



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
1 SIR WINSTON CHURCHILL SQUARE
EDMONTON, ALBERTA T5J 2R7
(780) 496-5026 FAX (780) 496-8199

July 5, 2010

NOTICE OF DECISION NO. 0098 64/10

418457 ALBERTA LTD.
320 WESTRIDGE ROAD N.W.
EDMONTON, AB
T5T 1C5

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 Assessment Review Board (ARB) from a hearing held on June 28, 2010 respecting an appeal on the 2010 Annual New Realty Assessment.

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Year
6390884	13008 – 82 nd St. NW	Plan: 4651KS, Block: 24, Lot: 35, etc	2,075,500	Annual New	2010

Before:

Warren Garten, Presiding Officer
Thomas Eapen, Board Member
John Braim, Board Member

Persons Appearing: Complainant

Samuel Zion, Agent for 418547 Alberta Ltd.

Persons Appearing: Respondent

John Ball, Tax Assessor, City of Edmonton

PRELIMINARY ISSUES

1. The City submits that some Complainant evidence should be prevented from being heard by the Board due to breach of disclosure timelines in submitting the information. This should be considered post facto.
2. The City of Edmonton recommended to the Complainant that the assessment be reduced to \$1,653,500 from \$2,075,500.
3. The Complainant wished to change some of the arithmetic in his rebuttal May 18, 2010 in evidence package C-2.

DECISION

1. The Board decided to admit the evidence however weighting will be placed on each piece of evidence as required.
2. The Board accepts the position of the Complainant .
3. The Board decided to allow the change.

REASONS



1. The evidence in question did not appear central to the main argument. In addition a portion of the post facto evidence was allowed by the City of Edmonton.
2. The Complainant rejected this reduction.
3. The Board agreed that this was an arithmetical change and the Respondent agreed to accept the change.

MERIT ISSUES

1. Should there be a reduction in assessed value due to the cost of remediating the site (\$168,365)?
2. Were the lease rates in all units on the subject property assessed at market value?

LEGISLATION

The Municipal Government Act, R.S.A. 2000, c. M-26; **Decisions of assessment review Board**

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.

Matters Relating to Assessment Complaints, AR 310/2009;

s. 8 (2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

- (a) the complainant must, at least 42 days before the hearing date,
 - (i) 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 sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing

s. 9 (1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

POSITION OF THE COMPLAINANT

1. The Complainant provided a schedule of detailed actual cost to remediate the site between 1992 and 2009 in evidence package C-1.

The Complainant claimed that the City of Edmonton did not provide enough credit in the current taxation year for the remediation work completed to date.

2. The Complainant claimed that the two larger units in the subject property could not be subdivided and such should not be compared to smaller bays in other retail centers. The Complainant maintains that generally smaller retail spaces rent for a higher rental rate than larger retail spaces.

The Complainant provides a market rent analysis by Bourgeois and Company relating specifically to the subject property. Evidence package C-5 page 7 “as the leaseable area of this bay is on multiple levels that are less attractive to a full area at grade level, a lower market rent per square foot may be applicable to the total leaseable area for this unit”. On page 22 the market rent of the subject property in “as is” condition is as follows:

13008 Allcare Vet and Pet Supplies \$7-\$8 per square foot net

13016 Belvedere Cycle and Sports \$8-\$9 per square foot net

POSITION OF THE RESPONDENT

1. The Respondent offered a reduction for remediation of \$76,000 off of the 2010 assessment based on remediation amounts for 2009 (\$88,823) less 45% of the Alberta Municipal Affairs grant.
2. The Respondent provided three comparable properties for establishing rental rates.
3. The Respondent recommends that the assessment be reduced to \$1,653,500 from \$2,075,500.

DECISION

The Board’s decision is to reduce the 2010 Assessment from \$2,075,500 to the recommended amount of \$1,653,500.

REASONS FOR THE DECISION

1. Without evidence of the bylaw in place, the Board could only decide on the amount of reduction currently offered for the net remediation expenses incurred in 2009. Weight was placed on this evidence.
2. The Board accepts the principle of a lower rental rate per square foot for larger spaces. This is supported by the City of Edmonton’s evidence of comparable sales in evidence package R-2 pages 43 and 44 that clearly indicates the City of Edmonton’s system of allocating lease rates to respective areas of commercial retail units and the associated terminology relating to various sizes. Weight was placed on this evidence.
The lease provided between 418547 Alberta Ltd. and 1448379 Alberta Ltd. (Allsports Replay) as evidence C-4 is post facto as it was executed May 18, 2010. No weight could be given to this evidence.
The market rent analysis by Bourgeois and Company is based on 2007 rental rates with no time adjustment provided with the rental calculations. No weight was placed on this evidence. No comparables were provided by the Complainant or the Respondent for split level space similar to the subject.
3. The Respondent did indicate that errors had been made in the calculation of the 2010 assessment therefore the City of Edmonton would recommend a reduction of the 2010 assessment to \$1,653,500 from \$2,075,500.

Dated this 5th day of July, 2010 at the City of Edmonton, in the Province of Alberta.

Presiding Officer

CC: 418547 ALBERTA LTD., FIRST INDUSTRIAL DEVELOPMENTS LTD.,

