reasonably the characteristics of the subject property, and where discrepancies occurred, the Respondent advised where there would have to be either upwards or downward adjustments.

d) The assessment of the subject at $257 per square foot fell at the high end of the range of the time-adjusted sale prices of the four sales comparables used by the Appraiser in preparing the appraisal of the subject property for the owner. These sales comparable prices ranged from $201 to $265 per square foot for total floor space, despite the fact that the comparables were from twelve to twenty-one years older than the subject.

[31] The Board disagreed with the Complainant's dismissal of the Respondent's time adjustment factors. These factors reflect the movement in the market, whether it is up or down, and are based on an examination of a significant number of sales that occur on a monthly basis. Additionally, these time adjustment factors are used by most agents who represent property owners in property assessment complaints.

[32] The Board was persuaded that the 2014 assessment of the subject property at $3,118,000 was fair and equitable.

Dissenting Opinion

[33] There was no dissenting opinion.

Heard June 2, 2014.

Dated this 17th day of June, 2014, at the City of Edmonton, Alberta.

George Zaharia, Presiding Officer

Appearances:

Brett Coley, Bourgeois & Company Ltd.
Jerry Heide, 471500 Alberta Ltd.
Kim Rolheiser, 471500 Alberta Ltd.
for the Complainant

Jason Baldwin, City of Edmonton
Steve Lutes, 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.

Appendix

Legislation

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.

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

> 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.

10(1) A composite assessment review board may at any time, with the consent of all parties, abridge the time specified in section 7(d).

(2) Subject to the timelines specified in section 468 of the Act, a composite assessment review board may at any time by written order expand the time specified in section 8(2)(a), (b) or (c).

(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.

Exhibits

Exhibit C-1 Complainant's submission
Exhibit C-2 Complainant's submission
Exhibit R-1 Respondent's submission
Exhibit R-2 Respondent's submission