



## ASSESSMENT REVIEW BOARD

Churchill Building  
10019 103 Avenue  
Edmonton AB T5J 0G9  
Phone: (780) 496-5026

### NOTICE OF DECISION NO. 0098 357/11

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 8, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
8975831	9150 34 AVENUE NW	Plan: 7821552 Block: 10 Lot: 7	\$8,744,000	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:

Shelley Milligan

## **PRELIMINARY MATTERS**

The Respondent presented a recommendation to reduce the assessment from \$8,744,000 to \$8,617,000 in recognition of the decreased utility of a portion of the subject lot due to pipeline rights-of-way easements. Although a 5% deduction from typical land value had been applied in the original assessment, it was determined that a further 10% reduction should be applied to the 36,000 sq. ft. of the lot overlying the rights-of-way. The Complainant felt this recommendation still overstated the market value of the subject property, and the merit hearing proceeded.

## **BACKGROUND**

The subject property is 5.166 acres of CSC commercially zoned land improved with a 32,988 sq. ft. auto dealership, located at 9150 34 Ave in the Strathcona Industrial Park neighborhood. The assessment was prepared by the cost approach with the improvement valued at \$860,334 and the land at \$7,883,949 in the original assessment. The recommended reduced assessment would value the land at \$7,756,666 or \$34.46 per sq. ft.

## **ISSUE(S)**

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

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

**Issue 1: Do the sales comparables presented by the Complainant show the subject is assessed at greater than market value?**

**Sub-issue: Do the pipeline easements reduce the market value below that allowed in the assessment?**

**Issue 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 requested a reduced assessment of \$5,171,933 or \$156.77 per sq. ft. as applied to the subject main floor improvement area of 32,989 sq. ft.

The Complainant provided the composite assessment review Board (CARB) with a 102 page brief.

**Issue 1: Do the sales comparables presented by the Complainant show the subject is assessed at greater than market value?**

**Sub-issue: Do the pipeline easements reduce the market value below that allowed in the assessment?**

The Complainant's evidence and argument for a reduction were based on 8 sales of auto dealerships which occurred between 2007 and 2011. These sales indicate a range of \$125.29-\$319.26 per sq. ft. of main floor building area; on the same basis, the subject assessment is at a rate of \$265.05 per sq. ft. Selecting the three most comparable sales, an average time-adjusted selling price of \$155.66 per sq. ft. was derived. Applied to the subject, a value of \$5,135,323 is indicated.

The Complainant takes no issue with the \$860,334 value attributed to the 32,988 sq. ft. auto showroom, but disagrees with the land value applied. In this regard The Complainant requested the CARB to apply a value to the land on the basis of \$24.15 per sq. ft. instead of the City's assessed value of \$35.03 per sq. ft. In support of this request the Complainant provided the CARB with 12 land sales which took place between February 2007 and May 2011. These land sales comparables ranged in size from 0.91 of an acre to 10.63 acres and sold in a price range of \$6.07 per sq. ft. to \$23.49 per sq. ft.; all less than the subject land assessment of \$35.03 per sq. ft. Excluding two post facto sales, these land sales comparables indicated a time-adjusted sales price range of \$12.53 to \$25.36 per sq. ft. Based on the time-adjusted sale price of a very good comparable at 904 Parson's Road, the Complainant requested a land assessment rate of \$24.15 per sq. ft. or \$5,435,263.

The Complainant argued that 20% of the subject land should be considered to have zero value considering the loss of use of the rights-of-way and strict set-backs from that area. This portion of the lot could only be used for parking, and even then, difficulties arose as for instance, when the owner wanted to re-pave, multiple permissions were required and personnel from the easement holders had to be onsite to supervise this work. The loss of use should be recognized by the deduction of 20% or \$1,087,052 to arrive at a final land value of \$4,348,211. With the addition of the improvement value, \$860,334, the assessment should then be \$5,208,545.

Averaging the values from vacant land sales and auto dealer sales, the requested assessment of \$5,179,933 was determined.

The Complainant noted a lack of sales evidence from either party to justify a year-over-year increase in value for the subject, and yet the subject's assessment had increased from \$5,007,500 in 2010 to \$8,744,000 in 2011.

