



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
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NOTICE OF DECISION NO. 0098 133/10

807958 Alberta Ltd.
10532 108 Street NW
Edmonton, AB T5H 2Z9

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 26, 2010 respecting a complaint for:

Roll Number 9978834	Municipal Address 102 10009 102 Avenue NW	Legal Description Plan: 0021116 Unit: 2
Assessed Value \$388,500	Assessment Type Annual – New	Assessment Notice for 2010

Before:

Darryl Trueman, Presiding Officer
George Zaharia, Board Member
Brian Frost, Board Member

Board Officer: Annet N. Adetunji

Persons Appearing: Complainant
Bruce MacMillan

Persons Appearing: Respondent
John Ball, Assessment and Taxation Branch
Peter Bubula, Assessment and Taxation Branch

PRELIMINARY MATTERS

Upon questioning by the Presiding Officer, the parties had no objection to the composition of the Board.

Prior to commencement of the hearing the parties were sworn in.

BACKGROUND

The subject property is a concrete three and one half story corner property with basement, known as the Telephone Building, (built in 1921) that was purchased by the Complainant from the City

of Edmonton some 14 years ago. It was previously utilized as a telephone switching station. As a condition of purchase and provision of a development permit, the building received “Heritage” designation at the time of purchase. As a result, exterior modifications are limited. The building was renovated and condominiumized, completion occurring in about 1998, and other than the main floor and basement, became residential units. The basement is now underground parking, largely used by the residential tenants, and the main floor was developed into 4 retail condominium units. The largest, Unit 1, is occupied by National Bank. The remaining 3 are the subject of this, and two other appeals. The residential units and parking located within the subject complex are not under appeal. The subject of this appeal is unit number 2 which is a main floor commercial retail unit consisting of 1,806 sq. ft. with no direct access to either the street or the avenue.

ISSUE

The city assessor has not adequately accounted for the location of the unit within the subject property nor its accessibility thus overvaluing it for assessment purposes.

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,

Interpretation

s.1(1) In this Act,

(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

The Matters Relating to Assessment and Taxation Regulation, Alberta regulation 220/2004 (MRAT);

Part 1, Standards of Assessment

Valuation standard for a parcel of land

s.4(1) The valuation standard for a parcel of land is

- (a) market value

POSITION OF THE COMPLAINANT

It is the Complainant’s position that unit 2 is located adjacent to the lane in the southeast corner of the building. The complainant points out that, with the exception of unit number one, the subject, together with two other retail units in this building are accessed through the main door off of 102nd Ave. He goes on to say that this main door is locked on a 24/7 basis and this is the

result of security that is necessary to be provided to the upstairs residential condominium owners. As a result of this, finding typical retail tenants is very difficult and the only tenant he has been able to secure for this unit has been Shaw Communications who lease a portion of the unit as a communication equipment storage facility. This lease yields \$8,580.00 per year on a net basis and for the lease area rented, an approximate \$5 sq. ft. net is the indicated rent. The complainant argued that because of the lack of natural light and restricted access to the subject unit, which is at the rear of the building and approximately 6 feet above grade, this current lease is at market rent. An estimated capitalization rate of 8% with typical allowances for vacancy and structural maintenance would yield a value in the range of \$53.00 per sq. ft. The complainant went on to explain that his similar unit number 4 had generated a total of \$177,514 net income over 12 years and that this equates to \$5.97 per sq. ft. further suggesting an approximately \$5-\$6 rental rate as appropriate for this subject property. The complainant advised the board that there were no other retail condo units in the city of Edmonton that would be comparable due to the unique characteristics of the building. He postulated that the income approach provided a reliable means of determining value.

POSITION OF THE RESPONDENT

The Respondent opened his presentation with information that he had, as a result of an inspection of the property, reduced his assessment from \$388,500 to \$316,000 in recognition of the location of the unit within the building and access thereto. He then presented his position by summation of his brief (R-1) containing preamble detailing mass appraisal and valuation techniques. Photos, maps and assessment information followed, then sales and equity data. Comparable Sales of six retail properties and five equity comparables were provided (R-1 Pgs 26 and 27). The sales reflect an adjusted sales price per sq. ft. range of \$184.00 to \$540 (five between \$184.00 and \$258.00). The reduced assessment is \$174.97, substantially below the supplied comparables in recognition of the location and access issues which he feels is fair and equitable treatment for the property.

FINDINGS

The Board finds that this property has unique characteristics and that any value conclusion must be well supported by market evidence that would be applicable to the subject property.

DECISION

It is the Board's decision to uphold the reduced assessment of \$316,000 as proposed by the Assessor.

REASONS FOR THE DECISION

Notwithstanding the Complainant's inability to place tenants in the space who were prepared to pay a rent perceived by the Complainant as market, he has managed to place a tenant for at least part of the space on a long term basis. Lack of access and the extended length of lease term for only part of the Unit 2 space are indeed impediments to further leasing of the space but those are self inflicted. The City Assessor undertook an inspection to satisfy both parties and as a result reduced the assessment prior to this hearing. The Complainant failed to provide sufficient market information as regards comparable sales, market lease rates and capitalization rates to convince the board that the assessment was incorrect. It is incumbent upon the Complainant to meet a

level of evidentiary support that the Board can accept as would a willing buyer. Proposing vacancy and capitalization rates is insufficient to meet onus where market data is required.

Dated this 13th day of August, 2010 at the City of Edmonton, in the Province of Alberta.

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: Municipal Government Board