

Edmonton Composite Assessment Review Board

Citation: John C. Manning v The City of Edmonton, ECARB 2012-002187

Assessment Roll Number: 8636342

Municipal Address: 5830 99 STREET NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

John C. Manning, CVG for Walfam Inc.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Hatem Naboulsi, Presiding Officer

George Zaharia, Board Member

Howard Worrell, Board Member

Preliminary Matters

[1] There were no preliminary matters. Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file.

Background

[2] The subject property is a single-tenant office/warehouse building built in 1969, and is located at 5830 99 Street NW in the Coronet Industrial neighbourhood. The building is comprised of 6,400 square feet of space, and has no finished mezzanine space. The building is situated on an interior lot zoned IM with effective zoning of IM, 42,733 square feet (0.98 acres) in size for a site coverage of 15%. It is on a major roadway.

[3] The subject was assessed using the direct sales approach resulting in a 2012 assessment of \$1,281,500 (\$200.23 per square foot).

Issue(s)

[4] Is the subject property assessed in excess of its market value when compared to sales of similar properties?

Legislation

[5] The Municipal Government Act reads:

Municipal Government Act, RSA 2000, c M-26

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 submitted into evidence a 21-page brief identified as C-1, arguing that the current assessment of \$1,281,500 is excessive compared to sales of similar properties. In support of this position, the Complainant submitted six sales comparables of similar properties. The sales occurred between January 2009 and February 2011, the properties selling for time-adjusted sales prices ranging from \$71.67 to \$185.31 per square foot (Exhibit C-1, page 1).

[7] The Complainant stated that the subject site is extremely narrow and in this regard, the CARB reduced the 2011 assessment to \$1,088,000 (Exhibit C-1, page 1).

[8] Based upon his sales comparables, the Complainant placed most weight on sales #'s 2, 5 and 6 that were considered to have the most similar physical characteristics to the subject property (Exhibit C-1, page 2). The Complainant also stated that his sales comparables were older properties with lower site coverage, similar to that of the subject.

[9] The Complainant included in his brief, a Composite Assessment Review Board (CARB) decision regarding the 2011 assessment where the decision of the CARB was to reduce the 2011 assessment of the subject from \$1,293,000 to \$1,088,000 (Exhibit C-1, pages 12 - 15).

[10] In summary, the Complainant argued that:

- i. The Respondent provided poor evidence to support the assessment.
- ii. Acknowledged that the Respondent's sales # 4 may be a relevant comparable, but with IB zoning, the Complainant considered this zoning as being vastly better than the IM zoning of the subject property.
- iii. The very narrow lot provided a problem with access to the site.

[11] In conclusion, based on a value of \$150.00 per square foot, the Complainant requested the Board to reduce the 2012 assessment of the subject property from the original \$1,281,500 to \$960,000.

Position of the Respondent

[12] The Respondent submitted into evidence a 33-page brief identified as R-1, arguing that the current assessment of \$1,281,500 is fair and equitable when compared to sales of similar properties. He also submitted a 44-page law and legislation brief.

[13] In support of this position, the Respondent submitted a total of five sales comparables that occurred between January 29, 2008 and April 19, 2011 for time-adjusted sales prices ranging from \$174.61 to \$247.79 per square foot (Exhibit R-1, page 21). The comparables ranged in age from 1960 to 1981, were all average in condition, and ranged in total building size from 3,359 to 10,065 square feet.

[14] The Respondent provided a critique of the Complainant's sales:

- i. Showing some different time-adjusted sales prices and site coverage from those shown in the Complainant's sales comparables (Exhibit R-1, page 19).
- ii. Sales # 6 was considered a motivated sale and therefore should not be used as a comparable.

[15] The Respondent advised the Board of factors that were found to affect value in the warehouse inventory, those being: location, lot size, age and condition of the building, size of the main floor, the amount of finished area on the main floor, as well as developed upper area (Exhibit R-1, page 7).

[16] The Respondent brought to the Board's attention that the Municipal Government Board has ruled on a number of occasions that "market value" encompasses a range and the issue is whether the assessment falls within the range of value (Exhibit R-1, page 27). Section 10 of the *Matters Relating to Assessment and Taxation Regulation* sets out the range in the quality standard as being +/- 5%.

[17] In summary, the Respondent:

- i. Stated that the Complainant's sales comparable # 6 should not be used in consideration of the deferred maintenance issues.
- ii. Argued that little weight should be given the Complainant's sales comparables since only two had site coverage below 20% with the subject at 15%.
- iii. Suggested that the Complainant had failed to meet onus - to prove that the assessment was incorrect.

[18] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at \$1,281,500.

Decision

[19] The decision of the Board is to confirm the 2012 assessment of the subject property at \$1,281,500.

Reasons for the Decision

[20] The Board was not persuaded by the Respondent's argument that the Complainant had not met onus. In arriving at its decision, the Board relied on some of the Complainant's sales comparables.

[21] The Board is not bound by a previous Board decision.

[22] The Board placed some weight on the Complainant's sales comparables #'s 1 to 5. The ages of the comparables were reasonably similar to the subject, the total building sizes were in a tight range compared to the subject, four of five of the comparables did not have upper finished mezzanine space, and the first five comparables were in average condition as is the subject. The Board noted that only sales comparable # 3 had lower site coverage than the subject while the other four had higher site coverage necessitating adjustments, in particular sale # 2 that had a 34% site coverage compared to the subject's 15%.

[23] The Board placed some weight on the Respondent's sales comparables since age was reasonably similar, and site coverage of the comparables ranging from 12% to 17% encompassed the subject's 15%. The Board noted that three of the five comparables were located in northeast Edmonton while the subject was located in the southeast. The total building size ranged from a low of 3,359 to a high of 10,065 square feet compared to the subject's 6,400 square feet. Two of the comparables had finished mezzanine space while the subject had none.

[24] By taking into consideration the Complainant's sales comparables #'s 1 to 5, and the Respondent's sales comparables, without applying any adjustments, the resulting average was \$190.13 per square foot. This average of \$190.13 per square foot is 5.0% lower than the subject's \$200.23 per square foot assessment, or at the threshold of the +/- 5% quality standard as identified in section 10 of the *Matters Relating to Assessment and Taxation Regulation*.

[25] The Board was persuaded that the 2012 assessment in the amount of \$1,281,500 is fair and equitable.

Dissenting Opinion

[26] There was no dissenting opinion.

Heard commencing September 18, 2012.

Dated this 10th day of October, 2012, at the City of Edmonton, Alberta.

Hatem Naboulsi, Presiding Officer

Appearances:

Peter Smith, CVG
for the Complainant

Joel Schmaus, Assessor
for the Respondent