Edmonton Composite Assessment Review Board

Citation: City West Equities Inc as represented by Robert Gagne, AEC Property Tax Solutions v The City of Edmonton, 2014 ECARB 00561

Assessment Roll Number:	10038502
Municipal Address:	18604 111 Avenue NW
Assessment Year:	2014
Assessment Type:	Annual New
Assessment Amount:	$50,855,500

Between:

City West Equities Inc as represented by Robert Gagne, AEC Property Tax Solutions

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Willard Hughes, Presiding Officer
Jasbeer Singh, Board Member
Mary Sheldon, Board Member

Procedural Matters

[1] When questioned by the Presiding Officer, the parties indicated they had no objection to the composition of the Board. In addition, the Board members stated they had no bias with respect to this file.

[2] Witnesses giving testimony were either sworn in or affirmed, the choice being that of the individual witness.

[3] With mutual agreement of the parties, evidence, argument and submissions were brought forward from roll numbers 10136494, 10087852, and 10026911 to this file where relevant and applicable.

Background

[4] The subject is a large warehouse property zoned IM (medium industrial), having a lot size of 1,237,034sq. ft. (28.4 acres). It is located at 18604 – 111 Avenue NW in the White Industrial Neighbourhood. There are three buildings on site with a combined total main floor area of 583,684 sq. ft. and site coverage of 47%. The weighted average total size of the property is 202,650 sq. ft. The finished area on the main floor is 4% of the total building area. Building #1, built in 2003, has a main floor area of 211,193 sq. ft.; building #2 was built in 2006 and has an area of 143,368 sq. ft. and building #3, also built in 2006, has an area of 231,562 sq. ft. The subject property is assessed in average condition for a 2014 assessment of $50,855,500.

[5] The Complainant has objected to this assessment on the grounds that it is inequitable and excessive.

Issue

[6] Is the subject assessment correct?

Position of the Complainant

[7] In support of the objection to the assessment, the Complainant presented documentary evidence (C-1) to the Board and stated:

a. The subject appeal is similar in nature to the ones heard by other Boards in 2013, in which a reduction was granted by the Assessment Review Boards (2013 ECARB 00735 and 2013 ECARB 00736).

b. The same grounds for complaint are applicable to the subject property for the 2014 assessment.

c. The time adjusted sale prices of the seven comparable sales presented to the Board largely support the assessment of the subject at $87/ sq. ft.

d. However, the 2014 assessments of the seven comparable properties are substantially below their respective time adjusted sale prices and show the Assessment to Sale Ratio (ASR) ranging from 0.51 to 0.97.

e. The median of ASR values of the comparable properties is 0.78, suggesting that the assessment of the subject property is 22% higher than it should be.

[8] The Complainant's argument, based on the six sales comparables is:

a. They sold between November 2009 and October 2012.

b. They have building sizes ranging from 91,507 sq. ft. to 399,767 sq. ft. and are comparable to the subject property, which measures 586,125 sq. ft.

c. The subject assessment of $87/ sq. ft. represents the likely market value of the subject property.

d. The 2014 assessments of all seven comparable properties show ASRs of less than one. This indicates that the comparables have been assessed lower than their corresponding time adjusted sale prices. However, the same is not true for the subject property, which has not sold. The subject's assessment at market value is higher than others and thus, inequitable.

The Complainant argued that in view of the above evidence, the subject property should also be assessed lower to be equitably assessed.

[9] The Complainant stated that the time adjusted selling prices of all comparables were higher and the site coverage superior (lower); but in view of the economies of scale enjoyed by the subject property, the assessment of $87/ sq. ft. reflected its market value.

[10] The Complainant concluded by saying that the evidence before the Board indicates that the subject is over-assessed and requested the Board to reduce the subject assessment by 22% to $39,667,290.

[11] During cross-examination by the Respondent, the Complainant agreed to exclude sale comparable #6 (located at 5219 – 47 Street), as this was a non-arm's-length transaction. Comparable #3 (located at 7612 - 17 Street) was also excluded as its assessment included two buildings that had been assessed using the cost-approach. With the cost approach, while the assessed area of the buildings is clearly identified, the corresponding assessment value is not separately shown. Consequently, using the total area of dissimilar buildings and valuations to derive per square foot value of assessments does not provide reliable results.

[12] In response to questions from the Respondent, the Complainant stated that the property located at 12810 – 170 Street was the best comparable to the subject.

