



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 171/10

Collin Wong
1016540 Alberta Ltd
9911 104 Street NW
Edmonton, AB T5K 0Z2

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 3143682	Municipal Address 9911 104 Street NW	Legal Description Plan: 8622917 Unit: 343
Assessed Value \$331,500	Assessment Type Annual New	Assessment Notice for 2010

Before:

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

Board Officer: Annet N. Adetunji

Persons Appearing: Complainant

Collin Wong

Persons Appearing: Respondent

John Ball, Assessment and Taxation Branch
Peter Bubula, Assessment and Taxation Branch

PRELIMINARY MATTERS

There were no preliminary matters.

BACKGROUND

The subject property is a retail/whlse condominium unit located on the main floor of a highrise apartment located at 9911 104 Street NW. The building was constructed in 1973 and has an effective zoning of RA-9. Unit #343 is 940 square feet (sq. ft.) in size and used as a professional office. This complaint is filed on the basis that the assessment is incorrect.

ISSUES

1. Is the sale of the subject property the best indication of market value?
2. Should the property assessment recognize the special assessment levied by the condominium board?
3. Do the restrictions on usage of units in the condominium bylaw have a negative effect on the market value of the subject property?
4. Should the property assessment include a major traffic influence factor?

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

1. Sale Of Subject

The Complainant argued that the best indication of market value for the subject property on the valuation date is the subject sale price adjusted for factors that affect value. The Complainant submitted a copy of the Statement Of Adjustments showing the sale of the subject property on July 1, 2006 for \$142,008. The Complainant adjusted the sale price to the valuation date of July 1, 2009 using the average sales price increase for investment properties from 2006 to 2009. This information was obtained from the REALTORS Association of Edmonton 5 year Commercial Sales Activity (PART 1). The Complainant made a further negative adjustment for the Special Repair/Assessment in the amount of \$20,116.93, which resulted in a final value for the subject

property of \$165,903.07. The Complainant is requesting a revised property assessment of \$165,903.

The Complainant presented four sales comparables located at: 108 10345 106 Street, #1 10502 107 Avenue, 12203 107 Avenue, and 12203 107 Avenue which sold for time adjusted sales prices ranging from \$70.73/ sq. ft. to \$263.49/ sq. ft. The subject is assessed at \$352.76/ sq. ft. In answer to questions, the Complainant agreed that two of the comparables are concrete block construction and two are woodframe construction.

2. Special Assessment

The Complainant stated that the property assessment should be reduced by, \$20,116, the amount of the special assessment levied by Hillside Estates condominium board for costs related to the completion of the parkade renovation project. The Complainant argued that a purchaser would reduce the purchase price by the amount of the special assessment. The Complainant submitted a copy of the letter dated September 21, 2009 showing the special assessment for the subject property in the amount of \$20,116.93.

3. Restrictions Of Usage On Units

The Complainant stated that the restrictions in the condominium bylaw on the use of the subject unit have not been considered in the property assessment. The following types of business, commercial and professional activities are prohibited: liquor store or outlet, convenience store, restaurant and/or fast food outlet, massage parlor and/or escort agency. As well, the condominium board has the sole and absolute discretion to withhold approval for the commercial use of this unit. The Complainant argues that these restrictions have a negative affect on the value of the unit and should be reflected in the assessed value.

4. Traffic Influence Factor

The Complainant asserted that the subject should not have a major traffic influence factor because it is located at a dead end on 104 Street and has lower traffic counts as a result. In a conversation with the Assessor prior to the hearing, the Assessor agreed with the Complainant that no traffic influence factor should be applied to the subject.

POSITION OF THE RESPONDENT

1. Sale Of Subject and 2. Special Assessment

The Respondent asked the Board to place little weight on the sale price adjusted for time and the special assessment. First, the time adjustment factor used by the Complainant is not reliable because it is a City-wide average increase for all types of investment properties, and not specific to this type of property (RA-9) in downtown Edmonton. Second, the special assessment is for regular maintenance and is an expected expenditure over the life of the structure. The subject building was constructed in 1973, and the age of the building is factored into the assessed value.

The Respondent also asked the Board to place little weight on the sales comparables presented by the Complainant because they are not similar in location, building type, or construction. The Respondent submitted three sales comparables located at: 101 10108 105 Street NW, 10888

Jasper Avenue NW and 4 10724 82 Avenue NW which range from a time adjusted sale price (tasps) of \$303/ sq. ft. to \$388/ sq. ft. The Respondent indicated that the two comparables on Jasper Avenue may be in a slightly better location than the subject but notes that they are each assessed higher than the subject (It is noted that the first two comparables are converted/ renovated buildings and should have a newer effective year built date).

3. Restrictions On Usage Of Units

The Respondent disagrees with the Complainant's position that the usage restriction affects the value of the subject unit. The Respondent points out that there is no evidence to support the position that the restrictions on use affect the value.

4. Traffic Influence Factor

The Respondent agrees that the major traffic influence factor was applied in error and the 2010 property assessment should be reduced by 5% to correct this error.

FINDINGS

1. The sale of the subject property is not a reliable indicator of market value.
2. The special assessment has no quantifiable effect on the market value of the subject property.
3. The restrictions on the use of the subject unit have no quantifiable effect on the market value of the subject property.
4. The subject property assessment should not include a major traffic influence factor.

DECISION

The 2010 property assessment is reduced to \$315,000.

REASONS FOR THE DECISION

1. Sale Of The Subject

Often, the sale of a property is the best indication of its value in the marketplace. In this particular case, there is insufficient documentary evidence to support the Complainant's position that the price of \$142,000 indicated on the Statement Of Adjustments is reflective of market value. For example, there is no third party sales data sheet to show that the property was listed on the open market and what conditions, if any, affected the sale price. The Board is not persuaded to alter the assessment on the basis of the Statement Of Adjustments document, alone.

The Board reviewed the sales comparables put forth by the Complainant and finds the sales to be dissimilar because of location and building type. The subject is zoned RA-9 and is a highrise development constructed of steel, concrete and brick. The comparables are lowrise buildings not zoned RA-9 and constructed with concrete block or wood.

The Board also reviewed the Respondent's sales comparables and finds that the Respondent's sales comparables are superior to the subject in terms of age/ effective year built. The subject was constructed in 1973 and except for maintenance, is in the original state, whereas, the Respondent's two comparables are approximately twenty years newer.

2. Special Assessment and 3. Restrictions On Usage Of Units

The Board finds that the Complainant provided no documentary evidence that the subject suffers a loss in value owing to the special assessment or the restrictions on use.

4. Traffic Influence Factor

The Board agrees with the Complainant that the subject assessment is in error and should be reduced for the major traffic influence factor. Accordingly, the Board reduces the current assessment by 5% which results in a revised assessment of \$315,000.

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.