Edmonton Composite Assessment Review Board

Citation: Jan Goresht, Cushman & Wakefield Ltd v The City of Edmonton, 2014 ECARB 00316

Assessment Roll Number:	10136476
Municipal Address:	12412 17 STREET NE
Assessment Year:	2014
Assessment Type:	Annual New
Assessment Amount:	**$17,183,500**

Between:

Jan Goresht, Cushman & Wakefield Ltd

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
John Noonan, Presiding Officer
Martha Miller, Board Member
Taras Luciw, Board Member

Background

[1] The subject property is a 105.6 acre industrial property in the Clover Bar area of northeast Edmonton. The property is used as a trucking yard by Kleysen Transport. The 2014 assessment was prepared by the cost approach: the six structures onsite are valued by the Marshall & Swift valuation guide at $621,799 and the land is valued at $16,562,185 for a total assessment (rounded) of $17,183,500.

Issue

[2] The Board heard evidence and argument on a single issue:

> Should the land value be reduced from $16,562,185 to $13,300,000 to yield a 2014 assessment of $14,000,000 (rounded)?

Position of the Complainant

[3] The Complainant noted the assessment detail report describing the property's zoning as 1H – Heavy Industrial and the structures onsite giving a site coverage of 1%. The value of the improvements was not at issue. Rather, despite the fact that allowances had been made for the subject's irregular shape and topography, the Complainant submitted the land valuation was too high. The subject assessment had increased from $14,379,500 in 2013, and the Complainant didn't believe there was any evidence to support a year-over-year increase given there had been no sales of large industrial properties since the preparation of the previous assessment.

[4] A Cushman & Wakefield appraisal of the subject property was presented, the report dated November 12, 2009 and transmitted to the owner by cover letter dated January 2010. The report examined six properties in the greater Edmonton area, including Nisku, Leduc and Parkland County, to conclude a value for the subject of $14,600,000. That value was comprised of $340,000 attributed to the Quonset structure and $14,260,000 for the land at $135,000 per acre. The Complainant advised that the appraisal was a fair representation of market value at that time, and argued that the time adjustment factors used by the City in valuing this property are wrong.

[5] The Complainant presented a list of 10 development land sales comparables, parcels from 20 to 129 acres in size that transacted from June 2011 to June 2013 at prices ranging from $126,000 to $260,000 per acre. Though some of the properties carried AG zoning, they were similar to the subject as industrial development land. The values of these comparables reflected their development horizon, location and servicing. One property in particular was highlighted as the best comparable, almost 80 acres in size and located at 5480 Meridian Street. This comparable had sold in June 2013, very close to valuation date at $126,040 per acre, was in close proximity to the subject and had sold to another trucking company. Using the land value from this best comparable, $126,000 per acre, generated the requested land value for the subject in the amount of $13,300,000. Including improvements, the requested 2014 assessment was $14,000,000.

Position of the Respondent

[6] The Respondent's presentation included an aerial photo of the subject site that demonstrated its irregular shape and presence of several lagoons on the property. The property was accorded a 20% discount in assessed value, 5% as a minor shape adjustment and a major topography adjustment of 15% to account for the lagoons. Although the property has access to rail spurs, it does not have water, sewer, or street lighting services.

[7] Six sales comparables were advanced in defense of the land valuation, five of the comparables having IM – Medium Industrial or IB – Industrial Business zoning which were assessed the same as the subject's IH – Industrial Heavy rate. The sales dated from May 2008 to June 2011 and were the largest parcel sizes of industrial-zoned land that had transacted in the previous five years. Unlike some of the Complainant's comparables, none were zoned AG – Agricultural as it would be inappropriate to value an industrial property with values derived from differently zoned property. The comparable sales ranged in lot size from 30 to 111 acres, three had no municipal services, like the subject, and the time-adjusted sales prices per acre ranged from $225,831 to $444,015. In comparison, the subject land was valued at $156,812 per acre after the size and topography adjustments. Without those allowances, the subject land would have been valued at $188,175 per acre.

[8] The Respondent advised that the City's time adjustment factors had been developed from the entire inventory of industrial properties, and were accepted by the agent community with the apparent exception of this particular agent. While the Respondent acknowledged there were no sales of industrial zoned land greater than 30 acres after 2011, the 2014 assessment reflected the fact that time adjustment studies showed that property values had increased since July 1, 2012.

[9] The Respondent questioned the relevance of some of the Complainant's comparables, especially sales from outside Edmonton, pointed out that where zoning was listed, four of those comparables were AG and another was identified as RSL zoning. Although the Respondent had not included any documentary evidence about the Complainant's best sale comparable, this was a sale involving a vendor takeback mortgage according to the City's information from the sales validation process. As such, the Respondent would not use such a sale in valuing the subject.

Decision

[10] The Board confirms the 2014 assessment of $17,183,500.

Reasons for the Decision

[11] The Complainant advanced ten comparables, of which nine were sales, and one was an "active listing" asking $225,000 per acre for almost 78 acres on Clover Bar Road in Strathcona County. The Board prefers to use Edmonton comparables, and actual sales but found this listing of at least passing interest. Eight of the comparables, all sales, showed values ranging from $174,893 to $260,588 per acre and only three of these per acre values were less than $200,000. The Complainant based the requested land value assessment on a single sale, the lowest by far of any presented, at $126,000 per acre. The Board agrees that this June 2013 sale was very close to valuation date, but it sold at a price well below that of any other property presented by either party, time adjusted or not. In the course of the hearing, the Respondent noted that the absence of any third party documentation accompanying the Complainant's sales comparables. The Board is not aware of why this property sold for almost $100,000 less per acre than the asking price of a similarly sized property in Strathcona County, but it is clearly a low outlier. As such, the Board is not prepared to apply the per acre value of that lowest sale in the valuation of the subject.

[12] In fairness, the Board discounted a number of the Complainant's comparables because their addresses indicated they might well be in areas slated for residential development. However, the Board noted another comparable from the Complainant, located at 5404 17 Street, not far from the $126,000 per acre sale at 5480 Meridian Street. The 17 Street property sold for almost $209,000 per acre in June 2011. In the remarks section, it was noted that the property had rural services, that it adjoined rail on the north, and the site included a small pond/wetland area and had some PU zoned land. With the exception of the public utility zoning on part of the 17 St. property, it sounded very similar to the subject in terms of servicing, rail access and wetland area. According to the Complainant's information, this 53.36 acre property sold for $11,148,345 or as mentioned, almost $209,000 per acre. Coincidentally, this comparable was also used by the Respondent with time-adjusted values of $12,566,323 sale price or $225,894 per acre. This sale again demonstrated to the Board that the Complainant's "best comparable" close by on Meridian Street was for some reason priced in the bargain basement, and that the subject land was not excessively valued in the current assessment at $16,562,185 or $156,812 per acre.

Heard May 30, 2014.

Dated this 23rd day of June, 2014, at the City of Edmonton, Alberta.

JP Noonan

John Noonan, Presiding Officer

Appearances:

Jan Goresht, Cushman & Wakefield Ltd
for the Complainant

Scott Hyde
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.

Exhibits

C-1 Complainant's Submission, 64 pages

R-1 Respondent's Submission, 48 pages