Edmonton Composite Assessment Review Board

Citation: MNP LLP for 2278372 Ontario Inc v The City of Edmonton, 2014 ECARB 00722

Assessment Roll Number:	10097096
Municipal Address:	5219 47 Street NW
Assessment Year:	2014
Assessment Type:	Annual New
Assessment Amount:	$17,241,500

Between:

MNP LLP for 2278372 Ontario Inc

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Tom Eapen, Presiding Officer
Brian Carbol, Board Member
Randy Townsend, 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] There were no preliminary matters.

Background

[3] The subject property is located at 5219 - 47 Street in the Pylypow Industrial Park. The subject property is a large industrial warehouse with one tenant. The parcel is zoned IB with an area of 141,022 sq ft on the main floor and upper finished area of 11,029 sq ft for a total area of 152,051 sq ft with an assessed value at $122.00 per sq ft, of $17,241,500. The effective year built is 2006. The condition of the building is average. Site coverage is 40%. The parcel size is 8.004 acres, or 348,658 sq, ft in the South Industrial District of Edmonton.

Issues

[4] Is the subject property assessed in a fair and equitable manner to similar industrial parcels?

[5] Is the assessment of the subject property fair and equitable by using the income approach method?

Position of the Complainant

[6] The Complainant provided the Board with Exhibit C-1 which outlined evidence of comparable sales, assessment to sales ratios (ASR), and the rent roll for the subject, in support of a reduction in assessment for the subject property.

[7] Four comparable sales were provided in support of the Complainant's position. Three of the sales feature large multi-tenant industrial warehouse similar to the subject property, one of which is three times larger than the subject property. These properties range in year built from 1996 to 2008 (subject 2006); in date of sale from 2009-2010, with all sales adjusted for time; in building area from 162,860sf to 399,987sf (subject 152,051sf); in site coverage from 34.97% to 53.64% (subject 40%); and in time adjusted sale price per sq ft from $100.17 per sq ft to $104.95 per sq ft (subject assessed at $113.39 per sq ft).

[8] The Complainant also indicated that two of the sale comparables have frontage onto a major roadway, which makes them more valuable, in relation to the subject property, which is an interior site.

[9] The Complainant argued that the four sale comparables presented indicate market value. Further, the Comparables being below the assessed value of the subject property supports the reduction of the assessment of the subject property to $103 per sq ft.

[10] The Complainant also presented a chart of eight warehouse properties, over 63,350 sq ft, with assessment sales ratios (ASR) ranging from 77.69% to 124.90%. The median of these eight sales is 91.42% and the average is 93.74%. The coefficient of dispersion (COD) works out to be 0.1354. The Complainant referred the Board to S. 10 of *Matter Relating to Assessment and Taxation* (MRAT), which states that ASR's for all properties, other than residential with three or less units, must be within a range of 0.95 to 1.05 and a COD range of 0 to 20.0. Since only one of the eight ASR's presented by the Complainant falls within the ASR range as laid out in the legislation, it is the Complainant's opinion that the Respondent has failed to meet provincial guidelines.

[11] Since the subject property is a large income producing property, the Complainant believes that it is more likely to trade on the open market based on its ability to produce income. The Complainant produced the subject properties actual rent roll to support his income approach argument. An analysis using the income approach was applied utilizing the indicated lease rate of $7.15 per sq ft for the subject property, a 3% allowance for vacancy, 2% non-recoverable and a vacant space shortfall allowance of $4.00 per sq ft. The projected net operating income produced for the subject property is $1,024,333. Applying a market capitalization rate of 6.50% produces a value of $15,759,000 for the subject property.

[12] Based on the evidence presented, the Complainant requests that the assessment of the subject property be reduced to $15,661,000 or $103.00 per sq ft.

Position of the Respondent

[13] In support of the assessment of the subject property the Respondent provided evidence which included four sale comparables, four equity comparables, and an analysis of the Complainant's sale comparables.

[14] Four comparable sales were selected in support of the Respondent's position. Three of the sales are from neighbourhood group17 (northwest Edmonton) and one is from the same neighbourhood group as the subject (18). These properties range in year built from 1998 to 2009 (subject 2006); in date of sale from 2009-2012 with all sales adjusted for time; in building area from 110,997sf to 399,977sf (subject 152,051per sq ft); in site coverage from 25% to 54 % (subject 40%) and in time adjusted price per sq ft from $100 per sq ft to $159 per sq ft (subject assessed at $113.39 per sq ft).

