

NOTICE OF DECISION NO. 0098 168/12

AEC INTERNATIONAL INC.
1120, 10201 SOUTHPORT RD SW
CALGARY, AB T2W 4X9

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 20, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
10125694	7211 8 STREET NW	Plan: 0821861 Block: 2 Lot: 6	\$5,280,500	Annual New	2012

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.

cc: NUMERIC HOLDINGS INC

Edmonton Composite Assessment Review Board

Citation: AEC INTERNATIONAL INC. v The City of Edmonton, ECARB 2012-000469

Assessment Roll Number: 10125694

Municipal Address: 7211 8 STREET NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

AEC INTERNATIONAL INC.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Dean Sanduga, Presiding Officer

Jasbeer Singh, Board Member

Mary Sheldon, Board Member

Preliminary Matters

[1] Upon questioning by the Presiding Officer, the parties indicated they had no objection to the composition of the Board. In addition, the Board members indicated they had no bias on this file.

Background

[2] The subject property is a medium warehouse on a 4.129 acre (179,884 square feet) parcel of industrial land zoned 'IM' in Maple Ridge Industrial area in Edmonton. There are two buildings on site. One of the buildings is an industrial warehouse which has a gross area of 15,700 square feet. The second warehouse building has a gross area of 6,000 square feet. Also on site is a material storage shed of 2,000 square feet attached to the second building. This storage shed is of nominal value. All buildings were constructed in 2008. The site coverage of the subject is 10%.

Issue(s)

[3] Is the 2012 assessment for the subject property in excess of market value?

Legislation

[4] 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

[5] In support of his position that the current assessment of the subject was in excess of its market value, the Complainant presented to the Board an assessment brief (C-1, 30 pages).

[6] The Complainant advised the Board that the subject had sold on December 16, 2010 for a price of \$3,215,000 or \$148 per square foot (C-1, page 7). The Complainant indicated that this was a judicial sale. The Complainant stated that, despite the fact that this was a judicial sale, it was nevertheless a good indicator of market value for the subject. During questioning, the Complainant admitted that typically these judicial sales were on the low end of the value range. However, in this case, it was the opinion of the Complainant that the sales of properties similar to the subject supported the sale price of the subject.

[7] The Complainant provided details of twelve sales comparables of properties similar to the subject for the consideration of the Board. The building areas of these comparables ranged from 15,000 square feet to 29,982 square feet. The year built of these properties ranged from 1991 to 2011 and the sales prices per square foot ranged from \$61.64 to \$186.71 (C-1, page 7). The average sale price per square foot of these comparables was \$123.07 which, the Complainant submitted, demonstrated that the assessment of the subject at \$243 per square foot was excessive. The Complainant argued as that this evidence also showed that the sale of the subject in December, 2010 at \$148 per square foot was a good indicator of market value.

[8] The Complainant also advised the Board that the assessment of the subject had increased 107% over the previous year's assessment and that this increase was excessive (C-1, page 7). The Complainant presented evidence to the Board to show that one of his comparable sales (4810 93 Street) sold twice during the relevant time period. The first sale was in April, 2009 for \$113 per square foot and the second sale was in February, 2011 for \$133 per square foot. The Complainant submitted that this evidence supports an increase of 15% over 22 months. However, it does not support the very substantial increase (107%) to the assessment of the subject in the current year from the previous year. (C-1, page 8).

[9] The Complainant requested that the Board reduce the 2012 assessment of the subject to \$3, 215,000 which equates to \$148 per square foot.

Position of the Respondent

[10] The Respondent argued that the 2012 assessment of the subject at \$5,280,500 was correct, fair and equitable.

[11] The Respondent pointed out to the Board during questioning that there were problems with the sales comparables presented by the Complainant which made those comparable less helpful in establishing value for the subject. In particular, the Respondent indicated that all the comparables would be inferior in terms of site coverage. As well, the Complainant's sales comparable #4 was located in Winterburn and had only limited city services which would depress the purchase price. As well, comparables #1, #3, #8 and #10 were office buildings and #5 was a multi-tenant strip mall, all of which would make these comparables of less assistance in establishing value for the subject.

[12] In support of the position that the assessment of the subject was correct, the Respondent presented three sales of comparable properties (R-1, page 16). The time adjusted sale prices per square foot of these comparables ranged from \$161.30 to \$232.16 and the Respondent stated that this supported the assessment per square foot of the subject at \$240.03. The Respondent stated further that the lot sizes ranged from 171,798 square feet to 825,659 square feet (as compared with the subject at 179,879 square feet). The Respondent submitted that each of these three sales comparables had two buildings on site and were located in south east Edmonton, same as the subject.

