



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
1 SIR WINSTON CHURCHILL SQUARE
EDMONTON AB T5J 2R7
(780) 496-5026 FAX (780) 496-8199

NOTICE OF DECISION NO. 0098 265/10

Hardy Holdings Ltd.
8318 156 St.
Edmonton, AB T5R 1Y4

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 22, 2010 respecting a complaint for:

Roll Number 1098771	Municipal Address 18021 105 Avenue NW	Legal Description Plan 8122563 Block 2 Lot 3
Assessed Value \$1,051,000	Assessment Type Annual New	Assessment Notice for: 2010

Before:

Peter Irwin, Presiding Officer
Petra Hagemann, Board Member
Howard Worrell, Board Member

Board Officer:

J. Halicki

Persons Appearing: Complainant

H. Neil Hardy

Persons Appearing: Respondent

Rebecca Ratti, Solicitor
Mary-Alice Lesyk, Assessor

PRELIMINARY MATTERS

Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board Members indicated no bias with respect to this file.

There were no preliminary issues raised by the parties and the Respondent did not have any recommendations on the file.

ISSUE

Is the assessment of the subject property too high?

BACKGROUND

The subject property, located in the Morin Industrial subdivision in west Edmonton, consists of a single-tenant, pre-engineered metal building (industrial warehouse) built in 1993. The building, with a 38% site coverage, consists of approximately 7,500 square feet of total main floor area, with a ceiling height of 10 feet, and is situated on an approximately 20,000 square foot lot.

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

At the commencement of the hearing, the Complainant noted a discrepancy existed in the Respondent's calculation of the square footage of the building that resulted in an excess of approximately 18 square feet. This issue was raised, again, in rebuttal (C2).

The Complainant's position is that the subject property should be assessed according to the income approach. To support this position, the Complainant presented pro-forma financial statements and used a capitalization rate of 7.5% for small warehouses. The cap rate was obtained from Colliers International (C1, pgs. 2-3).

The Complainant presented two equity comparables to demonstrate the assessment for the subject is excessive. Each comparable is located in an industrial subdivision in west Edmonton. (C1, pgs. 7-8). No sales comparables were presented.

The Complainant noted that the subject property suffered from negative influences: overhead high-power electrical transmission lines and utility boxes. The Complainant stated that Edmonton Power has a caveat on the first 50 feet of his 200 foot deep property, thereby restricting development; he is required to have 25 feet of the property allocated for these utility boxes, unlike neighbouring properties. The Complainant stated a ten percent allowance had been previously applied by the Respondent for such negative attributes.

In rebuttal, the Complainant noted that when compared to the subject property, the Respondent's 14 sales comparables were unsuitable since they differed in: construction (being concrete, wood frame, or combination thereof), building height (nearly all had a significantly higher ceiling height), percentage of site coverage, and other (negative) attributes.

The Complainant also suggested that the Respondent's ten equity comparables were not suitable comparisons for various reasons: type of building construction, ceiling height, site coverage, two-storey vs. one storey, multiple tenants vs. single tenant, office building vs. warehouse, retail establishments including a restaurant vs. warehouse, on major thoroughfare vs. minor thoroughfare, lack of negative attributes, etc.

The Complainant requested a reduction in the subject property's assessment from \$1,051,000 to \$676,880 (based on the income approach) or alternatively to \$748,875 (based on equity comparables).

POSITION OF THE RESPONDENT

The Respondent informed the Board that for the 2010 assessment, all non-condominium type warehouse properties in Edmonton had been assessed based on the sales comparison approach (R1, pg. 6).

Using mass appraisal, the Respondent indicated that three approaches could be used in the assessment process: cost, sales comparison, and income. When sufficient sales data exists, as was the case in 2010, the sales comparison approach is used. As per *The Appraisal of Real Estate* (Second Canadian Edition), "Typically, the direct comparison approach provides the best indication of value for owner-occupied commercial and industrial properties." (R1, pg. 38).

The Respondent noted that, "...income capitalization can be particularly unreliable in the market for commercial or industrial property where owner-occupants outbid investors." (R1, pg. 37).