Position of the Respondent

[13] In defending the assessment, the Respondent presented evidence that included an assessment brief and a Law & Legislation brief. The assessment brief included sets of sales and equity comparables as well as a critical analysis of the Complainant's sales comparables.

[14] Analyzing the Complainant's table of seven sale comparable properties, the Respondent stated the following:

a. The Complainant's sale comparables #6 (located at 5219 – 47 Street), and #3 (located at 7612 - 17 Street), were invalid and needed to be excluded.

b. The building size in respect of sale comparable #4 (located at 5605 – 70 Street) was at variance with the assessed area and its time adjusted selling price of $303/ sq. ft. This made it an outlier that could not be used to establish the subject's market value.

c. The lot size in respect of sale #5 (located at 12908 – 170 Street) shown in the table (10.04 acres) was inconsistent with the lot size (6.10 acres) stated in the Commercial Edge sales document on page 40 of C-1.

d. Sales #3 and #4 were located in different parts of the city and in different market areas.

e. Sales #1, #2 and #5 were sufficiently dissimilar in terms of building size that they could not be relied upon for providing dependable reference points for the subject assessment.

f. The site coverage of comparables #2, #4 and #5 was considerably lower than the subject's at 47% and thus, dissimilar for the purposes of comparison.

g. Comparable #4 (5605 70 St) has a finished office space of 29% and comparable #5 (12908 170 St) has 17% finished office space. These comparables are therefore dissimilar to the subject property which has only 4% finished office space.

h. Three of the properties (#3, #4 and #6) are located in superior industrial locations (group 18) and thus, their value as reliable comparables is questionable.

The Respondent argued that such questionable or flawed data in respect of substantially dissimilar properties could not be relied upon to prove that the subject assessment is incorrect.

[15] The Respondent's sale #3 (12810 170 St) was also included in the Complainant's set of sale comparables (#7).

[16] The Respondent stated that the most significant factors affecting value for industrial properties, in descending order of importance are:

- Main Floor Area
- Site Coverage
- Effective Age
- Location
- Condition
- Main Floor Finished Area
- Upper Finished Area

[17] An analysis of the comparable properties indicates that all of the Complainant's valid sales are superior to the subject property and cannot provide a reliable indication of the subject's market value.

[18] Three of the Respondent's sale comparables (one also included in the Complainant's set), were shown to be superior to the subject property. The other one was an inferior property. The range of time adjusted sale prices indicated that the subject assessment was at the low end of the range of values.

[19] The Respondent also provided a set of six equity comparables from the subject's industrial location (group 17). Three of the equity comparables were shown to be superior and the other three were inferior to the subject property. The 2014 assessments for these properties ranged from $74/ sq. ft. to $132/ sq. ft. of the main floor area and supported the subject assessment at $87/ sq. ft.

[20] Only one of the Complainant's valid sale comparables was a two-building property; all others had only one building, and thus, were dissimilar to the subject which has three buildings. The Respondent argued that the more buildings the more it costs to build. Multiple buildings also provide flexibility for leasing opportunities and future sub-division.

[21] The Respondent provided three groups of ASR values in respect of industrial properties in location groups 17, 18 and 20. The number of properties in each group varied from 12 to 101. The ASR values ranged from a low of 0.48 to 1.80. The Respondent argued that it was necessary that any properties that have changed since the last sale, be excluded and all remaining valid properties from a stratum be included in the analysis for reliable results. The more properties that are examined, the more meaningful the ASR study. The Respondent asserted that the legislation contemplates looking at the full stratum of property for a given group.

[22] With reference to the Complainant's set of sale comparables and ASRs, the Respondent argued that the only thing the Complainant's study shows is that there are a small number of

properties in the City of Edmonton that may be under-assessed. Since the assessment model of the City assesses all similar properties in the same way, taking the argument of the Complainant to its logical conclusion means that the subject property is also similarly under assessed and thus, if anything, the subject's assessment is already too low. The City, of course, does not agree with this and feels that the subject property is correctly assessed.

[23] The Respondent emphasized that the type of ASR analysis suggested by the Complainant is not contemplated under the legislation and the sample chosen by the Complainant is not large enough to be meaningful. The Respondent submitted that the Board should place little or no weight on the Complainant's ASR analysis.

[24] The Respondent argued that the Complainant's requested assessment value of $67.86/ sq. ft. (78% of the assessed value of $87/ sq. ft.) would be substantially lower than the lowest selling price of $85/ sq. ft. on record for any large property comparable to the subject and concluded by requesting the Board to confirm the 2014 assessment of $50,855,500.

