



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 342/11

APTAS
#397 52471 RR 223
Sherwood Park, AB T8A 4P9

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 31, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
1554914	17225 - 109 AVENUE NW	Plan: 7721110 Block: 8 Lot: 3	\$1,909,500	Annual New	2011

Before:

Robert Mowbrey, Presiding Officer
Judy Shewchuk, Board Member
Ron Funnell, Board Member

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

Michele Warwa-Handel

Persons Appearing on behalf of Respondent:

Will Osborne, Assessor, City of Edmonton
Steve Lutes, Lawyer, City of Edmonton

PRELIMINARY, PROCEDURAL, AND JURISDICTIONAL MATTERS

Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board advised the parties that the Board had no bias on this file.

During the hearing the Complainant objected to the Respondent's surrebuttal evidence as the Complainant had not been made aware of this evidence. The Board recessed, deliberated and rendered a decision that the Respondent's surrebuttal evidence be allowed pursuant to Matters Relating to Assessment Complaints Regulation s. 8(2)(c)

*the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail **to allow the respondent to respond to or rebut the evidence at the hearing.***

Further, the Board allowed a recess so that the Complainant could review the Respondent's surrebuttal evidence.

BACKGROUND

The subject property is a multi tenant warehouse located in the North West quadrant of the City. The subject property was built in 1989 and has a total building area of 16,368 square feet with site coverage of 39%. The 2011 assessment for the subject property is \$1,909,500.

ISSUE(S)

What is the market value of the subject property?

LEGISLATION

Municipal Government Act, RSA 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 provided the Board with an assessment brief (Exhibit C-1, 21 pages). In addition, the Complainant provided the Board a package that included sales, supporting documents, and third party information (Exhibit C-2, 101 pages).

The Complainant advised the Board the Complainant was utilizing the direct sales approach for valuation of the subject property. In addition, the Complainant used equity comparables to determine fairness and equity in relation to the subject property (Exhibit C-1, pages 12 - 17).

The Complainant requested the Board to reduce the assessment in line with the average potential value of the direct sales and equitable to the properties similar in proximity to the subject property. The Complainant advised the Board that the Complainant had tested and fulfilled all the requirements by the regulations and the current assessment is unfair, inequitable, and not at market value. Therefore, the Complainant requested an assessment reduction from \$1,909,500 to \$1,494,500 based on comparable sales and equity.

The Complainant advised the Board the Complainant utilized a constant 3% time adjustment factor to the selling price, from the date of sale to the valuation assessment date.

The Complainant presented three sales to the Board that reflected sales of warehouse properties similar to the subject property in the northwest quadrant of Edmonton. The three sales listed form the basis for the Complainant's challenge on the assessment (Exhibit C-2, pages 69-71).

- 18130 – 105 Avenue; built in 2002; 25,289 square feet; 35% site coverage; sold in March 2008 for a time adjusted sale price of \$2,272,430 or \$89.85 per square foot.
- 17803 – 106 Avenue; built in 1998; 40,767 square feet; 37% site coverage; sold in March 2008 for a time adjusted sale price of \$4,125,567 or \$101.19 per square foot.
- 17803 – 118 Avenue; built in 2000; 18,236 square feet; 17% site coverage; sold in July 2009 for a time adjusted sale price of \$2,040,022 or \$111.86 per square foot.

The Complainant calculated the average of these three comparables to be \$101 per square foot.

The Complainant provided the Board with sales sheets of warehouse properties similar to the subject property in the northwest quadrant of Edmonton:

- Multi-Bay warehouses (Exhibit C-2, page 22) showed a time adjusted average sale price of \$92.36 per square foot;
- Warehouses (Exhibit C-2, page 1) showed a time adjusted average sale price of \$90.47 per square foot;
- Single tenant warehouses (Exhibit C-2, page 36) showed a time adjusted average sale price of \$77.58 per square foot.

The Complainant provided maps to the Board illustrating the location of the subject in relation to the six equity comparables chosen by the Complainant, each of which was in close proximity to the subject. The maps also showed the assessments per square foot of these equity comparables. The illustrations were meant to show the subject assessment to be considerably in excess of each of the six neighbouring properties (Exhibit C-1, pages 12-17).

The Complainant presented third party documentation (Exhibit C-2, pages 45 – 67) to the Board detailing the Edmonton real estate investment market. This information came from The Network, Cushman & Wakefield, and Colliers International.