The Respondent noted the City of Edmonton's assessment mass appraisal model for warehouses had satisfied provincial audit standards (R1, pg. 8).

The Respondent noted a conversion error may have occurred in calculations that resulted in the subject building measurements recorded as 7,517 sq. ft. as opposed to the Complainant's 7,500 square feet. The Respondent acknowledged this oversight would be corrected for the 2011 assessment.

A ten percent adjustment (R1, pg. 15) had been applied to the subject's 2010 assessment to acknowledge the negative influences on the subject property. This adjustment is not applied to neighbouring properties.

The Respondent presented 14 sales comparables all located in west Edmonton with half of them from the Winterburn subdivision. *Network* and *Alberta Data Services* sales data sheets for these equity comparables were included (R1, pgs. 20-34).

Further, the Respondent presented ten equity comparables (R1, pg. 35) all located in west Edmonton and in average condition like the subject.

The Respondent also presented a law and legislation brief (R2) noting that using typical rental rates instead of actual rent is more appropriate when using an income approach to value, as confirmed in the *Sunlife* decision in the Municipal Government Board Order 038/06.

The Respondent's position is that the subject's assessment at \$1,051,000, equating to an assessment-per-square-foot at \$139.80, should be confirmed.

DECISION

The Board's decision is to reduce the 2010 assessment from \$1,051,000 to \$749,000.

REASONS FOR THE DECISION

In reaching its decision, the Board considered all argument and evidence (exhibits C1, C2, R1, R2) presented to it.

The Board notes that, for the tenant of the subject property, the 2010 Business Tax is in the amount of \$56,250 (C1, pg. 4). The Board understands and accepts that the total taxable assessment amount on the Annual Business Taxation Notice for 2010 represents a typical income for the subject property. Also, the Complainant provided two pro-forma income and expense statements based on actual and typical income for the subject property.

The Board finds that the Business Tax information and the pro-forma statements are sufficiently compelling to suggest that the property assessment may indeed be excessive. However, in the absence of acceptable evidence to support all of the calculations involved in income approach to property assessment, the Board rejects the Complainant's request for an assessment based on this approach. (No evidence was presented on the expenses related to management or structural repair.)

The Board reviewed the Respondent's sales comparables. The Board noted that sales #2 to #7 comparables were all concrete block buildings (unlike the Complainant's metal building) and had much higher ceiling heights, etc. The remaining sales comparables in the Winterburn Industrial Area all had much smaller site coverages which would likely contribute to a higher sale price per square foot. In light of the various differences, the Board placed less weight on the Respondent's sales comparables. With respect to the Respondent's equity comparables, the Board also considered that the differences, when compared to the subject property, were enough to accord them less weight.

The Board considered the Complainant's two equity comparables noted in the following table:

Municipal Address	Site coverage (%)	Building size (sq. ft.)	Construction type	Assessment per sq. ft. (\$)
18021 105 Avenue NW	38	7,500	metal	140.13
15627 112 Avenue NW	57	8,942	metal	107.41
20907 107 Avenue NW	16	7,862	metal	114.47
				Avg. 110.94

Both equity comparables were located in west Edmonton and were sufficiently similar in the type of construction, building size, and other attributes to the subject property making them compelling. Using the average of these two equity comparables, a value was derived which demonstrated that the assessment was in excess of fair market value.

The Complainant provided evidence of an encumbrance for the utility lines. The Respondent admitted that a ten percent adjustment had been applied to the 2010 assessment and would continue to be applied in future years.

The Board has adjusted the building size to the mutually agreed-upon area of 7,500 square feet.

The Board's decision on the amount of the reduced assessment was arrived at by multiplying the building size by the average of the Complainant's equity comparables and then applying the discount for site influences (7,500 sq. ft. x \$110.94 per sq. ft.) – 10% = \$748,845) rounded.

DISSENTING OPINIONS AND REASONS

There was no dissenting decision.

Dated this twenty-second 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
City of Edmonton, Assessment & Taxation Branch
City of Edmonton, Law Branch