



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 197/10

Danny Slaven
4075 106 Street NW
Edmonton, AB T6J 7H3

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 9982843	Municipal Address 4075 106 STREET NW	Legal Description Plan: 0023297 Unit: 1
Assessed Value \$4,645,500	Assessment Type Annual New	Assessment Notice for: 2010

Before:

Larry Loven, Presiding Officer
James Wall, Board Member
Jasbeer Singh, Board Member

Board Officer: Kyle MacLeod

Persons Appearing: Complainant

Danny Slaven

Persons Appearing: Respondent

Renee Gosselink Assessor, City of Edmonton
Steve Lutes, Law Branch, City of Edmonton

PRELIMINARY MATTERS

The Respondent submitted that the Complainant's evidence (C-1) had not been disclosed in accordance with MRAC s. 8(2)(a)(i). The Respondent claimed that the disclosure they received included a six page package while the evidence the Complainant tried to present to the Board was a forty-four page document. The Respondent claimed that the document, save pages 1, 27, 28, 29, 30, and 31, should be inadmissible as it had not been disclosed in accordance with MRAC.

With the consent of the Respondent the Board decided to admit the C-1 into evidence with the exception of pages 34-40 which was the Complainant's rebuttal. The Board decided the rebuttal included new evidence not disclosed in accordance with MRAC and it was not admissible.

BACKGROUND

The subject property is a three storey owner occupied office building located in the South Side Area (SSA). The property was constructed in 1999.

ISSUE

Is the 2010 assessment of the subject property in the amount of \$4,645,500 too high?

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.*

The Matters Relating to Assessment Complaints Regulation (MRAC), Alberta Regulation 310/2009

S. 8(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

- (a) the complainant must, at least 42 days before the hearing date,
 - (i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and*
 - (ii) provide to the respondent and the composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence;**
- (c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.*

POSITION OF THE COMPLAINANT

The Complainant submitted there was an assessment error regarding the size of the building. It was suggested the size was not 26,350 square feet as indicated by the assessment, but rather 17,342 square feet.

The Complainant presented four comparables (C-1, pg. 29) selected from a list of Title Transfers which occurred between July 2008 and June 2009 provided by the City of Edmonton's Information Management Branch.

In 2008, the peak year for market value, the City of Edmonton's assessment of the subject property was \$2,442,000. The Complainant questioned why the 2009 assessment almost doubled over the previous year.

Based on comparables provided, the assessment should be based on a rental rate of \$17/ sq. ft. and a capitalization rate of 8%, not \$25/ sq. ft. and 7.5% as used by the City of Edmonton.

POSITION OF THE RESPONDENT

The Respondent agrees with the Complainant's suggested adjustment regarding the size of the building and adjusted it to 17,342 square feet. (R-1, pg. 23).

In the absence of any information provided by the Complainant over six years, the Respondent has provided independent third party information of local real estate brokers to confirm a rental rate of \$25/ sq. ft. applicable to this zone (SSA) and class of property.

Although the industry information refers to 'AA' class of properties in the City of Edmonton's business core, the City has deemed it appropriate to apply 'AA' classification to some office space in south side suburban areas.

Each year's assessment is independent of the previous years' and is based on a legislated 'mass appraisal.' The leasable area of the subject property has now been correctly categorized as 'office space' rather than a part of it being Commercial Retail Unit. This results in a substantial increase in the assessed value of the property.

The City provided arguments and objections to the validity of the four comparables relied on by the Complainant (C-1, pg. 29).

Based on a corrected square footage and applicable sales the City of Edmonton's revised proforma (R-2) calls for a revised assessment of \$5,222,000 for the 2010 taxation year.

FINDINGS

The subject property's assessment is fair and equitable compared to similar 'AA' buildings in the SSA, (R-1, pg. 33).

Of the four comparables provided by the Complainant, one was under construction, another was of a different (lower) sub class (B), another was shown to be a 'non-arm's length' transaction and the fourth was not in the same zone (SSA).

The Complainant provided the Board with no substantive information to support his position that the subject property was inferior to other properties so classified.

DECISION

The Board accepts the recommendations of the Respondent to increase the 2010 assessment from \$4,645,500 to \$5,222,000.

REASONS FOR THE DECISION

The Board was not persuaded by the evidence and arguments presented by the Complainant (C-1) which suggested the subject property should not be classified as 'AA.'

The increase in the assessment is a result of the re-classification of CRU space as office space. This resulted in an increase in office space from 10,176 square feet to 16,503 square feet. The other 839 square feet are classified as 'storage space.'

Dated this 10th day of September, 2010, at the City of Edmonton, in the Province of Alberta.

Board Member

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
Carrington Holdings Ltd