



ASSESSMENT REVIEW BOARD

Churchill Building
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NOTICE OF DECISION NO. 0098 233/11

ANGOTTI HOLDINGS INC
12020 - 28 STREET NE
EDMONTON, AB T6S 1H4

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 26, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
1076710	12020 28 Street NE	Plan: 8023189 Block: 3 Lot: 2	\$6,507,500	Annual New	2011

Before:

James Fleming, Presiding Officer
Brian Carbol, Board Member
Mary Sheldon, Board Member

Board Officer: Jason Morris

Persons Appearing on behalf of Complainant:

Luigi Angotti

Persons Appearing on behalf of Respondent:

Mary-Alice Nagy, Assessor, City of Edmonton
Tanya Smith, Law Branch, City of Edmonton

BACKGROUND

The subject property is an industrial property located at 12020 28 Street NE in the Clover Bar Area of northeast Edmonton. It includes two buildings of approximately 18,300, and 9,400 square feet built in 2005 and 2007 respectively. The property has an area of approximately 284,700 square feet. A portion of the property has been fenced off and is being used and is accessible only from a neighbouring property. The property was zoned IM (Medium Industrial), and was valued according to the Direct Sales Comparison method. The assessment for 2011 was \$6,507,500.

ISSUE(S)

Should the valuation of the property take into account the fact that a portion of the site is unusable?

In order to determine this issue it is necessary to determine which method of valuation provides the better estimate of Market Value for the property.

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 provided an appraisal which he had commissioned for the purpose of this assessment complaint. The Appraisal (completed by Ergil & Jackson Appraisals Ltd) had an effective date of July 1st 2010, which coincided with the required valuation date in the legislation. The Complainant suggested that the appraisal should stand on its own as the reason why the assessment should be reduced to \$5,500,000 (Five million five hundred thousand), the final estimate of value in the appraisal. The appraisal calculated the value by breaking down the land and improvements according to two planned (but not yet registered) subdivisions initiated by the Complainant. The net effect of these subdivisions, only one of which had been approved, was to create 3 parcels of land. Two parcels, on the west and south portions of the property comprised 3.32 ac. and .8 ac. respectively, of vacant land. The balance, 2.38 ac., contains the two improvements. The appraisal valued the two parcels of land according to the Direct Sales Comparison (DSC) approach producing values of \$850,000 and \$360,000. The parcel with the improvements was valued according to the Income Approach and also with the DSC. The Appraiser reconciled the value to the Direct Sales Comparison which for the three parcels totaled \$5,500,000.

Through questioning, it was established that two of the comparables for the plot containing the improvements were from the County of Strathcona (Index 3 & 4), and as well another comparable (Index 5) was post facto (Ex. C1 pg. 42).

In his presentation before the Board, the Complainant focused on the fact that the 3.32 ac. site was really not useable because it sloped to the ravine at the rear of the property. He indicated that he had evidence of this (which was not provided) because when he had started to work on the subdivision of the .8 ac. site he discovered that he would have to spend a significant sum in preparing the site with retaining walls and fill etc. He advised that he had several discussions with the City over the years to recognize the fact that a portion of the site could not be used, but he had been unsuccessful. He also advised that he had allowed a neighbour to use the rear of the site (the 3.32 ac. portion currently in land titles being subdivided/registered) as a dumping ground for construction materials. He further advised that he had an arrangement with the neighbour to sell to that neighbour the 3.32 ac. when the subdivision registration had been completed.

While not linking the unusable land to a specific amount, the Complainant asked that the value be reduced to the \$5,500,000 value in the Appraisal.

POSITION OF THE RESPONDENT

The Respondent highlighted that they had valued the property on the DSC basis, pointing out that the significant attributes affecting the value for this type of property were 1.) location, 2.) lot size, 3.) building age and condition, and 4.) total area of main, second and mezzanine areas. (Ex. R1, pg. 7). In presenting their defense, the Respondent explained that the City model analyzed all sales to determine the impact of all of the salient variables on the value. As a result, they noted that there was no specific value attributed to the land alone, but rather the model related all properties with similar attributes and relied on observed relationships to adjust for differences in the magnitude of the variables. They provided 16 Sales Comparables from around the City (Ex. R1, pg. 18) which they indicated had similar attributes to the subject. They noted that 4 of these sales were from the Clover Bar area, the subject's neighbourhood; however they noted that the most comparable properties were index 5 -8 which they had selected based on Site Coverage being closest to the subject. The Comparables had site coverage between 9% - 11% and the subject had site coverage of 10%. While the whole sample had an adjusted sales price from \$198.53 to \$519.22, the sale prices of the most comparable properties selected ranged from \$252.18 to \$209.84. The subject they noted had an assessment of \$235.27 which fell nicely within the range of the comparables.

