



## ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL  
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EDMONTON AB T5J 2R7  
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### NOTICE OF DECISION NO. 0098 319/10

Tony Salopek  
Saloco Developments Ltd.  
818 Reid Place NW  
Edmonton AB T6R 2M4

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 October 6, 2010 respecting a complaint for:

<b>Roll Number</b> 9985579	<b>Municipal Address</b> Null	<b>Legal Description</b> Plan 0024386 Lot A
<b>Assessed Value</b> \$1,479,500	<b>Assessment Type</b> Annual New	<b>Assessment Notice for:</b> 2010

#### Before:

Darryl Trueman, Presiding Officer  
Petra Hagemann, Board Member  
Howard Worrell, Board Member

#### Board Officer:

J. Halicki

#### Persons Appearing: Complainant

David Salopek, Vice-President  
Saloco Developments Ltd.

#### Persons Appearing: Respondent

Chris Rumsey, Assessor

### PRELIMINARY MATTERS

Upon questioning, the parties indicated their satisfaction with all of the procedural circumstances, including the composition of the panel.

### ISSUE(S)

In order to decide the merit of the complaint the Board will have to decide:

Issue #1 Do restrictions within the City of Edmonton bylaw relating to such things as building height and property use, warrant a reduction in the assessment?

Issue #2 Does the pipeline, which crosses the subject property, indicate there should be a reduction in the assessment?

Issue #3 Do the Complainant's sales comparable provide a better indication of a market value base, prior to discounts for negative factors, than the assessor's calculations?

## **BACKGROUND**

The subject property is a parcel of land located in the Anthony Henday South neighborhood containing approximately 71,000 ft.<sup>2</sup> or approximately 1.6 acres. This property was purchased in 2006 when it was declared surplus by the Provincial Government from lands that were required for the Anthony Henday Transportation Utility Corridor. As a result of this parcel's late entry into the neighborhood, its developability and regulations thereto, have been established through extensive planning work with the City of Edmonton Planning Department, the property owners, and the residents in the neighborhood. This has resulted in a site-specific development control provision generally known as DC2 and which is specifically identified as section DC 2.677 in Part IV of the Edmonton Zoning Bylaw for this property. As a result of "unique" development regulations applicable to this parcel, as well as the presence of a pipeline which crosses the property, it has been the subject of assessment appeals of both the 2007 assessment and the 2009 assessment. In 2009, the Edmonton Assessment Review Board reduced the assessment from \$1,606,000 to \$1,177,500 or approximately by 27%.

## **LEGISLATION**

### ***The Municipal Government Act, R.S.A. 2000, c. M-26;***

s.285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298.

s.293(1)(b) In preparing an assessment, the assessor must, in a fair and equitable manner, follow the procedures set out in the regulations.

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**

With respect to Issue #1, the Complainant testified that residents in the neighborhood took great interest in the various potential developments that could occur on the subject property in the

future. To this end, they objected to the inclusion within the DC2 zoning of most particularly a convenience store. The Complainant said that he would have very much liked to have a convenience store tenant and that this restriction was a good example of the value loss that his property has suffered at the hands of the residents involved in the final development bylaw. He said that other restrictions within the bylaw reduced site coverage and building height, providing him with very little development flexibility and resulting in a property that was unlike any other in Edmonton. He said that previous assessment appeal boards had recognized these factors and reduced his assessments accordingly.

With respect to Issue #2, the Complainant advised that his inability to construct improvements over the pipeline greatly limited site developability.

For Issue #3, the Complainant presented a table consisting of four properties which sold through August of 2007 to October of 2008. Without adjusting these sales to the July 1, 2009 valuation date required for assessment purposes, he nevertheless said that they were the best indicators of value possible for the subject property. Based upon an average selling price per acre for these properties, the subject property should be valued at \$825,000 per acre before deducting a 27% discount for development restrictions. He said that this calculation would result in an indicated value of approximately \$1 million for his property and he felt that this was a reasonable indication of market value. Upon questioning, the Complainant acknowledged that these sales were located east of the subject property and across the Calgary Trail, or Highway #2, and in an area which contained elements of industrial zoning; however, he reiterated that these were the best comparables available. With respect to the absence of time adjustments, he directed the panel to 2010 assessments for two of these sold properties which he said indicated a decline in market value.

## **POSITION OF THE RESPONDENT**

With respect to Issue #1, the Respondent agreed that certain restrictions were applicable to the subject property and while he spoke particularly to configuration and access he nevertheless agreed that a 10% reduction to the assessment should be made in respect of development constraints.

Regarding Issue #2, the Respondent allowed that a 15% discount should be applied for the negative elements resulting from the pipeline crossing the subject property.

On page 15 of Exhibit R1, the Respondent presented eight sales of property which sold through the period of February 2007 through April 2009. He testified that these properties were in neighborhoods which had more of a residential flavour and which were much more similar to the subject than those sales presented by the Complainant. He agreed that these sales did not indicate the influence of a direct control (DC) zoning bylaw and that, accordingly, he was recommending the discount as outlined above. His sales comparables suggest a unit value for the subject property of \$25.56 per square foot and he allowed that the assessment which reflected \$15.68 per square foot was a reasonable adjustment for the negative circumstances surrounding the subject. He went on to say that he had examined the Complainant's position regarding market decline and that he had checked his assessment records on the two properties which the Complainant presented and which were improved. He discovered that these properties had been assessed on the Cost Approach and that he therefore, had land values at the effective valuation

date which suggested \$19.34 and \$23.22 per square foot, thus fully supporting his \$15.68 per square foot recommendation.

## **DECISION**

The Board's decision is to accept the recommendation of the Respondent and set the assessment for the subject property for 2010 at \$1,109,500.

## **REASONS FOR THE DECISION**

With respect to Issue #1, the Board recognized the efforts of the Respondent to provide a discount for the subject developability constraints and felt that the previous assessment appeal decisions provided the best support for the assessor's recommended reduction. The Board generally agreed with the Complainant that a reduction of roughly 27% for overall development restrictions was likely appropriate based upon decisions of former Appeal Boards, and that the Respondent's aggregate 25% discount reasonably reflected this.

In respect of Issue #2, the Board recognized the Respondent's suggestion of a 15% discount for the pipeline restriction and agreed with this within the context of the overall recommended reduction.

In respect of Issue #3, the Board reviewed the Respondent's eight sales and found that particularly sale #8 indicated good support, within the context of location and size, for a base value for the subject property of approximately \$25.00 per square foot. The Board was not convinced by the Complainant sales comparables which were located in neighborhoods unlike that of the subject. In particular, comparable #2 and comparable #4 were roughly 3 and 5 times the size of the subject, respectively. As a result, the Board found little support for the Complainant's suggested \$825,000 per acre or \$18.94 per square foot base value, before 27% developability constraint discount. The Board recognizes the assessor's aggregate recommended adjustment of 25% and accepts that this amount is similar to prior accepted adjustments and should therefore adequately reflect a market value influence.

In summary, the Complainant was able to demonstrate a reduced value resulting from development restrictions, the amount of which had been suggested by former Appeal Boards and for 2010 agreed to by the Respondent. The further reductions that the Complainant requested, of approximately 10%, was, in the opinion of the Board, not supported by the sales comparables presented.

Dated this 25<sup>th</sup> day of October, 2010 A.D., at the City of Edmonton, in the Province of Alberta.

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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, R.S.A. 2000, c.M-26.*

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cc: Municipal Government Board  
David Salopek