



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 173/10

Cyrus Shaoul
10139 - 112 Street NW
Edmonton AB T5K 1M1

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 4, 2010, respecting a complaint for:

Roll Number 10023977	Municipal Address 10139 112 Street NW	Legal Description Plan: 0424882 Unit: 93
Assessed Value \$382,000	Assessment Type Annual New	Assessment Notice For: 2010

Before:

Board Officer: Kyle MacLeod

L. Patrick, Presiding Officer
J. Shewchuk, Board Member
G. Zaharia, Board Member

Persons Appearing: Complainant
Cyrus Shaoul, Owner

Persons Appearing: Respondent
John Ball, Assessor, City of Edmonton

PRELIMINARY MATTERS

The parties did not raise any preliminary matters.

BACKGROUND

The subject property is a retail condominium unit with an area of 1,075 square feet. It is on the main floor of a five-storey wood-frame multi-family building known as Gates on Twelfth, which is located at 10139 112 Street NW. The Complainant submitted oral evidence that the building exhibits water penetration from rain and snow, resulting in mold and wood rot. The building has, as a consequence, become blighted or stigmatized.

ISSUES

Do construction defects create a blighted condition such that a reduction of the assessment is warranted?

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 gave an oral description of damages to the subject building resulting from water penetration at various places, including balconies, roof, and siding, and indicated that the water is migrating to structural walls and ceilings. The Complainant was not made aware of the problem, which began to manifest itself in January 2008, when he purchased the property in November 2007. The damage affects both condo units and common property. The Complainant is a member of the condo corporation board and, as such, knows that the extensive problem existed at the assessment date. The problem, commonly referred to as the “leaky condo” problem, continues to grow and involve more of the building. The same problem appears to exist in another building (“Glenora Gates”) constructed by the same developer at 104 Avenue and 122 Street.

The Complainant submitted an appraisal prepared by an accredited appraiser. This appraisal contained details of three condo sales at the Glenora Gates building. The sales took place in May and June of 2009. Each had a reduced selling price due to building deficiencies. The range of the deficiency deductions was from \$37,000 to \$60,000. These sales were compared to three sales from 2007 and 2008 to illustrate a decline in the price per square foot from \$35.24 to \$13.34 for comparable properties. The requested assessment value is \$345,000.

POSITION OF THE RESPONDENT

The Respondent submitted that the original purchase price of \$452,000, when time-adjusted to July 1, 2009, would indicate a value of \$399,200, and that the assessment of \$382,000 is less than the time-adjusted sale price. As such, the assessment takes into account the declining market illustrated by the Complainant’s comparables. The differential, although not a result of the water damage, gives the Complainant a \$17,200 cushion that amounts to a notional recognition of the unquantified loss claimed by the Complainant. The Respondent also submitted that assessors do not make blight allowances for leaky condos in Edmonton and take the position that this is a maintenance issue for which owners make allowances when they sell, just as in the case of any other property with deferred maintenance that can be the subject of a one time remedy.

DECISION

The assessment is reduced to \$345,000, as requested by the Complainant.

REASONS FOR THE DECISION

The Board agrees with the Complainant’s assertion that there is a long-term impact to leaking condos, and that it could take several years for the extent of the damage to manifest itself. Even with repairs at considerable expense there remains a stigma attached to the building affecting its market value.

The Respondent brought forward no comparables to verify the position that the time-adjusted sale price represented market value, nor that the assessed value was fair and equitable.

Even though the appraiser was not present for questioning by the Respondent or the Board, the comparables brought forward in the appraisal submitted by the Complainant were given some weight by the Board as they were the only evidence of market influence. The Board relied upon the appraisal to reach a fair and equitable assessment. The assessment reduction of \$37,000 is within the range of reductions in sale prices indicated in the appraisal.

Dated this 4th day of August, 2010, at the City of Edmonton, in the Province of Alberta.

L. Patrick
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