



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 354/11

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 7, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
1008747	18202 105 Avenue NW	Plan: 7214KS Lot: 1	\$8,626,000	Annual New	2011

Before:

John Noonan, Presiding Officer
James Wall, Board Member
Tom Eapen, Board Member

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

Michelle Warwa-Handel

Persons Appearing on behalf of Respondent:

Darren Nagy, Assessor

PROCEDURAL MATTERS

The parties submitted identical evidence and carried forward argument for this complaint and the subsequent file, roll number 1008770, 18010 105 Avenue, a neighbouring vacant lot of 16.39 acres. The neighbour was identified as Lot 2 and the subject as Lot 1.

BACKGROUND

The subject is described as an 18.33 acre IM-zoned vacant lot at 18202 105 Avenue in the Wilson Industrial neighbourhood. The 2011 assessment was prepared by the cost approach, with the land valued at \$470,595 per acre. The subject and the neighbouring property are both subject to a 10% deferred municipal reserve, which may be satisfied by the surrender of 10% of the subject lands or a cash in lieu payment based on the market value of the lands.

ISSUE(S)

An attachment to the complaint form stated the 2011 assessment was in excess of the subject's market value and identified five issues:

1. Sales of similar properties indicate a lower market value using the sales or income approach to value. The 2011 assessed value does not reflect typical market value for similar properties.
2. The assessment is neither fair nor equitable.
3. Two appraisal reports determined a lower value for the subject than the assessment.
4. The online sales information provided by the assessor appears to be just a list of all the sales, not similar to the subject in many attributes such as size, age, location, category or per square foot value. The properties are not stratified into groups of comparable properties, and the range of sales values is not sufficiently transparent to demonstrate comparability to the subject's assessment.
5. Adjustments for lot shape, configuration and condition were missed.

At the hearing, the Composite Assessment Review Board (CARB) heard evidence and argument on the following:

1. Do the sales comparables presented by the Complainant and the 2011 appraisal report show the subject is assessed at greater than market value?

2. Has the subject been equitably assessed?

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 a recent assessment history of the subject: in 2009, the assessor had “withdrawn to correction” the original assessment of \$8,805,500 to a corrected amount of \$7,240,000; the Composite Assessment Review Board (CARB) had reduced the 2010 assessment from \$8,226,500 to \$7,270,000. Despite a lack of large parcel sales since 2008, the 2011 assessment was once again well over \$8 million. The Complainant requested the assessment be reduced to \$6,272,000, the value found in the 2011 appraisal report.

Issue 1: Market Value for the subject via sales comparables

Appraisal Reports

The Complainant submitted two appraisal reports on the subject (Lot 1) and its neighbour (Lot 2), both prepared by Shaske & Zeiner Appraisal Consultants Ltd. These reports were dated May 2008 and February 2011 and were commissioned to value the properties in order to determine the payout owing to the City for deferred municipal reserve. The May 2008 appraisal had examined six vacant land sales that occurred between February 2007 and March 2008 and after adjustments for time, location, size and services, concluded a market value of \$301,000 per acre for Lots 1 and 2. The Complainant explained that the second appraisal was prepared using updated sales information, because the City found fault with the original report which characterized the lots as unserviced and made adjustments accordingly. The 2011 report again examined six vacant land sales that transacted between February 2010 and November 2010, and made adjustments for location, size, and deferred reserve. The report found no need for a time adjustment as the market was somewhat stagnant over the study period, nor a need for a zoning adjustment as the comparables were similarly zoned for industrial use. To account for deferred reserves, 10% deductions were applied to the areas of both lots. Lot 2 was noted as having full services available to the property line, requiring no adjustment in comparison to the comparables; Lot 1 had services in close proximity, but would require some work for these to be extended to the property line, such work estimated by Focus Engineering to cost \$100,000 and so the value of Lot 1 was adjusted by this amount. For site characteristics, the report stated:

“The subject lots, due to their large size, are considered to be development land parcels, which will be further subdivided into smaller lots, with a network of interior roadways and servicing. There is a considerable amount of time and cost involved which will allow the properties to become developed. All of the indicators, however, are immediately developable lots, which will accommodate a single user, despite some of their larger sizes. Typically a premium would be paid for an immediately usable lot, as opposed to one which requires subdivision development. A negative adjustment is applied to all of the indicators, for this factor.”

