



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
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NOTICE OF DECISION NO. 0098 252/10

Jim Zanello
Lanzel Properties Ltd
236 Grandisle Point NW
Edmonton, AB T6M 2P1

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 21, 2010, respecting a complaint for:

Roll Number 3128600	Municipal Address 10044 105 Street NW	Legal Description Plan: NB Block: 5 Lot: 68
Assessed Value \$1,203,000	Assessment Type Annual - Revised	Assessment Notice for 2010

Before:

Larry Loven, Presiding Officer
Petra Hagemann, Board Member
Howard Worrell, Board Member

Board Officer: Annet N. Adetunji

Persons Appearing: Complainant

Jim Zanello, Lanzel Properties Ltd

Persons Appearing: Respondent

Chris Rumsey, Assessment and Taxation Branch

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. No other preliminary matters were raised by either party.

ISSUE

Whether the assessment for the subject property is correct.

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.*

BACKGROUND

The subject property, zoned CB1, is located at 10044 105 Street, south of Jasper Avenue. It is 7,487 square feet of vacant land currently used as a parking lot and is adjacent to a dry cleaning operation immediately to the north.

POSITION OF THE COMPLAINANT

The Complainant confirmed that he had purchased the subject property in December 2009 for \$785,000 (or \$104.67 per square foot), knowing the subject property was contaminated with “perc” (perchloroethylene), a chemical used in dry cleaning. The Complainant informed the Board that an environmental report showed that the contamination extended over portions of the property up to a depth of nine meters. The Complainant further confirmed that the subject property had previously sold in August 2006 for \$350,000 or \$46.67 per square foot.

The Complainant submitted five comparable sales of properties located in the downtown core ranging in sales price per square foot from \$82.36 to \$287.43, averaging to \$149.96, and indicated the first and third sales comparables at \$82.36 and \$113.33 per square feet were most similar to the subject property, and require the least adjustments due to market change, location and property size.

The Complainant submitted that the subject property could not be valued at \$1,203,000 due to the contamination existing on the property, and that the assessed value should be \$802,549 less \$150,000 for clean up or \$652,000.

POSITION OF THE RESPONDENT

The Respondent provided information regarding the mass appraisal method used to determine the value of vacant commercial land.

The Respondent acknowledged email correspondence regarding contamination of the subject property, and the existence the contamination; however, he explained that without a Phase 3 environmental report clarifying a “cost to cure” in terms of dollar amount and time required, it is the City’s policy that no adjustment is given.

The three sales comparables of properties all located in the downtown center and zoned CB2 ranged in sale price from \$82.36 to \$133.35 per square foot and time adjusted to an average of \$166.47 per square foot, compared to the subject property at a rate of \$158.87 per square foot or \$1,189,461.

DECISION

The decision of the Board is to reduce the 2010 assessment of the subject property from \$1,203,000 to \$785,000 which represents the purchase price of the subject property.

REASONS FOR THE DECISION

1. The Board places less weight on the sales comparables provided by both the Complainant and the Respondent as they date back to 2006 and 2007 and require significant time adjustment. None of these sales were contaminated properties, as is the subject.
2. The sale of the subject property, although past valuation date, was within the assessment calendar year.
3. No evidence or argument was provided to indicate that the sale of the subject property in December 2009 was not an arms length transaction from a willing buyer to a willing seller.
4. The Respondent acknowledges there is contamination of the subject property, even though the cost and time requirement to remediate the contamination has not been determined.
5. The Board accepts that the Respondent was aware that contamination of the subject property was pre-existing and was reflected in the 2009 purchase price, and is therefore the best indication of market value of the subject property.

DISSENTING OPINIONS AND REASONS

There was no dissenting decision.

Dated this 23rd day of September, 2010, 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