The Respondent also summarized that the City estimate of value was prepared in accordance with the legislation using only data from the City of Edmonton as mandated in the legislation

DECISION

The Complaint is denied and the assessment is confirmed.

REASONS FOR THE DECISION

The Complainant's argument at the hearing centered around the fact that almost one half of his land was unusable in his opinion. He argued that the value of the unusable land should be

deducted from his assessment. While this might appear logical, in order to accept this premise some evidence is required to prove that the land is unusable and to demonstrate the loss in value. The Complainant says the land slopes, but brought no evidence to the hearing to demonstrate the topography. The Respondent indicates that the City has visited the site in the past, but cannot recognize any topographical issues due in part to the piles of construction materials on the rear of the site. As far as the value is concerned, the appraisal (Ex. C1) makes no reference to the topography in the valuation and points out that the Complainant has reportedly sold the 3.32 ac. portion for \$270,000 per ac. There is a lack of evidence to support the argument and the purported sale of the “unusable” land. The CARB finds that the land is usable and thereby contributes to the value of the property. Indeed, the Complainant admits both that the land is being used, if only for dumping, and that he has entered into an agreement to sell the land, both of which suggest the land has value.

The second issue concerns the role of the appraisal in the requested valuation. First of all it is useful that the Appraisal was commissioned to show the value as of July 1st, 2010, the legislated valuation date for the assessment under appeal. The method of appraisal does give cause for concern for the following reasons; first, breaking the land valuation into three parcels when only one parcel existed (or could exist) as of the valuation date is problematic because the parcels did not exist, and therefore the values produced are “hypothetical”. Secondly, the majority of the value comes from the DSC valuation for the improvements on the hypothetical 2.38 ac. site (i.e.\$4,300,000 of \$5,500,000 value). In order to establish that value, the appraiser reviewed 5 sales. One of these sales was post facto and, of greater concern, 2 of the 5 were situated in the County of Strathcona. Typically comparable sales are restricted to the same municipality as the subject because there are concerns that the rules, regulations etc. may be different in another municipality, and as well, the Respondent may not normally have reasonable access to the sales information from other municipalities. That is not to say that information from different municipalities cannot be used, but where it is, it should include detailed information explaining why it was necessary to look outside the subject municipality, and it should comment on any differences which might impact the value. There was no such commentary in the Complainant’s appraisal, and so this tends to limit the weight that CARB’s place on this evidence.

It should be noted that the CARB also reviewed the income approach in the Appraisal and while it had some concerns, the CARB did not include any comments on this approach in the decision because the reconciliation of value did not make use of the income value. Another general comment with respect to the appraisal is that the CARB found that most of the adjustments were not explained well enough to enable the CARB to understand the rationale for the selected value.

With respect to the City, their evidence included 16 City wide comparables which included 4 in the Clover Bar area. The CARB notes that it is very difficult to make a detailed analysis of 16 properties which have a large number of attributes with a wide variety of potential values. The City chose to focus on site coverage. Their selected range of comparables Index 5 to 8 tended to support the assessment.

The CARB also noted that the four Clover Bar properties in the sales comparables (Numbers 8, 12, 15 & 16: Ex. R1 pg 18) had among the highest adjusted sales prices in the sample. The CARB put little weight on this observation because the highest sale prices had dramatically lower site coverage.

In the final analysis, where there is sufficient data, the DSC approach to value tends to be the preferred method. In this complaint, both parties used this approach. Given the issues noted

above with the appraisal, and the significantly greater number of comparables presented by the Respondent, the CARB placed greater weight on the Respondent City's evidence and accordingly confirms the assessment as noted above.

DISSENTING OPINION AND REASONS

There were no dissenting opinions.

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

James Fleming, 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: