



ASSESSMENT REVIEW BOARD

Churchill Building
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NOTICE OF DECISION NO. 0098 34/11

HANGAR 11 CORP.
304 10209 - 97 STREET NW
EDMONTON, AB T5J 0L6

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 July 13, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9965182	11760 109 STREET NW		\$2,269,000	Annual New	2011

Before:

Dean Sanduga, Presiding Officer
Brian Frost, Board Member
Lillian Lundgren, Board Member

Board Officer: Karin Lauderdale

Persons Appearing on behalf of Complainant:

Art Breier
Michael Harold
Laurie Wood, Legal Counsel

Persons Appearing on behalf of Respondent:

Shelly Milligan, Assessor, City of Edmonton
Tanya Smith, Legal Counsel, City of Edmonton

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 the file.

No preliminary matters were raised by the parties.

BACKGROUND

The subject property is a 74,316 sq. ft. hangar, built in 1942, located at the City Centre Airport on leased land. Its designated land use is 502-Aircraft Services and Storage. The land is 127,815 sq. ft. is leased from the City of Edmonton. Special-use properties are assessed using the cost approach to value.

ISSUE(S)

1. Is the assessment on the subject property correct?
2. Should the subject assessment be increased based on the Respondent's request?
3. Should the subject land assessment be reduced based on the Respondent's request?
4. Should the subject property be awarded functional obsolescence?

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 argues that the Mass Appraisal technique that the City of Edmonton, Assessment and Taxation Branch used is flawed in that:

The market analysis of a mass appraisal is predicated on the highest and best use. In this particular case, the highest and best use of the entire property being assessed was formally appraised in January 2003 (exhibit C1, Tab 9). This appraisal evaluated the building at \$850,000 with the highest and best use being an airport hangar. Mr. Bourgeois' Neighborhood Analysis states that "This location in this neighborhood leaves no doubt that the subject buildings are

suited to Airport related uses, and clearly it is for that type of use that these properties have been developed” (C1, Tab 9, pg 8). At that time, 2003, that was the planned use of the property.

Throughout the summer and fall of 2003 there was a flurry of negative press (exhibit C1, Tab 10) regarding the future of the City Centre Airport which negated the CCA 2003 business plan and the income approach used in the appraisal.

Then, at the end of 2003, Edmonton Regional Airport Authority (ERAA) offered to buy back the building for \$250,000 including GST and taxes. We would respectfully submit that this is probably reflective of the market value of the Hangar 11 Building at that time. (exhibit C1, Tab 11)

To mitigate the impact of the changed Airport environment, Hangar 11 Corp. then applied to ERAA for a Change of Use of the Building which was denied. After a lengthy arbitration process the Arbitrator ruled that it was unreasonable of ERAA to deny Hangar 11 the change of use and, on February 17th, 2005, a Second Amendment to the Lease allowing the Change of Use to comply with the City of Edmonton zoning regulations for MA2 was executed. At all material times the proposed changes were allowed by the Zoning Industrial Requirements. (exhibit C1, Tab 12).

The uncertainty surrounding the commercial viability of the Airport persisted until 2009, and then worsened with the City of Edmonton’s public announcement that the City Centre Airport will be closed. We therefore do not believe that an increase in the 2003 Offer to Purchase by ERAA of \$250,000 is justifiable and any change should lower the market value and worth of the property.

Hangar 11 further argues that the Airport Comparables employed by the City assessor to value Hangar 11 are not comparable at all and are not indicative of Hangar 11 in age, structure, use or appeal and are therefore not a fair and equitable assessment.

The City of Edmonton has assessed Hangar 11 using a Special-Use Properties & Cost Approach. This is based on the highest and best use for the property. However, the reality is that due to past involvement by the Landlord and the City of Edmonton, Hangar 11 Corp. has been prevented from using its premises by way of the property’s highest and best use (i.e. airline mechanics or other airline related activities) and has been forced to convert the premises to a lesser use.

Following the protracted Arbitration with ERAA and the Arbitrators decision to Award Hangar 11 Corp. a Change of Use under the Lease (exhibit C1, Tab 13), Hangar 11 Corp. had converted the aircraft hangar designed to store aircraft to a multi-tenant multi-use low-rent office/warehouse building.

Hangar 11 Corp. has and/or is permitting non-aviation related businesses to operate out of the aircraft hangar, including but not limited to:

- i) art studios,
- ii) furniture storage,
- iii) boat storage,
- iv) computer consultants and,
- v) garage keeper and motor vehicle storage.

Due to the uncertainty surrounding the timing of the closure of the City Centre Airport, the only current and future revenue available to Hangar 11 Corp. is from short term, daily or monthly, rentals. The press releases by the City effectively rescinded any long term leases in place, and these tenants have relocated to more stable premises off the airport.

In answer to a Board question, the Complainant stated that vacancy is currently about 80%, whereas two years ago it was about 75%.

It is clear from the comparables provided by the City that all the other buildings in the MA2 zoning surrounding the Airport are high end full-use airport and aircraft related facilities or Provincial, Federal or Municipal facilities.

To determine the City's expectation of income from the above types of properties, we rely on City Bylaw 9952 Schedule A which enacts a rate of \$90 per square meter per year for an old Hangar main floor utilities supplied in 1996. This equates to \$8.36 per sq. ft. per year or \$0.70 per sq. ft. per month. These figures are close to the rental income projected by Hangar 11 in January 2003 appraisal by Bourgeois & Company which valued the building at \$850,000 at that time. However, the actual events detailed above, which unfolded subsequent to the appraisal, reduced the income potential substantially and resulted in the ERAA evaluation of the building and the lease of \$250,000 by the end of 2003.

It is submitted that the Hangar 11 Building comprises of "Leased Premises" that are not Aviation or Aircraft Mechanics as originally contemplated or 100% Aircraft Service and Storage as assessed, but that there has been a Change of Use as of February 17, 2005 acknowledging that is no longer a viable alternative. Hangar 11 Corp. is most concerned about the property tax assessment of the Land that remains under the ownership of the City of Edmonton and the activities over same are largely controlled by the Landlord, now being the City of Edmonton. Hangar 11 is assessed as being Land Use Code 502 - Aircraft Service and Storage - and as such is being regarded as and compared to high end specialty aviation businesses such as Arco, Infinity Air and, among others, Provincial and Federal Aviation divisions. These businesses and properties are able to command income several multiples of that available to Hangar 11 for the same unit of space.

The reality is that the First Amendment to the Lease, which enables the construction of the DND Armoury, reduced Hangar 11's available leased lands in years 3 through 25 of the lease from 17,947 square meters to 11,874 square meters, or by one third. In addition, the DND security fencing eliminated access to the airport from the South building doors and thus removed through

access from the Hangar floor. To partly compensate for this, ERAA froze the lease payments at \$32,000 per year for the duration of the lease, thus acknowledging the significant reduction of value in use of the property. (exhibit C1, Tab 14) shows that the land value decreased by 50%, using the income approach, due to this amendment.

Hangar 11 Corp. requests that, if the subsequent agreements are to be ignored, the proper approach in its property tax assessment should have been by way of the Manual Approach, as was used in the 2009 assessment, to provide a fair and equitable intuitive judgment of the economic and market restrictions imposed by the City Centre Airport environment today. Such intuitive judgment is represented in the table provided in exhibit C1, page 16.

The Complainant requests the 2011 assessment be set at \$ 1,227,600.

POSITION OF THE RESPONDENT

The Respondent submitted that the industrial properties located on the City Center Airport Land are different than the industrial properties located elsewhere of the industrial areas of the city. All of the City Center Airport land is leased to tenants.

The Respondent advised that it is using the cost approach to value on all properties at the City Center Airport. A property inspection was conducted by the assessor on March 4, 2011. The building was found to be a different type of construction and classification than was noted on file. As well, it was measured and found to be much larger than noted on file. Reclassification from quality 02 to quality 04, as well as increased overall building size to 77,313 sq. ft. resulted in a revised cost approach (exhibit R-1, p. 27 to 31) as evidenced by utilization of the Marshall and Swift Valuation Service. The building assessment should therefore be increased from \$506,060 to \$1,483,930.

The Respondent presented evidence to the Board detailing four sales of land comparable to the subject property (exhibit R-1, p. 40) which reflected an average of \$11.61 per sq. ft. Based on the evidence, the Respondent requested that the land value should be reduced to 11.61 per sq. ft. or \$1,483,930.

It is the Respondent's position that assessment must be established on value of fee simple estate. The Complainant presented argument that the appraised value in a 2003 appraisal report was for the leasehold interest. The Complainant bears onus to show that the assessment is incorrect. There is no evidence to show that amount is not fair or equitable. Onus was not met.

The Respondent requested assessment value increase on the building from \$506,090 to \$1,302,604 and land value be set at \$1,483,830 for a total assessed value of \$2,786,500.

DECISION

The decision of the Board is to reduce the assessment to \$2,135,000.

REASONS FOR THE DECISION

The Board accepts the recommendation of the Respondent to reduce the land value assessment to \$1,483,830 based on the four sales which average \$11.61 per sq. ft.

The Board also accepts the recommendation of the Respondent that the revised building assessment of \$1,302,604 be utilized. However, the Board notes that no functional obsolescence has been applied to the subject improvement and the Board finds that functional obsolescence should be applied for the following reasons:

1. The subject property has limited use and the building can no longer be used for its intended purpose.
2. Runway 34 has been closed.
3. There is uncertainty for future use of the airport lands.
4. Access to the south side of the building was eliminated.
5. Vacancy is currently 80%. Two years ago it was 70%.
6. The lease payment was effectively reduced by 50%.

An appraisal was completed in January 2003 wherein the value of the building was estimated at \$850,000 and for the aforementioned reasons it is reasonable to assume the building value would be less on July 1, 2010.

In conclusion, the Board finds that the subject building has suffered at least 50% functional obsolescence and in the absence of better quantifying evidence it is the decision of the board to apply 50% functional obsolescence to reduce the building assessment to \$651,302. The building assessment of \$651,302, together with the land assessment of \$1,483,830 results in a total assessment of \$2,135,000.

Dated this 25th day of July, 2011, at the City of Edmonton, in the Province of Alberta.

Dean Sanduga, 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.
