



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 259/10

1075119 Alberta Inc
18035 Stony Plain Rd NW
Edmonton, AB T5S 1B2

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 1005883	Municipal Address 18104 100 Avenue NW	Legal Description Plan: 4077KS Block: 1 Lot: 9
Assessed Value \$2,857,000	Assessment Type Annual - New	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

Paul Aulakh
Jim Dallin

Persons Appearing: Respondent

Chris Rumsey, Assessment and Taxation Branch

PRELIMINARY MATTERS

The Respondent raised a preliminary matter regarding the Complainant's rebuttal and submission of the Retrospective Valuation Analysis prepared by Gettel Appraisals Ltd. The Retrospective Valuation Analysis was prepared for two adjoining commercial properties at the request of the City of Edmonton. The Board heard that the Retrospective Valuation Analysis was referred to but not included in the Complainant's original disclosure. The Respondent raised the question as to why it was not included in their original submission and subsequently the

Complainant included it in his rebuttal. The Respondent informed the Board that the information contained in the Valuation Analysis would not have significantly changed their position in this matter. It is the decision of the Board in this preliminary matter to allow the Retrospective Valuation Analysis.

BACKGROUND

The subject property is a 2.99 acre parcel of vacant land located at 18104 100 Avenue, Edmonton. It is zoned RR (Rural Residential), and is located within a CHY area identified in the City zoning bylaws as Commercial Highway. It also falls within the boundaries of the Place La Rue West Neighborhood Area Structure Plan. This plan has been overlaid by the City of Edmonton from the perspective of future land use for the subject property and surrounding area.

ISSUE

Is the assessment for the subject property 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.*

POSITION OF THE COMPLAINANT

The Complainant submitted that the present zoning of the subject property is RR (Rural Residential) with a Floor Area Ratio of 0.25 or 25% that effectively restricts the potential density of any future development. The Complainant questioned why the subject property would be assessed as if having a commercial zoning when it is currently zoned residential.

The Complainant informed the Board that two adjacent 3 acre properties to the west and north of the subject property had been purchased for the 2010 assessed value of \$326,000 per acre. The Complainant confirmed that this sale occurred early in 2010, and the current zoning of these properties RMH (Residential Mobile Home) allows six times the Floor Area Ratio compared to that allowed under the RR zoning of the subject property.

The purchase of the subject property by a related party was part of a transaction to acquire the Hampton Inn Edmonton West, and the purchase price may have been unduly influenced as a result.

The Complainant submitted a Retrospective Valuation Analysis dated May 22, 2008 prepared at the request of the Complainant for the City of Edmonton that provided an opinion of value of the adjacent properties, of \$1,923,605 for an area of 3.84 acres or \$500,939 per acre or \$11.52 per square foot. The effective date of the valuation is July 2007.

The Board understood from the Complainant that this valuation was conducted to establish a value for a municipal reserve on the adjoining properties required by the City of Edmonton prior to subdividing this 3.84 acre parcel.

Any potential future development of the subject property is limited to DC2 zoning with additional restrictions established by the Place Le Rue West Neighborhood Area Structure Plan. The subject property is not serviced, and should be valued less.

POSITION OF THE RESPONDENT

The Respondent stated that in accordance with the mass appraisal model, vacant commercial land throughout the city is valued at \$48 per square foot. Based on a property size of 32,3000 square feet, the assessment for the subject property was decreased to approximately \$22 per square foot because of its greater size. The assessment could be further reduced to \$19.29 per square foot based on the February 2008 sale of the subject property.

The Respondent stated that typical RR zoned property is valued in the range from \$250,000 to \$300,000 per acre or approximately \$6 per square foot. The Respondent stated this is not reflective of the assessed value of the subject property.

The Respondent confirmed that the effective zoning used to determine the value of the subject property is CHY (Commercial Highway). The Respondent stated it was highly unlikely that a development permit would be issued for a development under its current zoning of RR. For assessment purposes the Respondent does not distinguish commercial properties according to the developments allowed such as DC-2 or other zoning.

The Respondent submitted that the subject property sold in February 2008 for \$2,500,000 or \$19.29 per square foot and is time adjusted to \$19.29 per square foot. This was the only sale comparable provided by the Respondent.

The Respondent requested the assessment be revised from \$2,757,000 to \$2,479,500.

DECISION

The decision of the Board is to reduce the 2010 assessment of the subject property from \$2,857,000 or \$955,518 per acre to \$1,481,000 or \$500,939 per acre.

REASONS FOR THE DECISION

1. The Board accepts that the two 3 acre adjacent comparable properties provided by the Complainant were purchased by a related party at their 2010 assessed value of approximately \$326,000 per acre. The Board finds that the location of the comparables adjoining the north and west of the subject property, with no direct access to either Stony Plain Road to the north or 100 Avenue to the south, and their present zoning of RMH may command a lower value than the subject property.
2. The Board finds that the sales of the subject property provided by the Respondent may have been influenced by non-market factors, notwithstanding that it could have been a non-arms length transaction.
3. The Board finds that the Retrospective Valuation Analysis provided for the adjoining property may indicate a lesser value than the subject property due to its size and limited access to 100 Avenue.
4. The Board finds that the subject property (also the Respondent's sales comparable), and the two adjoining 3 acre properties, as well as the property given the Retrospective Valuation Analysis are all located within a CHY area. They are restricted by future development to DC2 with an attached set of pre-conditions that were established as a result of the community concerns over the development of the Wal-Mart property located to the west.
5. The Board was most persuaded by the Retrospective Valuation Analysis of the adjoining land used to determine the municipal reserve value of \$500,939 per acre.

DISSENTING OPINIONS AND REASONS

None.

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
1172136 Alberta Ltd