



ASSESSMENT REVIEW BOARD

Churchill Building
10019 103 Avenue
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NOTICE OF DECISION NO. 0098 231/11

John C. Manning
c/o 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 20, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
10083185	3804 - 53 Avenue NW	Plan: 0628377 Block: 20 Lot: 4	\$9,165,000	Annual New	2011

Before:

Hatem Naboulsi, Presiding Officer
Judy Shewchuk, Board Member
Ron Funnell, Board Member

Board Officer:

Annet Adetunji

Persons Appearing on behalf of Complainant:

Tom Janzen, Canadian Valuation Group

Persons Appearing on behalf of Respondent:

Will Osborne, Assessor, City of Edmonton
Steve Lutes, Barrister & Solicitor, City of Edmonton

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.

BACKGROUND

The subject property is a multi-tenant office/warehouse building located in the Pylypow Industrial neighborhood. The property was built in 2007 and contains a total of 71,976 square feet on a 227,039 square foot (5.2 acre) lot for a site coverage of 31%. The 2011 assessment of the property is \$9,165,000 which equates to \$127.33 per square foot.

ISSUE

Is the 2011 assessment of the subject property at \$9,165,000 fair and equitable?

LEGISLATION

Municipal Government Act, RSA 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 presented six sales and assessment comparables ranging in time adjusted sale price from \$82.62 to \$141.35 per square foot. The assessments of these comparables ranged from \$80.54 to \$133.22 per square foot. The range of building sizes was 38,308 to 168,520 square feet and the range of site coverages was 25% to 43%. The Complainant asked that the assessment of the subject be reduced to \$100.00 per square foot for a total of \$7,197,600.

Of their six comparables, the Complainant asked the Board to place most weight on #1, #3, #4, and #5:

Comparable #1 at 10203 – 184 Street, consists of three buildings totaling 168,520 square feet, built in 1996, with 37% site coverage. It sold in February 2009 for a time adjusted sale price of \$84.58 per square foot and was assessed at \$100.53 per square foot;

Comparable #3 at 10025 – 51 Avenue is a building of 79,615 square feet, constructed in 1961 with an effective age of 1975 and 25% site coverage. It sold in May 2010 for a time adjusted sale price of \$91.14 per square foot and was assessed at \$85.59 per square foot;

Comparable #4 at 4600 – 99 Street is a building of 97,743 square feet, built in 1977, with 43% site coverage. It sold in October 2010 for a time adjusted sale price of \$102.31 per square foot and was assessed at \$80.54 per square foot;

Comparable #5 at 7603 McIntyre Road is a building of 44,000 square feet, built in 2001, with 25% site coverage. It sold in December 2010 for a time adjusted sale price of \$100.57 per square foot and was assessed at \$133.22 per square foot.

The Complainant also presented rebuttal evidence which listed the assessments of the Respondent's six sales comparables ranging from \$92.47 to \$155.04 per square foot. As the assessments were consistently lower than the adjusted sale prices, the Complainant argued that this supports a reduction in the assessment of the subject.

POSITION OF THE RESPONDENT

The Respondent presented six sales comparables – four were located in the southeast quadrant as is the subject while two are located in the west end of the city. They ranged in building size from 30,078 to 118,800 square feet and site coverage from 20% to 39%. The time adjusted sale prices ranged from \$116.06 to \$160.82 per square foot.

In support of the assessment, the Respondent also presented six equity comparables with assessments ranging from \$123.78 to \$150.72 per square foot.

The Respondent asked the Board to place no weight on the Complainant's comparables #4, #5, and #6 as they were post facto and presented case law (exhibit R-2, pp. 34-35) to support their position.

DECISION

The Board confirms the 2011 assessment of the subject property at \$9,165,000.

REASONS FOR THE DECISION

The Board finds that the Complainant's sales and assessment comparables did not provide sufficient evidence to justify a reduction. Additionally, the Board is persuaded by the Respondent's sales and equity comparables which support the assessment. The average assessment of the Respondent's sales comparables #1, #2, #3, and #4 equals \$129.31 per square foot. The average of the Respondent's six equity comparables equals \$133.00 per square foot while the subject is assessed at \$127.33.

With respect to the use of post facto sales the Board is guided by *Stringham Denecky v. Lethbridge (City)*, MGB 213/98 in which the Municipal Government Board stated:

“Even though limited use of post facto evidence can be made, these exceptions do not appear to permit post facto evidence to be used to solely establish value. Post facto evidence can be used to establish market trends.”

Accordingly, the Board did not place weight on the Complainant’s comparables #4, #5, and #6.

In the interest of fairness and equity, the Board confirms the assessment.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 17th day of October, 2011, at the City of Edmonton, in the Province of Alberta.

Hatem Naboulsi, 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, RSA 2000, c M-26.

cc: CVG
1240027 Alberta Ltd