



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 199/10

Canadian Valuation Group Ltd
1200, 10665 Jasper Avenue
Edmonton AB T5J 3S9

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 September 7, 2010 respecting a complaint for:

Roll Number 10126356	Municipal Address	Legal Description Plan: 0822481 Block: 14 Lot: 5
Assessed Value \$2,499,000	Assessment Type Annual New	Assessment Notice for: 2010

Before:

Ted Sadlowski, Presiding Officer
Terri Mann, Board Member
Brian Frost, Board Member

Board Officer:

J. Halicki

Persons Appearing: Complainant

Tom Janzen, Agent CVG

Persons Appearing: Respondent

Chris Rumsey, Assessor

PRELIMINARY MATTERS

Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board Members indicated no bias with respect to this file.

There were no recommendations from the Respondent.

BACKGROUND

The subject property, located in the Ambleside neighbourhood, is a paved roadway serving adjacent properties within a retail development. It was built to conform to municipal road standards but is under private ownership. It is situated on land consisting of 6.207 acres.

ISSUE

Is the 2010 assessment of the subject property too high and in excess of market value?

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

It is the Complainant's position that the subject parcel is a road developed to municipal specifications to facilitate access within an abnormally large parcel of land zoned for retail development. Because its purpose is to provide access to the (proposed) retail development, it should be assessed as parking (or part of the parking lot) and should therefore be included within the overall assessment of the retail property as valued using the income approach.

The Complainant is, alternatively, of the opinion that the portion of the site utilized as roadway (subject parcel) should be zoned public utility (PU) which would subject it to an assessment of \$30 per square metre or \$733,561 plus the improvements (\$705,592) which are not an issue.

Ultimately, the Complainant is of the opinion that it should be assessed in a manner similar to a pedway wherein the municipality administers a flat \$500 assessment to pedways not improved with retail space.

Accordingly, a \$500 assessment is requested.

POSITION OF THE RESPONDENT

The Respondent is of the position that the assessment of \$6.63 per square foot is both fair and correct. In support of his position, the Respondent has submitted one comparable, located in

close proximity. The comparable consists of vacant commercial land, which sold February, 2007, for a time-adjusted sale price of \$19.13 per square foot (R1, pgs.17-18).

The Respondent concedes that it is unusual to have a road under private ownership, as in the present circumstance. However, the Respondent is of the position that the subject parcel must be treated and assessed as any other parcel, using the Vacant Commercial Land Model (R1, p.22). The Respondent states that the nature of the usage has been considered insofar that the subject has been labeled as a utility/remnant lot and the assessment has been reduced by 60% (R1, p.22).

The Respondent submits that the subject cannot be treated as Public Utility ("PU"), as submitted by the Complainant. The Respondent states that a PU means land required to accommodate public utilities, whereas the subject, a private road, is not a public utility. The Respondent has submitted an excerpt from Planning and Development Department Agenda Item No. E.4 wherein public utilities are described as a system or work used to provide certain enumerated services for public consumption. A roadway is not specifically referenced in the enumerated list (R1, p.19).

The Respondent further submits that the Complainant's argument that the subject should be treated as an essential service used to support the ancillary retail development and should not be assessed in isolation, is also in error. The Respondent states, in this regard, that even parking lots which support the function of adjoining retail developments may be assessed for their fair market value.

The Respondent states that the Complainant has provided no sales to support an indication of value, while the Respondent has provided a sale in very close proximity that supports the assessed value.

DECISION

The decision of the Board is to reduce the 2010 assessment to \$1,459,000.

REASONS FOR THE DECISION

The Board was persuaded by the Complainant's argument that the subject was similar to a PU zoned site, with the added benefit of an improved municipally-compliant roadway. Therefore, this argument was deemed to carry the most weight and formed the basis of the Board's decision to reduce the assessment to \$1,459,000 (\$753,561 for the land; \$705,592 for the improvements).

The Board reviewed the Agenda Item No. E.4.c. and noted that Public Utilities are described as a system or works used to provide an enumerated list of services for public consumption. One of the enumerated items is public transportation operated by or on behalf of the municipality. The Board found that the subject roadway was built in conformity with municipal standards and is available for public use (i.e. not restricted to users of the ancillary development). As a result, the Board finds that the subject should not necessarily be excluded from treatment as PU.

The Respondent provided one land sales comparable that, being a nearby 270,395 sq. ft. site similarly zoned, sold in 2007 at \$13.98 per square foot (R1, pg. 17). The comparable sale was acknowledged to be an entire unimproved site which was intended for retail development. The Board did not find that this land sale was comparable to the subject, because it was entirely

different in nature and shape. The subject is a roadway and used as such, whereas the comparable is a rectangular fully developable retail site.

The Respondent was questioned, but was unable to confirm whether other similar privately held roads existed within Edmonton comparable to the subject.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this eighth day of September, 2010 A.D. 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
City of Edmonton, Assessment and Taxation Branch
Windermere Commercial Lands Ltd.