



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
1 SIR WINSTON CHURCHILL SQUARE
EDMONTON AB T5J 2R7
(780) 496-5026 FAX (780) 496-8199

NOTICE OF DECISION NO. 0098 139/10

Canadian Valuation Group
Suite 1200, 10665 Jasper Avenue
Edmonton, AB T5J 3S9

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 August 9, 2010 respecting a complaint for:

Roll Number 7979586	Municipal Address 2610A Calgary Trail NW	Legal Description Plan: 663RS Lot: 3
Assessed Value \$1,779,500	Assessment Type ANNUAL NEW	Assessment Notice for: 2010

Before:

Dean Sanduga, Presiding Officer
Terri Mann, Board Member
Brian Frost, Board Member

Board Officer: Alison Mazoff

Persons Appearing: Complainant

Peter Smith, CVG

Persons Appearing: Respondent

Ning Zheng, Assessor, City of Edmonton

PRELIMINARY MATTERS

Neither Party raised any objection to the composition of the Board, nor did the Board indicate any bias.

The Complainant requested that the Board strike the Respondent's land equity comparables evidence portion of the Respondent's brief (R-1 p.62). The Complainant submitted that although the Respondent purported to provide land equity comparables, the values provided were not, in fact, the actual assessments for these properties. The Complainant suggested that this evidence was therefore misleading to some extent and thus, should, be removed from the record.

The Respondent acknowledged that the values provided were not the actual assessments for the respective properties, but represented only the excess land value component of the assessment for these properties. The Respondent explained that he had provided these values to indicate that all excess land was generally assessed in the same manner, and the assessment per square foot of these comparables supported the assessment.

The Board determined that there was not a compelling rationale to strike the evidence from the record, however, appropriate weight was given to the evidence taking into account all of the circumstances.

BACKGROUND

The subject is a 3,412 square foot building that was built in 1964. It is currently operating as a restaurant in South-Central Edmonton. The restaurant is situated on a lot with site area of 47,957 square feet, and is zoned as CHY. In addition to the restaurant, there is a 240 square foot storage shed on the site.

The City of Edmonton has assessed the improvements using the income approach to value. The City of Edmonton has also allocated a value for the excess site area.

ISSUES

1. The Board notes that issues #1, 6 and 7 are subsumed in the issue as to whether the excess land adjustment portion of the 2010 assessment of the subject property, is excessive (R-1, p.28).
 - a) The subject's assessment amount shown on the annual realty notice for 2010 is incorrect as it is greater than the July 1, 2009 market value. Further, the assessment is inequitable in relation to the 2010 assessments of all similar properties.
 - b) The oversize land adjustment is excessive as the value per square foot estimated by the City for the subject property is higher than the values derived from sales of similar properties. An analysis of these sales indicates a lower overall value per square foot should be applied for the 2010 assessment purposes than that used by the City.
 - c) The oversize land adjustment amount is inequitable as the 2010 assessments of similar land parcels have lower 2010 assessments per square foot than the subject property.
2. The lease rates estimated by the City are greater than the typical or market rents, as well as the subject's actual rent as of July 1, 2009.

The Board notes that there was no direct evidence provided by the Complainant to support this issue. As a result, the Board did not examine or make any determination on this issue.

3. The capitalization rate used by the City is lower than the capitalization rates derived from sales of similar properties.

The Board notes that while the Complainant did indicate that he was of the opinion that the capitalization rate applied by the City did not reflect certain negative attributes of the subject, the

Complainant did not introduce evidence to support this issue. As a result, the Board did not analyze or make any determination on this issue.

4. The retail assessment amount does not correctly reflect the condition and physical characteristics of this property as the effective year built should be the same as the actual year built.

The Board notes that the Complainant did not introduce evidence on the retail assessment amount. As a result, the Board did not analyze this issue or make any determination on this issue.

5. The retail assessment amount is inequitable as the 2010 assessments of similar retail properties have lower 2010 assessments per square foot than the subject property.

The Board notes that the Complainant did not provide any evidence in support of this issue. As a result, the Board did not analyze or make any determination on this issue.

