



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
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NOTICE OF DECISION NO. 0098 266/10

Richard Gendron
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Edmonton, AB T6E 1K8

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 23, 2010, respecting a complaint for:

Roll Number 10187107	Municipal Address 9909 76 Avenue NW	Legal Description Plan: 5429AL Block: 6 Lot: 13 / 12
Assessed Value \$231,500	Assessment Type Annual - Revised	Assessment Notice for 2010

Before:

Rob Reimer, Presiding Officer
Jim Wall, Board Member
Judy Shewchuk, Board Member

Board Officer: Annet N. Adetunji

Persons Appearing: Complainant

Richard Gendron

Persons Appearing: Respondent

Collin Hindman, Assessment and Taxation Branch
Cam Ashmore, Law Branch

PRELIMINARY MATTERS

1. The parties present indicated no objection to the composition of the Board. The Board members indicated no bias with respect to this file.
2. Prior to the commencement of the hearing, the parties were sworn in.

3. The Respondent objected to three pages of the Complainant's submission, stating that those pages had not been disclosed in accordance with the *Matters Relating to Assessment Complaints Regulation*, AR 310/2009, section 8. The Complainant withdrew the three pages.

BACKGROUND

The subject property consists of two lots with a total area of .167 acres, containing a 1,365 sq. ft. house, built in 1940, and two portable classroom buildings, built in 1970. The property is zoned IM (Industrial) but has been grandfathered as a residential property. At one time the neighboring property contained an underground fuel storage tank which leaked. The plume of leaked fuel has spread into the subject property. The City of Edmonton appears to have assumed responsibility for the cost of remediation.

ISSUE(S)

On the Assessment Review Board Complaint Form (Form), the Complainant had checked all matters except numbers 2 and 8, the name or mailing address of an assessed person and school support, respectively. During the hearing, the Complainant only presented evidence regarding the assessed value of the property and the type of property. Accordingly, the CARB will only address those issues.

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 stated that the subject property is contaminated to such an extent that the cost of remediation exceeds the value of the property. On the Form, he requested a value of \$0.00, and he restated this request during the hearing. The Complainant had submitted, on page 6 of exhibit C1, a Notice of Decision from the Municipal Government Board (MGB) regarding the 2009 assessment of the subject property. The MGB had reduced the assessment to \$150,000, and the Complainant stated that he would consider that to be an acceptable value.

The Complainant submitted an unsigned Option Agreement between himself and the City of Edmonton. In this agreement the City assumes control of the subject property and agrees to remediate the contamination. When remediation is complete, the City agrees to offer the Complainant the option of purchasing the property for \$150,000.

The Complainant submitted an environmental assessment which indicated that the suspected area of contamination includes the majority of the subject property.

The Complainant stated that the two portable classrooms are used for storage of personal property and are not used for commercial or industrial purposes. He stated that photographs of the interior of the two buildings, which were submitted by the Respondent, were not photographs of the subject property, but were photographs of the neighboring property.

POSITION OF THE RESPONDENT

The Respondent submitted nine sales comparables, three of which were in close proximity to the subject property, and two equity comparables. The three sales comparables which were near the subject indicated a range of \$1,148,649/acre to \$3,177,258/acre. The subject property is assessed at \$838,988/acre. The two equity comparables indicated assessments of \$20.27/sq. ft. and \$20.21/sq. ft. compared to the subject, which is assessed at \$19.25/sq. ft.

The Respondent stated that he had personally taken the photographs of the interior of the portable classrooms and that he believed that the photographs were an accurate depiction of the interior. He stated that the photographs depicted commercial or industrial use of the property.

DECISION

The CARB orders that the assessment be reduced to \$140,000 and that the property be assessed as residential property.

REASONS FOR THE DECISION

The CARB is satisfied that the assessment of the land value is fair and equitable. The Respondent's comparables indicate that the subject property is accurately assessed compared to similar properties. Both parties agree that the City of Edmonton is assuming liability for remediation and the CARB finds that there is little or no detriment to the property value because of the contamination. Notwithstanding the above, the buildings must be removed to facilitate remediation and, therefore, the CARB attaches no value to the buildings.

As to the type of property, the CARB accepts that, while the property is zoned Industrial, the use of the property is Residential. Photographs of the interior of the two portable classrooms submitted by the Complainant and Respondent seem to depict two different properties. The Complainant's photographs show a clutter of boxes while the Respondent's photographs show an organized work area as well as a mezzanine and forklift. The Respondent's photographs show glowing fluorescent lights. The Complainant stated that the portable classrooms do not have electricity.

The CARB accepts the Complainant's photographs as an accurate depiction of the property. The forklift shown in one of the Respondent's photographs appears to be a medium sized forklift, which would be much too large to use in a portable classroom.

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