The six comparables used in the 2011 appraisal showed prices ranging from \$511,800 to \$650,000 per acre and parcel sizes ranging from 4.16 to 7.14 acres. After adjustments, the report concluded a value of \$370,000 per acre for the 16.95 net acres (after deferred reserves) at Lot 1 or \$6,272,000; Lot 2 with 14.76 net acres was valued at \$375,000 per acre or \$5,535,000.

Sales Comparables

Besides the 2010 sales indicators used in the appraisal report, the Complainant presented the same ten sales comparables as had been presented to the CARB at last year’s complaint hearing, with back-up sales sheets for eight of these transactions. The sales occurred in 2007 and 2008

and parcel sizes ranged from 1.5 acres to 27.9 acres. The original sales prices were presented, as well as the 2011 assessments per acre, which ranged from \$185,000-\$504,000 per acre. Written commentary following the table of these comparables noted that in comparison to the subject, adjustments for time of sale, parcel size, servicing, and location would be required.

A further three sales comparables were presented for trending purposes; these sales were post facto the July 1, 2010 valuation date, occurring in August 2010, March 2011 and June 2011. The August 2010 sale saw a 13.1 acre parcel in SE Edmonton transact at \$410,000 per acre. The 2011 sales also involved large parcels, in SE and NE Edmonton at \$374,000 and \$395,000 per acre.

Issue 2: Has the subject been equitably assessed?

The Complainant drew attention to two large parcels in close proximity to the subject, one a little further south along 184 Street almost 20 acres in size, and another parcel fronting Stony Plain Road. These parcels had been assessed at approximately \$82,600 and \$72,700 per acre respectively.

POSITION OF THE RESPONDENT

The assessment detail report shows the lot size at 798,610 sq. ft., or 18.332 acres.

Issue 1: Sales Comparables

The Respondent submitted five large west end property sales, two from 2006, two in September and November 2007, and the most recent in May 2008. The May 2008 sale in the City records was a parcel of 7.2 acres. [Board note: Elsewhere in the City's evidence, the Alberta Data Search page on this transaction lists the property size at 11.64 acres, the same size as reported on the Complainant's verification page on this sale. During questions, the Complainant advised that the title transfer was available for submission as evidence. The Respondent objected to this as new evidence for which he had not prepared, thinking the size question had been decided. The CARB ruled that new evidence would not be allowed, noted the size discrepancy between the parties and advised that the panel would likely place little weight on this sale.] There had been no sales of large parcels since this May 2008 sale. Of the remaining four sales, three were clustered around 10 acres in size, and the fourth was 63.22 acres. Time-adjusted sales prices per acre ranged from \$426,643 for the largest parcel up to \$712,000. In comparison, the subject had been assessed at \$470,543 per acre.

The Respondent noted the February 2011 appraisal report was some seven months post facto the valuation date of July 1, 2010. Regarding the ten sales comparables from 2007 and 2008 used by the Complainant, the Respondent had numerous questions regarding their size, location, servicing, and/or site characteristics which would distinguish them from the subject.

Issue 2: Assessment Equity

The Respondent presented seven equity comparables of large lots where the cost approach had been used to determine their assessments. The land value in these cases averaged \$540,859.

The Respondent pointed out that the two equity comparables highlighted by the Complainant, having per acre assessments at well under \$100,000 per acre, were parcels where the owners were taking advantage of a tax break: where agricultural operations were being carried out, the

City was obliged to value the first 3 acres at market value but all additional acres at farmland values. Consequently, those parcels were unlike the subject where no such agricultural operations were carried out.