[15] The Respondent noted that two of the sale comparables were considered superior to the subject, requiring downward adjustments due to smaller size and lower site coverage, while two are considered inferior, requiring upward adjustment; one has higher site coverage and is older while the other is much larger in building size. The Respondent indicated that the assessment of the subject at $113 per sq ft is supported as the assessment falls within the range of the two middle comparables.

[16] The Respondent provided an analysis of the sale comparables provided by the Complainant noting that all are inferior to the subject property; two of them are older and not considered to be on a major road as defined by the City of Edmonton; the third has a much larger lot; and the fourth is a larger building, and outside the neighbourhood group. In questioning the Complainant about these comparables, the Respondent was able to establish that the second sale has below market leases which would reduce value; that the third comparable is in an area that is only partially serviced; the fourth sale has below market leases that would diminish value and is not on a major road as defined by the City of Edmonton. In summation, the Respondent argued that the sale comparables presented by the Complainant did not provide sufficient evidence to reduce the current assessment.

[17] In response to the Complainant's issue regarding ASR's being outside of a legislated range of 95% to 105%, the Respondent provided a one page brief to explain that the Respondent's use of a very limited number of sales, eight sales versus the City's analysis of three hundred and fifty sales, to derive an ASR range simply does not comply with legislation, which states that all sales in a given stratum must be examined.

[18] In further support of the assessment, the Respondent presented a chart of six equity comparables from the same industrial group as the subject Property. These equity comparables range in year built from 2000 to 2009 (subject 2006); in building area from 101,997 sq ft to 184,994 sq ft (subject 141,022 sq ft); in site coverage from 39% to 48% (subject 40%) and in assessment per sq ft from $106 per sq ft to $126 sq ft (subject assessed at $113 per sq ft. Out of these six equity comparables only one, #3 is directly comparable to the subject, as the lot sizes and site coverage are similar.

[19] The Respondent further argued that equity is always an issue under section 467(3) of the Municipal Government Act and that the equity comparables presented by the Respondent support the assessment. The Respondent emphasized that equity was raised as an issue in the Complainants disclosure noting the following "The assessment is neither fair nor equitable relate to similar properties in the same jurisdiction".

[20] Regarding the Complainant's argument that the income approach should be used to establish the value of the subject property, the Responded argued that using the subject property's rent roll, rather than typical rents and a typical capitalization rate, is not correct. The Respondent submitted that the Complainant did not provide the Board with how these data were drawn and incorporated to establish the value.

Decision

[21] The assessment of the subject property is confirmed at $17,241,500.

Reasons for the Decision

[22] The Board determined that the Complainant did not provide sufficient nor compelling evidence to cause the Board to reduce the assessment.

[23] Specifically, the Board found that the sale comparables presented by the Complainant were inferior to the subject property and thus not highly comparable for assessment purposes. The Board gave more weight to the Respondent's analysis of these comparables, which showed them to be inferior in many ways, including, variously, effective age, building size, site coverage, existence of below market leases, and location not being on a major road.

[24] The Board concluded that the Complainant's ASR argument did not hold up to scrutiny, as the Complainant had used only a very small number of sales in comparison to the hundreds analyzed by the Respondent. MRAT makes it clear that all sales need to be reviewed within a stratum to determine which sales are good and which are not. The Complainant failed to provide evidence that they had analyzed more than the few ASR indicated. Therefore, the Board does not accept the Complainant's argument that the City did not meet their legislated requirements.

[25] Further, while the Board was not fully persuaded by the sale comparables presented by the Respondent, as they exhibited many of the same flaws as those presented by the Complainant, the Respondent's equity comparables were deemed to support the assessment. The Board further found that equity is an issue in the matter based on the grounds presented by the Complainant in his brief i.e. this assessment is neither fair nor equitable relate to similar properties in the jurisdiction.

[26] The Board further finds that the Complainants income approach method was not supported with information which represents typical rents and a capitalization rate, which are required when using the income approach.

Dissenting Opinion

[27] There was no dissenting opinion.

Heard July 22, 2014.
Dated this 8th day of August, 2014, at the City of Edmonton, Alberta.

Tom Eapen, Presiding Officer

Appearances:

Walid Melhem
for the Complainant

Cam Ashmore
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.

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 Submissions
R-1 Respondent's Submissions