The Complainant provided the Board with a rebuttal package (Exhibit C-3, 17 pages) addressing the assessments of the Respondent's sixteen sales comparables. The Complainant submitted that this evidence showed that the assessments per square foot were generally lower than the time

adjusted sale prices per square foot. The Complainant pointed out that there was no correlation between the time adjusted sale prices and the Respondent's assessment per square foot.

In addition to the challenge of the subject 2011 assessment the Complainant criticized information made available from the City's web site sourced by password by the Complainant. The information on the City's web site was subject to change depending on the June 30 valuation date each year.

POSITION OF THE RESPONDENT

The Respondent presented to the Board an assessment brief (Exhibit R-1, 106 pages). In addition the Respondent gave the Board a law & legislation brief (Exhibit R-2, 42 pages).

The Respondent explained that the methodology consistently used by them in the Mass Appraisal Process is the Sales Comparison Model:

"Sales occurring from January 2007 through June 2010 were used in model development and testing. Through the review of sales the collective actions of buyers and sellers in the market place are analyzed to determine the contributory value of specific property characteristics that drive market value. Once these values have been determined through the mass appraisal process, they are applied to the inventory to derive the most probable selling price. Value estimates were calculated using multiple regression analysis, which replicates the forces of supply and demand in the market place."

and

"Factors found to affect value in the warehouse inventory were: the location of the property, the size of the lot, the age and condition of the buildings, the total area of the main floor, developed second floor and mezzanine area." (Exhibit R-1, page 8)

The Respondent further explained the Unit of Comparison and Site coverage:

"The most common unit of comparison for industrial properties is value per square foot of building area. When comparing properties on this basis, it is imperative that the site coverage be a key factor in the comparison."

Site coverage expresses the relationship between the main floor area of the building and the amount of land associated with it. Properties with a large amount of land in relation to the building footprint will see a higher value per square foot, as each square foot has to account for the additional value attributable to the larger land area." (Exhibit R-1, page 9)

The Respondent also stated that *"The City of Edmonton has met all governing legislation including regulations and quality standards."* (Exhibit R-1, page 9)

The Respondent presented to the Board a chart with sixteen sales comparables (Exhibit R-1, page 16) all but one in average condition.

- Five of the sixteen were situated in the northwest quadrant of the city as is the subject.
- The sale dates ranged from August 2007 to June 2010.
- The effective years built ranged from 1963 to 1998.

- The site coverage ranged from 28% to 50%.
- The main floor and total building areas both ranged from 9,339 to 23,958 square feet.
- The time adjusted sale prices for main floor and total areas both ranged from \$103.47 to \$167.53.

The Respondent stated that Exhibit R-1, pages 17 – 33 were The Network detail sheets verifying these sales. The Respondent submitted that these sales supported the assessment of the subject property at \$116.66 per square foot and asked the Board to place most weight on the first five which were in close proximity to the subject.

The Respondent presented to the Board a chart with sixteen equity comparables (Exhibit R-1, page 34) all in average condition and all situated in the northwest quadrant of the city. Comparables #1 - #6 were situated in the McNamara Industrial area, as is the subject, while the other ten were in neighbouring Wilson Industrial and Stone Industrial.

- The effective years built ranged from 1977 to 2000.
- The site coverages ranged from 30% to 52%.
- The main floor and total building areas both ranged from 8,411 to 24,795 square feet.
- The assessments for main floor and total areas both ranged from \$106.34 to \$149.73 per square foot.

The Respondent submitted that these equity comparables supported the assessment of the subject at \$116.66 per square foot.

The Respondent criticized the Complainant's sales comparables #1 and #2 in Exhibit C-1, page 4 as being non arms length and therefore invalid sales. The Respondent also criticized the Complainant's sales comparable #3. While it was a valid sale a large portion of the building was of canopy construction and, therefore, negatively affected the sales price. The Respondent provided documentary support (Exhibit R-1, pages 35 - 53) for their position.

The Respondent (Exhibit R-1, page 58) addressed the Complainant's sales comparables in Exhibit C-2, pages 1, 22, and 36 and challenged most for a variety of reasons. The sales on Exhibit C-2, page 1 (warehouses) involved older buildings, had a broad range of site coverages, and #14 - #19 were post facto. The sales on Exhibit C-2, page 22 (multi-tenant warehouses) also involved older buildings, had a broad range of site coverages, and #9 - #11 were post facto. The sales on Exhibit C-2, page 36 (single tenant warehouses) all (except for #5) involved older buildings and had a broad range of site coverages. Other sales required renovations or repairs, involved motivated parties, or were non arms length sales. The Respondent concluded that the Complainant's sales comparables were unreliable and the use of averages equally unreliable.