Complainant's Rebuttal

[25] Rebutting the Respondent's defence of the subject assessment, the Complainant presented a composite table of six sale comparables that included three of the Respondent's and five of the Complainant's, with two common properties. The Complainant argued that the subject assessment needed to reflect the pattern of ASRs evident from a review of the comparable properties in the table.

[26] The Complainant argued that the median value of the ASRs in respect of the six comparables (0.85) clearly demonstrated that the sales were assessed below their respective market values. As such, the principle of equity warranted that the subject assessment be reduced to make it equitable with these comparable properties.

[27] The Complainant plotted the ASR values included in the Respondent's evidence and stated that a relatively small number (23 out of 87 for group 17 and 30 out of 101 for group 18) fell in the legislated range between 0.95 and 1.05. This, in the Complainant's opinion, demonstrated that the system of assessments did not produce acceptably equitable outcomes. The Complainant further argued that the City's methodology is twice as likely to predict a value that is not reflective of actual market value, as it is to predict a value that is within 5% of that actual market value (time-adjusted selling price).

[28] Relying on the 0.85 median value of ASRs in respect of the six comparable properties, the Respondent requested the Board to reduce the subject assessment by 15% to make it equitable.

Respondent's Surrebuttal

[29] In response to the Complainant's Rebuttal, the Respondent relied on an explanation of the central tendency, measure of dispersion and coefficient of dispersion underlying ASR methodology and its analysis. The Respondent stated:

a. "It is expected that some properties will have quite high or low ASR values and this is reflective of the variance that occurs naturally within the market place."

b. "What is important is that the population of assessed values be centered around their time adjusted sale prices (median ASR), and that the rest of the assessed population fall within acceptable limits around that central measure."

c. "A biased sample is one that is specifically selected for a given criteria, such as, all having a high or all having a low ASR value. This type of biased sampling is not contemplated in the legislation, is not statistically meaningful and is deliberate misuse of the median ASR and/or coefficient of dispersion requirements."

Complainant's Summary

[30] In summation, the Complainant stated:

a. The measures of central tendency and the coefficient of dispersion are irrelevant to the issue before the Board and the Respondent's surrebuttal was an attempt at misdirection.

b. The 2014 assessments in respect of the sale comparables were all lower than the corresponding time adjusted selling prices.

c. The Respondent acknowledged that the newer buildings (built during 2011 – 2013) were over-assessed; by the same token, the evidence confirms that the group of properties, to which the subject property belongs, is under-assessed and therefore, the subject property's assessment at its market value, is not equitable.

d. The Complainant referenced some previous Board decisions, which, in the Complainant's opinion, looked at the process of assessment and not the inequities within a group of properties.

e. The property assessments needed to be set at the lower of the market value or equity, and in the Complainant's opinion, the Board needed to restore equity by lowering the subject assessment.

f. The subject assessment is at market value. However, the best available sale comparables indicate that their 2014 assessments are substantially below their respective market values (time adjusted sales prices), and that makes the subject assessment excessive and inequitable.

g. The Respondent's assertions that the 2014 assessments had passed the provincial audit did not, in the Complainant's opinion, mean that the subject had been assessed correctly and equitably.

h. The Complainant discounted the Respondent's equity comparables and requested the Board to place more weight on the sale comparables that provided better indication of the actual market conditions.

[31] In conclusion, the Complainant requested the Board to make the 2014 subject assessment equitable by reducing it by 9% to $46,278,505.

Respondent's Summary

[32] In summation, the Respondent stated:

a. The Complainant prefers to ignore the subject's market value while focusing on under-assessment of a set of sales comparables. In the Respondent's opinion, the subject property is already correctly assessed or under assessed.

b. If a group of properties is under assessed, and the subject property is a part of the group, it is reasonable to conclude that the subject is also under-assessed.

c. The Complainant has not provided any evidence with respect to the market value of the subject property. The composite table of six sale comparables shows that the time adjusted sale prices are in the range of $85 to $254 per sq. ft. with a median of $156/ sq. ft. This suggests that the market value for the subject property is in that range and clearly, the subject assessment is at the low-end of the market value. The 2014 assessments ranging between $77/ sq. ft. and $144/ sq. ft., clearly show that the subject assessment at $87/ sq. ft. is well within the range of values.

d. Market value is a range and the subject property is assessed at the bottom end of the range.

e. It has been demonstrated that in a small set of comparables, the median values can change dramatically when one comparable is added or removed from the sample. Quite appropriately, the standards require that the entire strata be used for the assessments and analysis.

f. There is no evidence before the Board that the subject property has been modeled differently or treated differently; on the contrary, all properties in the group have been treated in a similar manner.