DECISION

The CARB reduces the assessment to \$6,105,000.

REASONS FOR THE DECISION

The CARB encountered difficulties large and small on close examination of the evidence submitted.

The 2011 appraisal report, working from land title information, started with lot sizes slightly larger than the numbers identified on the assessment detail records found in the City's evidence. For example, the appraiser identified Lot 1 as being 18.78 acres in size, whereas the detail report uses 798,610.469 sq. ft. or 18.33 acres. Lot 2 according to the City records is 696,269.592 sq. ft. or 15.984 acres, again slightly lower than the appraiser's number, 16.39 acres. The CARB is inclined to accept the City's numbers as more accurate, measured as they are to the nearest one-thousandth of a square foot. Consequently, Lot 1 is 18.33 acres, and all parties including the appraiser agree that 1.83 acres are due in satisfaction of the deferred municipal reserve requirement, or money in lieu. Lot 2 is for all intents 16 acres. The Board accepts the argument advanced by the appraiser and the Complainant that a buyer would account for the reserve owing, and adjust a purchase price accordingly. The fee simple estate is 16.5 acres at Lot 1 and 14.4 acres at Lot 2.

The appraisal report also identified that both lots have areas zoned IM and IB, whereas the CARB heard only of IM zoning. This is of no great consequence, as the panel earlier heard from evidence carried forward to this hearing that there is no significant value difference between these categories. The purpose of the appraisals was said to be for determination of the value due to the City for deferred municipal reserve. While that purpose was clearly indicated in the 2008 report, the same cannot be said for 2011. The latter appraisal could be used for the purpose of obtaining financing. Again, the CARB is not concerned; satisfied the appraisal was looking to estimate the market value of the lots.

The Respondent pointed out the 2011 appraisal was seven months post facto. The CARB notes that while the report is dated well beyond valuation date, it noted flat market conditions across the study period of February to November, 2010. Four of the six sales studied occurred in July or earlier, and one each in September and November. The CARB is not inclined to reject the appraisal because two of the six sales were post facto. Had the appraisal only studied sales prior to valuation date, the Board is not convinced that dramatically different results would have been found.

The Board did find the appraisal reports wanting in that no explanation was given as to the magnitude of adjustments applied for size, location, or the potential cost of further subdivision. The adjustments were obviously substantial as all the indicators or comparables employed sold for well in excess of the value conclusion: \$370,000 per acre for Lot 1 and \$375,000 per acre for Lot 2. The CARB sees that the appraisal has accounted for the estimated \$100,000 in costs to extend full services to Lot 1 by applying a \$5000 per acre deduction. The Board would have

expected that some portion of Lot 1, fronting on 184 Street, would have been seen as more valuable real estate than any part of Lot 2, secluded on 180 Street.

The Complainant's sales evidence indicated that adjustments would be required for parcel size, servicing in two cases, and location in the same two cases, to better compare the ten sales comparables to the subject. However, no adjustments were forthcoming and no conclusions of value from these comparables were presented to the Board. The most important two pages of the evidence submission, detailing the comparables and then mentioning adjustments, concluded a value of \$370,000 per acre, the same as the appraisal, but no explanation. The Complainant's evidence indicated that two comparables, 16203 137 Ave. and 13450 149 St., included full municipal services and therefore an adjustment must be made in comparison to the subject which had "limited servicing to the site only. No street lighting, gutters, sewers, grading." There was virtually no evidence from either party about the services or lack thereof at any of the comparables, other than the occasional cursory description in some of the sales sheets, "Full municipal standard". The Respondent attempted to establish through questions that some of the Complainant's comparables were unserviced, or had fewer services than the subject, but no corroborating evidence was presented. In response to these questions, the Complainant either did not know, or advised the services were similar to the subject's. In the 2010 CARB decision on this property, "the Respondent identified 5 of 10 sales comparables as unserviced land..." The CARB understands that the Complainant's sales comparables are the same as were presented at that hearing. The only evidence available to the Board on the subject of servicing is that information in the appraisal: the subject Lots 1 & 2 are fully serviced, except that Lot 1 will require an expenditure of some \$100,000 to extend these services a short distance to the property line.