The Respondent drew the Board's attention to the fact that the Complainant used gross building sizes in their calculations while the Respondent uses assessable area and that the two figures are often different. The assessments which the Complainant calculated for their equity comparables, therefore, are different from the assessments calculated by the Respondent (Exhibit R-1, pages 54 – 57).

The Respondent stated that the Complainant's evidence at Exhibit C-2, pages 45 – 67 might be relevant to the income approach method of valuation but was irrelevant to the direct sales comparison approach which was used to assess the subject property.

The Respondent criticized the Complainant's use of a constant 3% per year time adjustment as inappropriate to arrive at the Complainant's time adjusted sales figures.

The Respondent also criticized the Complainant's not adjusting the Complainant's calculations for site coverages over 30%.

The Respondent presented surrebuttal evidence (Exhibit R-3, 22 pages) meant to refute the Complainant's assessment calculations (Exhibit C-3, second (unnumbered) page). Again the Respondent drew the Board's attention to the fact that the Complainant used gross building sizes in their calculations while the Respondent, in their model, uses assessable area and that therefore the two figures are often different. The assessments which the Complainant calculated for the Respondent's equity comparables, therefore, were consistently lower than the assessments calculated by the Respondent (Exhibit R-3, pages 7 - 22).

In summary the Respondent submitted that the Complainant had not clearly shown how they arrived at the \$91.33 per square foot rate which they requested. The Respondent stated that the Complainant's sales comparables ranged greatly in size, age, location, and site coverages and several were post facto.

The Respondent asked the Board to confirm the 2011 assessment at \$1,909,500 as the Complainant had failed to prove the current assessment was neither fair nor equitable.

DECISION

The decision of the Board is to confirm the 2011 assessment \$1,909,500 as being fair and equitable.

REASONS FOR THE DECISION

Both parties agreed that the direct sales approach was the best methodology to value the subject property.

The Board was persuaded by the Respondent's sales comparables (Exhibit R-1, page 16) which were similar in terms of condition, site coverage, and total building area. The Board placed most weight on comparables #1 to 5 as they were situated in the northwest quadrant, as is the subject. The time adjusted selling price per total square foot for all sixteen sales comparables ranged from \$103.47 to \$167.53, which supports the assessment.

The Board was persuaded by the Respondent's evidence regarding the 16 equity comparables (Exhibit R-1, page 34). The equity comparables were similar to the subject property in terms of location, age, condition, site coverage, and total main floor area. Six of the sixteen comparables were in the same study area as the subject property, while the balance were in adjacent study areas. The assessment per square foot for the total building area ranged from \$106.34 to \$149.73 which supports the equity assessment range.

The Board notes the Complainant utilized a constant 3% per year time adjustment factor on the comparable sales put forth by the Complainant. The Board agrees with the Respondent that the constant 3% time adjustment per year is flawed. Time adjustments are not constant and are volatile from year to year.

The Board placed little weight on the three sales comparables that the Complainant used. The Respondent gave evidence to the Board that the first two comparables were non-arms length.

The Complainant explained that the parties involved had ensured that fair market values were utilized in the transactions. Nevertheless non-arms length sales are fraught with risk and the City does not utilize non-arms length sales in the mass appraisal process. The third comparable warehouse building had a canopy that utilized up to 50% of the property, thus skewing the total square footage and making comparability difficult (Exhibit R-1, page 53).

The Board also placed little weight on the three batches of warehouse, single tenant, and multi bay warehouse sales presented by the Complainant as the ranges of size, site coverage, age, and locations were very varied. The Board noted that sales and equity data should be drawn from properties that are most similar to the subject in terms of age, location, size, condition, and site coverage. When significant differences exist for a comparable its indication should be afforded less weight.

The Board concluded that the Complainant is using inconsistent methodology to value the subject property.

The Board was persuaded by the Respondent's response to the Complainant's sales, detailing a number of shortcomings with the sales (Exhibit R-1, page 58).

The Board placed little weight on the Complainant's market evidence (Exhibit C-2, pages 45-67) as it appears to be more relevant to an income approach to assessment than to the direct sales approach utilized by both parties.

Although the Respondent advised the Board the Respondent cannot utilize post-facto sales in their mass appraisal process, the Board notes that post-facto sales within the assessment year have been utilized for trending purposes.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 22nd day of November, 2011, at the City of Edmonton, in the Province of Alberta.

Robert Mowbrey, 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, RSA 2000, c M-26.

cc: DELTA SQUARE DEVELOPMENTS LTD.