[33] In conclusion, the Respondent requested the Board to confirm the 2014 assessment of $50,855,500.

Decision

[34] The Board confirms the 2014 assessment of $50,855,500.

Reasons for the Decision

[35] The Board noted that the only issue to be dealt with was one of equity, in that:

a. The Complainant's set of sale comparables showed that the Assessment to Sales Ratio (ASR) ranged between 0.72 and 0.94, and this indicated that the assessments were lower than the corresponding market values.

b. The Complainant suggested that the subject property's assessment was at its market value, but higher than the assessments of other comparable properties. This, in the Complainant's view, suggested the subject was inequitably assessed.

[36] The Board understands that the subject property has not sold since it was built in 2005. As such, there is no actual market data to establish its real market value or its relationship with the assessment value. The Board was not provided with any evidence or argument to support the contention that the subject property had been treated differently than other similar properties in the same group by the City's assessment model.

[37] No evidence was placed before the Board to support the Complainant's contention that application of typical market values to the entire assessment group of properties had produced inequitable results, only in the case of the subject property.

[38] The City relies on data in respect of recent validated sales to produce typical assessment values for all properties in the group. The Board was persuaded by the Respondent's explanation that the assessments of properties, even in the same group, could differ substantially, owing to the differences in contributing factors or characteristics; but to satisfy the provincial audit the median ASR of the group must fall within the 0.95 to 1.05 range and the scatter of other values must be contained well within the permissible limits.

[39] The Board finds that applying some ASR values from one end of the spectrum to a property at a different point in the spectrum would cause fresh, undesirable inequities. The Board is satisfied that the entire strata of properties must be processed together to produce statistically reliable results and a small sub-set of values cannot be relied upon to provide a correct indication of the subject property's market value.

[40] The Board accepts the Respondent's contention that all valid comparables in the Complainant's chart of comparables are superior to the subject property because of the differences in site coverage, location or building size and could not be relied upon to determine the market value of the subject property.

[41] The Board notes that the time adjusted sale prices in respect of all valid sale comparables provided by both parties, excluding an obvious outlier at $254/sq. ft., range from $77/ sq. ft. and $160/ sq. ft. The Board finds that the subject assessment at $87/ sq. ft. of the total building area falls well within the range of assessments for properties in different industrial locations.

[42] The Board is persuaded by the Respondent's argument that if there are a small number of properties in the City that appear to be under-assessed and the assessment model treats all similar properties in the same way, it would be logical to conclude that, if anything, the subject property is also equally under assessed and hence, equitably assessed.

[43] With no evidence to the contrary, the Board believes that the City's assessment model treats all similar properties in a similar and equitable manner and accepts the City's assessed value of $50,855,500 to be correct and equitable.

Dissenting Opinion

[44] There was no dissenting opinion.

Heard August 20, 2014.

Dated this 8th day of September, 2014, at the City of Edmonton, Alberta.

Willard Hughes, Presiding Officer

Appearances:

John Smiley
for the Complainant

Cam Ashmore
Jason Baldwin
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 and Taxation Regulation*, Alta. Reg. 220/2004, reads:

s 10(1) In this section, "property" does not include regulated property.

(2) In preparing an assessment for property, the assessor must have regard to the quality standards required by subsection (3) and must follow the procedures set out in the Alberta Assessment Quality Minister's Guidelines.

(3) For any stratum of the property type described in the following table, the quality standards set out in the table must be met in the preparation of assessments:

Property Type	Median Assessment Ratio	Coefficient of Dispersion
Property containing 1, 2 or 3 dwelling units	0.950 - 1.050	0 - 15.0
All other property	0.950 - 1.050	0 - 20.0

(4) The assessor must, in accordance with the procedures set out in the Alberta Assessment Quality Minister's Guidelines, declare annually that the requirements for assessments have been met.

Exhibits

C-1 – Complainant's Brief (42 pages)
C-2 – Rebuttal (18 pages)
C-3 – Supplemental Evidence (62 pages)
R-1 – Respondent's Brief (104 pages)
R-2 – Surrebuttal (9 pages)