The Respondent's five sales comparables contained two 2006 transactions: both transactions were close to ten acres in size, but one sold for \$712,000 per acre and the other, \$450,000. This is quite a significant range. The Board noted that the more expensive property, 10204 184 St., is a few blocks south of Lot 1 on 184 Street, but also very close to Stony Plain Road, which might explain its high price. The lower valued property has been time adjusted from its selling price of \$245,000 per acre to \$450,000. Four year old transactions requiring such an extreme adjustment would not be the Board's preferred comparables.

Of the remaining three sales, the most recent was 13450 149 St, previously discussed and dismissed as the disputed 7/11 property. Last year's CARB had evidence the property was correctly 7.2 acres. This year's CARB sees the property sale description showing 11.64 acres. The property at 11604 186 Street was a November 2007 sale of a very large parcel, in excess of 63 acres according to the City, and just a little under 63 acres according to Alberta Data Search. The remarks note that only a minor fraction of the site is partially serviced, and there is a former lakebed on some 27.5 acres which can be developed, but at an expense of \$5,000,000. Despite these substantial negative site characteristics, this property sold for \$432,000 per acre, or \$426,643 time-adjusted. Adding an extra \$80,000 per acre for the lakebed expense, one gets to \$500,000 per acre. The CARB does not see this as a typical transaction: perhaps the purchaser saw great value given the property is adjacent to the railway.

The remaining comparable from the Respondent looks very promising, almost 10 acres on 184 Street, across the street from Lot 1, at 10610 184 Street. It sold for \$556,680 per acre in September 2007, or \$597,000 time-adjusted. This comparable also appears in the Complainant's package, and was also one of three comparables used by the 2010 CARB in reaching its decision. The other two sales used by that Board were 13450 149 Street (the 7/11 property) and 16203 137

Avenue. The 2011 CARB does not have before it the 137 Ave property's time-adjusted sales price to July 1, 2010 as it was not used by the Respondent as a comparable, but the time-adjusted figures for the other two are available, for both 2009 from last year's CARB, and 2010. The 149 Street property had a time-adjusted per acre value (for 7.2 acres) of \$507,092 in 2009 and \$528,425 as of July 1, 2010, an increase of 4.2%. The corresponding numbers for 10610 184 St. are \$490,936 and \$597,131 for an increase of 21.6%. That two industrial properties in NW Edmonton, both between 7-10 acres in size, could produce such radically different time adjustments over the same year tells the Board that something is wrong. The CARB stands to be corrected, but to the knowledge of the panel, time adjustments are not calculated on a neighbourhood basis. The 21.6% increase in TASP from July 1, 2009 to July 1, 2010 is mystifying, and the Board can only conclude that the information before it is not reliable for the property at 10610 184 Street.

As mentioned, last year's CARB utilized the 19.03 acre parcel at 16203 137 Avenue which sold in February 2008 for \$326,431 per acre. The Complainant presented this property as a comparable again this year and noted its 2011 assessment at \$326,591 per acre. However, in the Complainant's view, this property was superior to the subject in both servicing and location, and would require an adjustment. One would presume a downward adjustment, but the requested \$370,000 is in a different direction.

As mentioned, the CARB encountered difficulties with the evidence. The CARB decided that the appraisal report, whatever its shortcomings, was the best evidence before the Board of market value of the subject. The CARB applied the conclusion of \$370,000 per acre for the 16.5 acres at Lot 1 and \$375,000 per acre for the 14.4 acres at Lot 2.

Issue 2: Equity

The farmland exemption explained by the Respondent was sufficient to satisfy this point.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 2nd day of December, 2011, at the City of Edmonton, in the Province of Alberta.

John Noonan, 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
IMPERIAL DELUXE APARTMENTS LTD
TRIPLE H ENTERPRISES INC