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

It is the Complainant's position that the City has applied an excessive rate for the excess land value component of the assessment. In this regard, the Complainant submits that the rate applied by the City for the excess land (\$29.97 per square foot) fails to take into account two negative attributes of the subject; (1) that the restaurant is in the middle of the site which restricts access and development to both the front and rear of the subject property; and (2) that access and visibility from Calgary Trail Southbound is poor as there is no access and limited visibility from Northbound traffic (i.e. Gateway Boulevard) (C-1).

The Complainant provided seven land sales in support of a reduced value for the excess land component of the subject property (C-1 p.2, p. 4-11). In his rebuttal, the Complainant also provided evidence to substantiate his contention that the City has over-valued CHY zoned lands (C-3).

The Complainant requests a revised rate of \$20.00 per square foot (totaling \$681,620) be applied for the excess land component. This would result in a revised 2010 assessment of \$1,440,000.

POSITION OF THE RESPONDENT

The Respondent is of the position that the value attributed to the excess land is both fair and correct. In this regard, the Respondent is of the position that the location of a property on a lot is irrelevant for the purpose of valuation of excess site area. The Respondent acknowledges that the subject property has limited visibility and access from Calgary Trail in relation to other properties on Calgary Trail, but is nonetheless of the position that the assessment for the excess land is both fair and correct. The Respondent provided three comparable land sales to support the excess land value component of the subject's assessment (R-1 p.49) and four equity comparables (as noted above, the values provided represent only the excess site area component of the respective assessments) (R-1 p.62).

FINDINGS

1. The subject property has site coverage of 7.62% and has excess land value.
2. The subject is situated on Calgary Trail, a major traffic arterial road, but only accessible by a service road.

DECISION

The decision of the Board is to confirm the 2010 assessment of \$1,779,500.

REASONS FOR THE DECISION

The Board reviewed the Complainant's sales comparables (C-1 p.2). The Board put little weight on the seventh comparable, because its sale date was after the valuation date, albeit not long after the valuation date (sale date was in August 2009). The Board placed little weight on the first sale because the comments on the sale sheet indicated that the property was "acquired through a litigation process" and there was another comment that "there was other consideration paid" (C-1 p.4). The Board placed little weight on the remaining sale comparables because these were located in different areas of the City of Edmonton, as well as the City of St. Albert. Excepting sale # 2, the comparables were not located on arterials comparable to the subject.

The Board did place some weight on the second sales comparable, as although it was located in a different neighborhood, it, too, was located on a major arterial like the subject. The Board noted that the time-adjusted sale price of this comparable, \$30.65 per square foot, in fact supported the subject's assessment of \$29.97 per square foot.

The Board reviewed the Respondent's three sales comparables. All of the comparables were situated in the same immediate vicinity as the subject, although it is uncertain that these sales had the negative attributes attributed to the subject (poor visibility, etc.).

The Complainant submitted that the first sales comparable was a dated sale, and the time adjustment was significant (88%), making the time adjusted sale price less reliable as an indicator of value at the material time. The Board noted this argument but found that unless the time adjustment is incorrect, a sale with a greater time adjustment may not be less reliable than a sale involving less time adjustment.

The Complainant also submitted that the Respondent's first and second sale which was zoned CB2 and DC2 were superior in value to the zoning to the subject, which possessed a CHY zoning. The Board concluded that although the Edmonton Zoning Bylaw 12800 did appear to indicate greater usage (floor area ratio, etc.) for CB2 versus CHY (C-3 p. 4-13), there was inconclusive evidence to discount the Respondent's sales comparable on this basis alone.

The Board found that the Respondent's sales comparables exhibited some similar characteristics to the subject, and supported the assessment.

The Board placed little weight on the Respondent's equity comparables for the reasons outlined above.

The Board found that the Complainant did not satisfy his evidential onus, and failed to persuade the Board that the assessment was incorrect or inequitable.

DISSENTING DECISION AND REASONS

There were no dissenting decisions or reasons.

Dated this 23 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: 364661 ALBERTA LTD
CC: Municipal Government Board