## **Issue 2: Equitable assessment**

As well as the sales information sheets from a third party (Anderson Data Online) verifying the eight auto dealer sales, the Complainant supplied the 2011 assessments of those properties and calculated a per sq. ft. of improvement figure for each of those sales. These values ranged from \$117.51 to \$307. Elsewhere in the evidence package, "Fairness and Equity" comparables show some assessment details and street maps of four auto dealer properties and an undeveloped parcel. The auto dealer properties are noted as having assessments per square foot of improvement in a range of \$117-\$232 and the vacant land parcel at 9650 Ellerslie Road an assessment of \$23.32 per sq. ft.

## **POSITION OF THE RESPONDENT**

### **Issue 1: Market Sales**

The Respondent provided eight vacant land sales comparables in defense of the assessment. Three of the sales were just under an acre in size, three were between 1.063 to 1.779 acres and two were 3.340 acres and 5.866 acres with an average lot size of 2.058 acres. The time-adjusted sales prices averaged \$1,584,921 per acre compared to the subject's assessment of \$1,526,123 per acre prior to the recommendation.

The Respondent informed the CARB that there are numerous pipeline easements through the south east corner of the subject property, and therefore recommended to the CARB that 36,000 sq. ft. of the land, as measured by mapping software, receive a 10% reduction in addition to the 5% already applied to the whole parcel. With this the Respondent recommended to the CARB that the total assessment be revised from \$8,744,000 to \$8,617,000.

## **DECISION**

The CARB reduces the assessment to \$5,699,000.

## **REASONS FOR THE DECISION**

Of the eight sales comparables presented by the Respondent, the CARB found the most appropriate to be a 5.866 acre parcel at 10004 Ellerslie Road that sold in April 2009 for a time-adjusted \$32.90 per sq. ft. The other comparables were significantly smaller than the subject. The Ellerslie property has visibility from Calgary Trail, and the CARB decided it was superior to the subject. Consequently, the subject should command a market value less than \$32.90 per sq. ft.

The CARB found fault with the Complainant's method of deriving a value from eight auto dealer sales. These sales prices included an array of improvements, and furthermore, compress the land values of widely varying lot sizes into a dollar-per-sq. ft. number that includes the value of improvements. Here, the value of the improvement is not at issue; the land value alone is at issue.

The CARB found the best indicator of the subject's land value to be a vacant land comparable at 904 Parsons Road, presented by the Complainant. This 5.51 acre parcel and the subject are approximately equidistant from the Anthony Henday ringroad, and each is located on a well trafficked street. The Parsons Road property sold for \$23 per sq. ft. at the end of October 2008. The Complainant time-adjusted this price to \$24.15 per sq. ft. using a 3% per year factor. As time adjustment had not been at issue, the Respondent had not supplied the actual factors used by the City in its analysis. The CARB noted that two of the Respondent's sales bracketed the Parsons Road transaction: August 2008 and April 2009. Both those sales were given a negative time adjustment in the Respondent's evidence, strongly suggesting that an October 2008 sale would also be given a negative adjustment. However, the CARB was uncertain what the correct adjustment might be, and simply took the face value of \$23 per sq. ft. as an appropriate indicator of the subject's land value.

The diminution in value relating to the pipeline rights-of-way is difficult to gauge. At virtually all industrial or suburban commercial properties a significant portion of the property is not developed, allowing for access, parking, or as the case may be, the display of automobile inventory. The CARB cannot accept the argument that the restrictive covenants relating to the southeastern corner of the property render 20% of the subject land worthless. The Respondent has made an effort to recognize the inconvenience associated with the rights-of-way by applying a 5% overall deduction for the entire land parcel and a further 10% deduction for the 36,000 sq. ft. most directly impacted. The CARB is of the view that the Respondent's approach is a better reflection of the impact on market value than the assertion that 20% of the land has zero value. Other properties with restrictive covenants sell, and there is no reason to think that the approximate 4/5ths of an acre most severely affected here adds absolutely nothing to the value of the subject property.

The CARB applied the 5% negative allowance to \$23 per sq. ft. for the 225,063 sq. ft. parcel, and a further 10% allowance to 36,000 sq. ft., to find a land value of \$4,838,966. Adding the value of the improvement, \$860,334 to the land value produces a total of \$5,699,300 prior to rounding.

The CARB's comments about compressing land value and improvement value together from a list of properties having varying lot and building sizes, have application to the Complainant's equity argument as well.

Dated this 6<sup>th</sup> day of December, 2011, at the City of Edmonton, in the Province of Alberta.

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John Noonan, 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, RSA 2000, c M-26.*

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cc: 231134 ALBERTA LTD