[13] In response to the Complainant's statement that the current assessment of the subject had increased excessively over the previous year, the Respondent advised the Board that the subject had been assessed using the cost approach for the previous assessment year and that for 2012 the subject had been valued using the direct sales approach. The assessment of the subject had therefore increased from \$2,552,000 in 2011 to \$5,280,500 in 2012. The Respondent advised the Board that this shift to valuing the subject on the direct sales approach ought to have been made in 2011 but through an oversight, that had not been done.

[14] The Respondent also submitted to the Board an excerpt from the *Standard on Verification and Adjustment of Sales*. This excerpt stated that a forced sale resulting from a judicial order was generally considered invalid (R-1, page 27).

[15] The Respondent requested that the Board confirm the 2012 assessment of the subject at \$5,280,500

Complainant's Rebuttal

[16] In response to the evidence supplied by the Respondent, the Complainant provided a rebuttal document. (C-2). The Complainant advised the Board that the Respondent's comparable #1 (9651 25 Avenue) was nearly twice the size of the subject and had substantially more finished office space. In the opinion of the Complainant, the time adjusted sale price per square foot of \$161.30 of this comparable does not support the assessment per square foot of the subject but does support the \$148 per square foot value of the subject pursuant to the judicial sale.

[17] The Complainant also pointed out to the Board that the second comparable presented by the Respondent (5015 76 Avenue) was a sale/leaseback transaction which, in the opinion of the Complainant, did not represent the market value of the subject.

[18] With respect to the third comparable presented by the Respondent (5708 51 Avenue) the Complainant advised the Board that it was nearly triple the size of the subject and very likely included a vacant land parcel.

[19] In addition, the Complainant advised the Board that all of the Respondent's sales comparables supported a lower price per square foot assessment for the subject.

[20] The Complainant also pointed out in the rebuttal document that the *Standard on Verification and Adjustment of Sales* excerpt quoted by the Respondent in its evidence also contained the following comment: *Sales in which a financial institution is the seller typically should be considered as potentially valid for model calibration and ratio studies if they comprise more than 20 percent of sales in a specific market area.*

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Decision

[21] The decision of the Board is to reduce the 2012 assessment of the subject to \$3,215,000

Reasons for the Decision

[22] The Board acknowledges that, in general, case law has indicated that the sale of the subject at or near the valuation date is the best indicator of market value.

[23] The Board also acknowledges the Respondent's submission that normally a judicial sale of a subject is not considered a good representative of its market value.

[24] However, in this case, the Board accepts that the judicial sale of the subject in December, 2010 is a good indicator of market value as there are comparables presented by both parties which support a value of \$148 per square foot for the subject.

[25] Specifically, the Board notes that there are difficulties with some of the twelve comparables presented by the Complainant. Four comparables are office properties and one is a retail property. One comparable is located in an area without services. There was also a comment that one comparable was in fair, not average condition. The remaining comparables would require some adjustments for age and site coverage. However, the average of these comparables is \$124.00 per square foot and, with adjustments as noted above, this range supports a value of \$148.00 per square foot for the subject.

[26] The Board notes the Complainant's comments concerning the Respondent's comparable sales. Only the Respondent's comparable #3 came close to supporting the assessment per square foot of the subject and this comparable is nearly three times the size of the subject. The Respondent's sale comparable #2 is a sale/leaseback transaction which should be used with caution in establishing value. The remaining comparable presented by the Respondent has a time adjusted sale price per square foot of \$161.30 which would support the Complainant's request for an lower assessment per square foot for the subject.

[27] Therefore, in this case, the Board is of the opinion that, although in general a judicial sale of a subject should be used with caution in establishing value, the judicial sale of the subject in December, 2010 can be considered as representative of market value as that sale price is supported by other evidence.

[28] With respect to the Complainant's submission that the percentage increase in assessment for the subject for the current year over the previous year is excessive, the Board notes that a substantial increase in an assessment over a previous year's assessment is not, in itself a reason to overturn an assessment. The Board notes that Respondent's explanation that the subject was assessed for 2012 using the direct sales approach whereas last year it had, in error, still been assessed on a cost basis. In this case, the Board's opinion is that sufficient evidence was presented to demonstrate that the current assessment of the subject was excessive and accordingly, the Board orders that the assessment be reduced to \$3,215,000.

Dissenting Opinion

[29] There was no dissenting opinion.

Heard commencing August 20, 2012.

Dated this 23rd day of August, 2012, at the City of Edmonton, Alberta.

Dean Sanduga, Presiding Officer

Appearances:

Jason Luong, AEC International Inc.
for the Complainant

Suzanne Magdiak, Assessor, City of Edmonton
for the Respondent