

**NOTICE OF DECISION      NO. 0098 67/12**

Michael Uhryn, MNP LLP  
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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 June 26, 2012, respecting a complaint for:

<b>Roll Number</b>	<b>Municipal Address</b>	<b>Legal Description</b>	<b>Assessed Value</b>	<b>Assessment Type</b>	<b>Assessment Notice for:</b>
10031132	9315        127 AVENUE NW	Plan:        0520041 Block: 60A Lot: 6	\$1,905,000	Annual New	2012

*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:    ZT HOLDINGS INC

## **Edmonton Composite Assessment Review Board**

**Citation: ZT Holdings Inc v The City of Edmonton, ECARB 2012-000421**

**Assessment Roll Number:** 10031132

**Municipal Address:** 9315 127 AVENUE NW

**Assessment Year:** 2012

**Assessment Type:** Annual New

Between:

**ZT Holdings Inc  
Represented by Michael Uhryn, MNP LLP**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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**DECISION OF  
Don Marchand, Presiding Officer  
George Zaharia, Board Member  
Howard Worrell, Board Member**

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### **Preliminary Matters**

[1] At the onset of the hearings the parties were sworn in, and no objection was raised as to the composition of the CARB to hear and decide the complaint. In addition, the Board members indicated no bias with respect to this file. No preliminary matters were raised by the Parties.

### **Background**

[2] The subject property, zoned CB2, is a warehouse of 5,700 square feet, built in 2008, and is located at 9315 - 127 Avenue NW in the Yellowhead Corridor East in northwest Edmonton. The warehouse sits on a lot of 2.979 acres or 129,781 square feet with site coverage of 5%.

[3] The subject property has been assessed using the income approach to value for the warehouse component and the direct sales approach for the residual oversized land component. This resulted in a 2012 assessment of \$1,905,000.

### **Issue(s)**

[4] Is the \$15.00 rental rate applied to the warehouse component of the 2012 assessment in excess of the rental rates in the market place?

## **Legislation**

[5] The Municipal Government Act reads:

### ***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.
- c) the assessments of similar property or businesses in the same municipality.

[6] The CARB gave consideration to the meaning of market value and to the requirements of an assessment made pursuant its market value.

s 1(1) in this Act,

n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

s 289(2) Each assessment must reflect

- a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and
- b) the valuation and other standards set out in the regulations for that property.

[7] The valuation standard as set out within

### ***Matters Relating to Assessment and Taxation Regulation (AR 220/2004)***

s 2 An assessment of property based on market value

- a) must be prepared using mass appraisal,
- b) must be an estimate of the value of the fee simple estate in the property, and
- c) must reflect typical market conditions for properties similar to that property.

## **Position Of The Complainant**

[8] The position of the Complainant is that the \$15.00 per square foot rental rate assessed to the subject property is too high compared to rental rates of similar warehouse properties (C-1, pg 42). The Complainant argued that a review of these recent market rental rates indicated a value of \$10.00 per square foot would be more appropriate for the subject property.

[9] A table from third party sources (C-1, pg 45) showed average asking net rental rates for the second quarter of 2011 for buildings between 5,001 – 10,000 square feet in the northwest area where the subject property is located, to be at \$8.70 per square foot.

[10] In support of this argument, the Complainant submitted eight rental rate comparables (C1, page 42) showing rental rates with start dates from November 2009 to January 2011. These rental rates ranged from \$8.00 to \$13.00 per square foot with an average of \$10.73 per square foot and a median of \$10.75 per square foot.

[11] The Complainant requested that the Board reduce the rental rate on the warehouse portion of the 2012 assessment of the subject property from \$15.00 to \$10.00 per square foot (C1, pg 19). This would reduce the warehouse portion of the 2012 assessment from \$988,772 to \$ 657,103. The land portion of the assessment would stay the same.

[12] The Complainant requested that the 2012 assessment be reduced from \$1,905,000 to \$1,574,000.

### **Position Of The Respondent**

[13] The Respondent provided the Board with an evidence package of 93 pages (R-1) that included a Law and Legislation Brief. The position of the Respondent was that market and equity rents provided in the evidence package supported the assessment of the subject property.

[14] The Respondent submitted six market rental rate comparables (R-1, pg 48) in the same area as the subject, with similar zoning CB1- CB2, lease areas from 750 square feet to 8,720 square feet and with lease start dates from August 2007 to January of 2011. The rental rates of these six comparables ranged from \$12.85 to \$24.00 per square foot with an average of \$16.32 per square foot. The Respondent stated that lease comparable #1 was the least comparable and by removing the \$24.00 per square foot rate, the resulting average would be \$14.78 per square foot.

[15] Also provided by the Respondent was an equity rental rate chart (R-1, pg 40) from three comparables properties in the same area as the subject. This chart showed lease areas from 1,769 square feet to 10,587 square feet and with rental rates from \$15.00 to \$17.50 per foot with an average of \$15.83 per square foot.

[16] The Respondent raised concern with the Complainant's rental rate comparable chart (C-1, pg 42) as it did not indicate an age of the comparable properties, the comparable properties were scattered across the city, and there was no back-up information provided to support the lease rates.

[17] As onus falls on the Complainant (R-1, pg 68) to prove that the assessment is incorrect by providing sufficient evidence to change the assessment, the Respondent requested the Board to confirm the 2012 assessment of the subject property at \$1,905,000.

### **Decision**

[18] The decision of the Board is to confirm the 2012 assessment of the subject property at \$1,905,000.

### **Reasons For The Decision**

[19] The Board placed less weight on the Complainant's eight market rent rate comparables for the following reasons:

- i. No building use or zoning details were provided.
- ii. No ages of the properties were provided.
- iii. The eight comparables provided were from scattered locations in the city and not in the same area as the subject.
- iv. No back-up details were provided to support the rental rates.

[20] The Board placed greater weight on the Respondent's market rent chart of six comparables for the following reasons:

- i. All are located in same area as the subject.
- ii. The Board agreed with the Respondent to discount the first lease at \$24.00 per square foot as it was a car wash as an outlier.
- iii. The remaining five leases ran from \$12.85 per square foot to \$16.00 per square foot for an average of \$14.78 per square foot. This is slightly less than, but supports the \$15.00 per square foot rate applied to the subject.

[21] The Board placed greater weight on the Respondent's equity rental chart of three comparables for the following reasons:

- i. All are located in same area of the subject.
- ii. These three leases ranged from \$15.00 to \$17.50 per square foot for an average of \$15.83 per square foot. This supports the \$15.00 assessed rental rate of the subject property for the 2012 assessment.

[22] The Board is persuaded that the 2012 assessment of the subject property at \$1,905,000 is fair and equitable.

Dated this 18<sup>th</sup> day of July, 2012, at the City of Edmonton, Alberta.

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Don Marchand, Presiding Officer

**Appearances:**

Michael Uhryn, MNP LLP  
for the Complainant

Ning Zheng, Assessor

Steve Lutes, Legal Counsel

Tim Dueck, Assessor  
for the Respondent