



## ASSESSMENT REVIEW BOARD

Churchill Building  
10019 103 Avenue  
Edmonton AB T5J 0G9  
Phone: (780) 496-5026

### NOTICE OF DECISION      NO. 0098 241/11

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:
10158336	5503 - 42 Street NW	Plan: 0922618 Block: 20 Lot: 1B	\$7,974,000	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 2009 and contains a total of 63,755 square feet on a 144,377 square foot (3.3 acre) lot for a site coverage of 44%. The 2011 assessment of the property is \$7,974,000 which equates to \$125.07 per square foot.

## **ISSUE**

Is the 2011 assessment of the subject property at \$7,974,000 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 \$6,375,500.

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, built 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 five sales comparables ranging from \$92.47 to \$103.36 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 five sales comparables ranging in building size from 30,078 to 118,800 square feet and site coverage from 29% to 39%. The time adjusted sale prices ranged from \$116.06 to \$169.29 per square foot (R1, page 15).

To support the assessment of the subject, four equity comparables with assessments ranging from \$131.68 to \$133.27 per square foot were also presented (R1, page 21).

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 \$7,974,000.

### **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 and #3 equals \$116.45 per square foot. The average of the Respondent's four equity comparables equals \$132.50 per square foot while the subject is assessed at \$111.60 per square foot.

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 17<sup>th</sup> day of October, 2011, at the City of Edmonton, in the Province of Alberta.

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Hatem Naboulsi, Presiding Officer

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*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.*

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cc: CVG  
Pylypow Properties Inc