



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 109/11

Aaron Slawsky, 285529 Alberta Ltd.
12210 Mount Lawn Road N.W.
Edmonton, AB T5B 4J4

The City of Edmonton
Assessment and Taxation Branch
600 Chancery Hall
3 Sir Winston Churchill Square
Edmonton, AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on July 19, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3018777	9762 - 54 Avenue NW	Plan: 8421409 Block: 12 Lot: 13	\$1,924,000	Annual New	2011

Before:

Ted Sadlowski, Presiding Officer
John Braim, Board Member
Judy Shewchuk, Board Member

Board Officer:

Annet Adetunji

Persons Appearing on behalf of Complainant:

Liam Kelly, Witten LLP

Persons Appearing on behalf of Respondent:

Joel Schmaus, City of Edmonton, Assessor

PRELIMINARY MATTERS

1. 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.
2. At the commencement of the hearing the Complainant provided the Board and the Respondent with a signed copy of an **Agent Representative Authorization Form (C-1)**.
3. The Respondent objected to the rebuttal evidence that the Complainant wished to provide to the Board as it had not been previously disclosed to the Respondent. Following a brief recess the decision of the Board was not to allow this evidence as it had not been disclosed in accordance with **Alberta Regulation 310/2009 Section 8 (2) (c)** that clearly states *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) (respondent's disclosure) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.*

BACKGROUND

The subject property comprises a 20,010 square foot warehouse constructed on an irregular shaped parcel of land extending to 47,685.68 square feet located in the Coronet industrial subdivision in south-east Edmonton. The property is an interior lot zoned IM (Medium Industrial) and the building has an effective year built of 1980 with a site coverage ratio of 38%. The building has a warehouse portion of 14,600 square feet and an office portion of 1,800 square feet and is rated in fair condition

ISSUE(S)

1. Is the assessment amount of the subject property correct?
2. Is the condition of the property fair or poor?

LEGISLATION

The Municipal Government Act, R.S.A. 2000, c. M-26;

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

The Complainant provided the Board with a brief (C-2) containing numerous photographs of the subject yard improvements and a repair estimate from Sabre Concrete Construction Inc. detailing the required yard work that needed to be completed. The proposal quoted a rate of \$619,390 to grade the subject yard, and the adjoining property yard, and resurface with 8" thick concrete, such that water will properly disperse instead of pooling on-site. The Complainant stated that condition is the prime issue as the subject property could not be sold with the yard in its existing condition. The proposed cost of \$300,000 to remediate the subject yard should be the proposed reduction in the assessment resulting in a reduction from \$1,924,000 to \$1,624,000.

In response to questions the Complainant said only one quotation had been obtained for the work.

POSITION OF THE RESPONDENT

The Respondent provided the Board with a brief (R-1) and stated the building was in good repair but the condition of the yard had resulted in the condition factor on the Account Detail Report being reduced from "average" to "fair" (R-1, page 7) as a result of an inspection. In addition the Respondent informed the Board that an additional 10% adjustment had also been applied to the subject property to further compensate for the overall condition (R-1, page 15). The property had not been reduced to the status of "poor" as this was usually reserved for properties that required major repairs or replacements and were primarily land value. This 10% adjustment had been applied rather than changing the rating from "fair" to "poor" for the whole property as the Respondent felt the condition change to "fair" was not fully adequate to compensate for the overall condition. The Respondent stated the difference between "average" and "fair" was about 5% or approximately \$100,000 in this case.

The Respondent provided 7 sales comparables (R-1, pages 16 - 23) that were all located in the south-east industrial area. The sales were completed between February 2007 and June 2010 and were time adjusted to valuation day. The buildings ranged in age from 1970 to 1986 and size from 17,802 square feet to 25,530 square feet compared to the subject which has an effective year built of 1980 and a size of 20,010 square feet. The comparables sales had site coverage ratios that ranged from 29% to 55%, whereas the subject is 38%. The principal difference between the comparables and the subject is condition. The comparables sales were all in average condition and the subject was rated as fair. The time adjusted sale prices ranged from \$113.87/square foot to \$159.59/square foot compared to the subject that is assessed at only \$96.15/square foot. The Respondent stated the unit rates for all the comparable sales were substantially higher than the assessed unit rate for the subject. This more than compensated for the difference in condition.

The Respondent also provided the Board with an assessment chart (R-1, page 24) detailing 9 equity comparables that were all located in the south-east industrial area. They ranged in size from 14,434 square feet to 32,452 square feet and had site coverage ratios ranging from 33% to 41% with the subject property falling within this range. The 4 properties that are in "fair" condition have assessments ranging from \$95.31/square foot to \$120.07/square foot and support the assessment of the subject. The five assessments that are rated as "average" condition range from \$106.16/square foot to \$119.17/square foot and also support the assessment.

The property had been inspected and the Respondent had agreed the condition should be changed from average to fair due to the condition of the concrete yard. The Respondent stated that the estimated cost of the concrete remediation at \$643/cubic yard seems extremely high.

DECISION

After hearing the evidence and argument of both parties the decision of the Board is to confirm the 2011 assessment for the subject property at \$1,924,000.

REASONS FOR THE DECISION

1. The Board was persuaded by the evidence of the Respondent who had provided a chart of equity comparables (R-1, page 24) that were all located in the south-east industrial area. Four of the sales were rated as fair like the subject and ranged in unit rates from \$95.31/square foot to 120.17/square foot which support the assessment of the subject at \$96.15/square foot. They ranged in age from 1958 to 1986/1987 with 3 of the sales being similar in age to the subject with an effective age of 1980. The sizes ranged from 14,434 square feet to 32,452 square feet and the site coverage ratios (SCR) ranged from 33% to 41% compared to the subject at 20,010 square feet with a SCR of 38%. In addition two of the assessments also had an additional 10% reduction for condition applied to them, like the subject.
2. The Respondent also provided 5 equity comparables in the same chart that were in average condition. Three were close in age to the subject and two were older. The sizes ranged from 18,012 square feet to 22,464 square feet and the SCRs ranged from 37% to 40%. The unit rates resulting ranged from \$106.16/square foot to \$119.17/square foot and give support to the assessment of the subject.
3. Additional support to the assessment was provided by the Respondent in the form of 7 sales comparables (R-1, page 16) that were also located in the south-east industrial area. The sales ranged in effective age from 1972 to 1986 and all were in average condition which is superior to the subject. The building sizes ranged from 17,802 square feet to 25,530 square feet and the SCRs ranged from 29% to 55%. The unit rates that resulted from these time adjusted sales ranged from \$113.87/square foot to \$159.59/square foot as opposed to the subject that is \$96.15/square foot. The Board concluded these sales also indirectly support the assessment of the subject property, as the unit rates are substantially higher than the subject.
4. The Board was not persuaded by the evidence of the Complainant as insufficient evidence was provided to show what the correct assessment should be. The Board considered the condition of the concrete on the property had been adequately provided for by the change in condition from average to fair and the additional 10% adjustment as indicated on the SPSS Detail Report.

DISSENTING OPINION AND REASONS

There were no dissenting opinions.

Dated this 16th day of August, 2011, at the City of Edmonton, in the Province of Alberta.

Ted Sadlowski, Presiding Officer

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, R.S.A. 2000, c.M-26.

cc: 285529 Alberta Ltd