



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 345/11

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 November 9th, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
4277471	18104 - 105 Avenue NW	Plan: 9520285 Block: 4 Lot: 2	\$1,940,000	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:

Bonnie Lantz, Assessor, City of Edmonton
Mary-Alice Nagy, Assessor, 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 advised the parties that the Board had no bias on this file.

BACKGROUND

The subject property is a multi tenant warehouse located in the North West quadrant of the City. The subject property was built in 2002 and has a total building area of 12,549 square feet with site coverage of 32%. The 2011 assessment for the subject property is \$1,940,000.

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, 36 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 eight equity comparables to determine fairness and equity in relation to the subject property (Exhibit C-1, pages 17 – 25).

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 \$1,940,000 to \$1,235,162 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 (Exhibit C-1, page 12) 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 eight 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 eight neighbouring properties.

The Complainant provided a copy of the Respondent's sales comparables used in a previous year's complaint hearing. These showed that the subject property is incorrectly assessed.

Included in Exhibit C-1, pages 7 – 11 was a copy of a 2009 Assessment Review Board decision involving the subject. Also attached to the decision were four pages of an appraisal which referred to the subject property.

The Complainant challenged the Respondent's sales comparables noting that the attributes, such as effective year built, site coverage, and size, had a wide divergence.

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, 9 pages) addressing the assessments of the Respondent's seven sales comparables. The Complainant submitted that the evidence showed assessments ranging from \$95.32 to \$210.46 per square foot while the subject is assessed at \$154.59 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, 94 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 7)

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 8)

The Respondent also stated that *"The City of Edmonton has met all governing legislation including regulations and quality standards."* (Exhibit R-1, page 8)

The Respondent presented to the Board a chart with seven sales comparables (Exhibit R-1, page 17) all in average condition and all situated in the northwest quadrant of the city.

- The sale dates ranged from December 2007 to February 2010.
- The effective years built ranged from 1959 to 2004.
- The site coverage ranged from 17% to 39%.
- The main floor building areas ranged from 6,000 to 16,668 square feet.
- The total building areas ranged from 7,317 to 18,973 square feet.
- The time adjusted sale prices for the total areas ranged from \$152.42 to \$198.85 per square foot.

The Respondent stated that Exhibit R-1, pages 18 – 24 were The Network detail sheets verifying these sales. The Respondent submitted that these sales supported the assessment of the subject property at \$154.60 per square foot.

The Respondent presented to the Board a chart with six equity comparables (Exhibit R-1, page 25) all in average condition and all situated in the northwest quadrant of the city.

- The effective years built ranged from 1995 to 2005.
- The site coverages ranged from 22% to 34%.
- The main floor and total building areas ranged from 10,300 to 18,605 square feet.
- The total area assessments ranged from \$157.06 to \$180.73 per square foot.

The Respondent submitted that these equity comparables supported the assessment of the subject at \$154.60 per square foot.

The Respondent criticized the Complainant's sales comparables #1 and #2 in Exhibit C-1, page 12 as being non arms length and therefore invalid sales. The Respondent also criticized the Complainant's sales comparable #3 and stated that it was a sale not to be relied upon. A large portion of the building was of canopy construction and the property was assessed using both the direct sales and cost approaches. Furthermore, it was incorrectly coded and the Respondent advised that it would be corrected next year. The Respondent provided documentary support (Exhibit R-1, pages 26 - 45) for their position.

The Respondent (Exhibit R-1, page 46) 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, therefore, are different from the assessments calculated by the Respondent.

The Respondent stated that the Complainant's evidence at 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 replied that appraisal referred to in Exhibit C-1, pages 8 – 11 was not submitted in evidence nor was the author available for cross examination. Furthermore the evidence at

Exhibit C-1, pages 7 – 11 and pages 26 – 28 was not applicable to this complaint as it was evidence in a previous year's hearing.

Upon questioning by the Board the Respondent replied that Exhibit R-1, pages 85 – 94 were to be disregarded.

On sur rebuttal the Respondent pointed out that the Respondent's sales comparable # 2 has no access to the Yellowhead Trail and that comparable # 5 is not an office building.

In summary the Respondent submitted that the Complainant had not clearly shown how they arrived at the \$1,235,162 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 \$1,940,000 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 of \$1,940,000 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 not persuaded by the Respondent's sales comparables (Exhibit R-1, page 17). The sales comparables were dissimilar in terms of site coverage, age and size. In two cases the age difference was twenty five years plus and forty years plus. The time adjusted selling price per total square foot ranged from \$152.42 to \$198.85. In addition, three of the comparables were on a major road, which makes the comparability somewhat difficult.

The Board was persuaded by the Respondent's evidence regarding the six equity comparables (Exhibit R-1, page 25). The equity comparables were similar to the subject property in terms of location, age, condition, site coverage, and total floor area.

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 over the period of one 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 44). The Board believed that comparable number three could not be relied upon as a comparable. The comparable was

assessed utilizing both the sales and cost approach. In addition, the comparable was incorrectly coded, but would be corrected for the next assessment year.

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.

While the Board notes the Respondent did not give compelling sales comparables as evidence, it still does not negate the fact that the Complainant must provide sufficient and compelling evidence to prove the incorrectness of the assessment. The Complainant failed to do so. The Board concluded that the Complainant is using inconsistent methodology to value the subject property.

The Board placed little weight on the Complainant's reference to a previous hearing, as there was little documentation to support the reference.

Although the Respondent advised the Board the City 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 28th 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