



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
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NOTICE OF DECISION NO. 0098 170/10

Nicholas Dragich & John Dragich
5720 125A Avenue NW
Edmonton, AB T5W 1V3

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 30, 2010 respecting a complaint for:

Roll Number	Assessed Value	Municipal Address	Legal Description	Assessment Type	Assessment Notice for
9974440	\$410,500	5710 125A Avenue NW	Plan: 9925573 Unit: 11	Annual New	2010
9974439	\$414,000	5704 125A Avenue NW	Plan: 9925573 Unit: 10	Annual New	2010

Before:

Lillian Lundgren, Presiding Officer
George Zaharia, Board Member
Judy Shewchuk, Board Member

Board Officer: Annet N. Adetunji

Persons Appearing: Complainant

Gina Ferri

Persons Appearing: Respondent

Will Osborne, Assessment and Taxation Branch
Cam Ashmore, Law Branch

PRELIMINARY MATTERS

Following the presentation of the Complainant, the Respondent made an application to dismiss the complaint because the onus had not been met. The Respondent stated that the Complainant provided no evidence that the assessment is incorrect; for example, there are no sales comparables and no income approach.

BACKGROUND

The subject properties, 5710 125A Avenue NW and 5704 125A Avenue NW, are two adjacent industrial condominium units that were constructed in 1977. The complaints are filed on the basis that the assessments are incorrect.

ISSUE

Has the Complainant met the onus?

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 submitted that the assessments are incorrect and should be revised for the following reasons:

Roll Number 9974439 5704 125A Avenue NW

Schedule A

1. The lands are one of two adjacent industrial condominium units rented by the owners to the same tenant at an annual, all inclusive rate of \$5.45 per square foot.
2. The condominium was built in 1977. The only improvement performed since 1977 is the replacement of overhead heating. The roof is the original tar and gravel, in need of repair.

The plumbing and electrical have never been upgraded. The development does not have air conditioning. The interiors of the units have concrete floors and cinderblock walls.

3. There is no paved road for access to the rear of the condominium and so the primary access is only from the front.
4. Given the age and condition of the structure, the assessment is excessive.
5. The assessment for this unit has more than doubled since 2007.
6. A market value approach must consider the market to be fair and equitable. The reliability of a sales comparison approach, used in this instance, rests on the number and quality of available sales comparables.
7. According to the Respondent's records of title transfers, there were very few sales of similar properties in the same area in the 12 months preceding the assessment date.
8. The building portion of the unit is 357.88 square metres. The total unit size is 653.15 square metres. The subject parcel assessment works out to \$633.85 per square metre.
9. In the past 3 years, there have been a few sales of warehouse property of a similar age in the vicinity of this unit. The most recent , in December 2008, and most similar was sold at a price equal to \$461.40 per square metre (Note: the latter sentence was struck out by the Complainant at the hearing). The complainant proposes that the assessment be reduced to reflect a more fair market value of \$461.40 per square metre and accordingly, the assessment be reduced to \$301,363.41 (Note: The Complainant revised the amount to \$353,524 at the hearing).
10. The fact that a sales comparison approach is used at all in this instance is questionable because of the dearth of sales in the area. An income approach is commonly used when there are insufficient sales for comparison.

Roll Number 9974440 5710 125A Avenue NW

Schedule A

1. The lands are one of two adjacent industrial condominium units rented by the owners to the same tenant at an annual, all inclusive rate of \$5.45 per square foot.
2. The condominium was built in 1977. The only improvements performed since 1977 is the replacement of overhead heating. The roof is the original tar and gravel, in need of repair. The plumbing and electrical have never been upgraded. The development does not have air conditioning. The interiors of the units have concrete floors and cinderblock walls.
3. There is no paved road for access to the rear of the condominium and so the primary access is only from the front.
4. Given the age and condition of the structure, the assessment is excessive.

5. The assessment for this unit has increased from \$190,500 in 2007 to \$410,500.00 in 2010.
6. A market value approach must consider the market to be fair and equitable. The reliability of a sales comparison approach, used in this instance, rests on the number and quality of available sales comparables.
7. According to the Respondent's records of title transfers, there were very few sales of similar properties in the same area in the 12 months preceding the assessment date.
8. The building portion of the unit is 346.36 square metres. The total unit size is 631 square metres. The subject parcel assessment works out to \$650.71 per square metre.
9. In the past 3 years, there have been a few sales of warehouse property of a similar age in the vicinity of this unit. The most recent, in December 2008, and most similar was sold at a price equal to \$461.40 per square metre. (Note: The Complainant struck out the latter sentence at the hearing). The complainant proposes that the assessment be reduced to reflect a more fair market value of \$461.40 per square metre and accordingly, the assessment be reduced to \$291,143.40 (Note: The Complainant revised the amount to \$344,846 at the hearing).
10. The fact that a sales comparison approach is used at all in this instance is questionable because of the dearth of sales in the area. An income approach is commonly used when there are insufficient sales for comparison.

The Complainant's thirty-nine page document (Exhibit C-1) is comprised of:

Page 1 - Annual Realty Assessment Notice for 2010 Roll Number 9974439;
 Pages 2 and 3 - Annual Realty Assessment Notice For 2010;
 Page 4 - Annual Realty Assessment Notice for 2010 Roll Number 9974440;
 Pages 5 and 6 - Annual Realty Assessment Notice For 2010;
 Page 7 - Annual Realty Assessment Notice for 2008 Roll Number 9974439;
 Page 8 - Annual Realty Assessment Notice for 2008 Roll Number 9974440;
 Page 9 - Assessment Review Board Complaint for Roll Number 9974439;
 Page 10 - Schedule A (above) for Roll Number 9974439 (revised during hearing);
 Page 11 - Assessment Complaints Agent Authorization for Roll Number 9974439;
 Page 12 - Assessment Review Board Complaint;
 Page 13 - Schedule A (above) for Roll Number 9974440 (revised during hearing);
 Page 14 - Assessment Complaints Agent Authorization for Roll Number 9974440;
 Page 15 – Map;
 Pages 16 to 33 - Title Transfers from the City of Edmonton website (withdrawn);
 Pages 37 and 38 - The City of Edmonton Application Of Mass Appraisal Process;
 Page 39 - Complainant's Brief Of Evidence And Argument (withdrawn).

Finally, the Complainant explained that it does not wish the Board to rely on its documents because the Respondent's documents will support revised assessments (It is noted that the Respondent has not submitted its evidence yet).

POSITION OF THE RESPONDENT

The Respondent asserted that none of the documents submitted by the Complainant contain any evidence of a wrong assessment for either of the properties, therefore, this case should be dismissed.

FINDINGS

1. There is no evidence of incorrect assessments.
2. The Complainant has not met the onus.

DECISION

The complaints are dismissed and the property assessments are confirmed as follows:

Roll Number 9974440 \$410,500;
Roll Number 9974439 \$414,000.

REASONS FOR THE DECISION

The Board reviewed the thirty nine page document submitted by the Complainant and there is no market evidence to support the Complainant's position that the subject assessments are incorrect. Given that there is no evidence to respond to, it is not necessary for the Board to hear the Respondent's evidence and argument. Accordingly, the complaints are dismissed.

DISSENTING DECISION AND REASONS

There was no dissenting decision.

Dated this 2nd day of September, 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
Gina Ferri