

NOTICE OF DECISION NO. 0098 68/12

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The City of Edmonton
Assessment and Taxation Branch
600 Chancery Hall
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This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on June 27, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
10008229	17840 100A AVENUE NW	Plan: 0323364 Block: 8 Lot: 10	\$1,742,000	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.

cc: TAZ HOLDINGS LTD

Edmonton Composite Assessment Review Board

Citation: Taz Holdings Ltd v The City of Edmonton, ECARB 2012-000436

Assessment Roll Number: 10008229

Municipal Address: 17840 100A AVENUE NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

**Taz Holdings Ltd
Represented by Michael Uhryn, MNP LLP**

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

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

Preliminary Matters

[1] At the onset of the hearing 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.

[2] The CARB was advised by the Complainant that the rental rate applied to the 2012 assessment was the only issue being argued.

Background

[3] The subject property, zoned CHY, is a warehouse containing a car wash of 11,666 square feet, built in 1988 with an effective year built of 1993, and located at 17840 - 100A Avenue NW in the Place La Rue neighborhood in northwest Edmonton. The warehouse sits on a lot of .918 acres or 40,005 square feet with site coverage of 29%.

[4] The subject property has been assessed using the income approach to value resulting in a 2012 assessment of \$1,742,000.

Issue(s)

[5] Is the \$13.75 rental rate applied to the 2012 assessment in excess of the rental rates in the market place?

Legislation

[6] 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.

[7] 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.

[8] 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

[9] The Complainant provided a 60-page brief (C-1) to show that the \$13.75 per square foot rental rate applied to the 2012 assessment is in excess of market value.

[10] The Complainant argued that a review of these market rental rates indicated a value of \$10.00 per square foot would be more appropriate for the subject property. In support of this argument, the Complainant submitted eight rental rate comparables that showed rental rates with

start dates from May 2006 to March 2012. These rental rates ranged from \$5.00 to \$14.76 per square foot with a median of \$8.40 per square foot (C1, pg 38).

[11] The Complainant requested that the Board reduce the rent per square foot from \$13.75 to \$10.00 per square foot, which would reduce the 2012 assessment from \$1,742,000 to \$1,259,000.

Position Of The Respondent

[12] The Respondent provided the Board with an evidence package of 89 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.

[13] The Respondent submitted seven market rental comparables (R-1, pg 44) in the same area as the subject, with an average age of 1986, with similar zoning CB1, CB2 and CNC. The lease areas ranged from 2,224 square feet to 8,720 square feet and had lease start dates from November 2008 to February 2010. The rental rates on these six comparables ranged from \$12.85 to \$26.87 per square foot with an average of \$17.27 per square foot. This was greater than the subject property, and supported the \$13.75 per square foot rate of the subject property.

[14] Also provided by the Respondent was an equity rent chart (R-1, pg 30) from five comparable car wash properties in the same area as the subject. This chart showed lease areas from 1,288 square feet to 7,980 square feet and rental rates from \$15.00 to \$19.50 per foot with an average of \$16.80 per square foot. This was greater than the subject property, and supported the \$13.75 per square foot assessment.

[15] The Respondent raised concern with the Complainant's rental rate comparable chart (C-1, pg 38) as it did not indicate an age of the comparable properties, that the comparable properties were scattered across the city, that none were car washes and there was no back-up information provided to support the rental rates.

[16] The Respondent requested the Board confirm the 2012 assessment of the subject property at \$1,742,000, as onus falls on the Complainant to prove that the assessment is incorrect by providing sufficient evidence to change the assessment.

Decision

[17] The decision of the Board is to confirm the 2012 assessment of the subject property at \$1,742,000.

Reasons For The Decision

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

- i. No building use or zoning details were provided.
- ii. None of the properties were car washes.
- iii. Ages of the properties were not provided.
- iv. The eight comparables were from scattered locations in the city and the CARB could not determine if the sites were similar in location to the subject.

- v. Back up details were not provided to support the rental rates.

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

- i. All were located in same area as the subject.
- ii. The Board considered the first lease at \$23.79 per square foot and the sixth lease at \$26.87 to be outliers to the typical.
- iii. The balance of the five leases ranged from \$12.85 per square foot to \$16.00 per square foot for an average of \$14.04 per square foot. This supports the 2012 assessed rate of \$13.75 per square foot for the subject.

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

- i. All are located in same area of the subject.
- ii. All are car washes.
- iii. These five leases ranged from \$15.00 per square foot to \$19.50 for an average of \$16.80 per square foot. This is greater than, and supports the \$13.75 assessed rental rate of the subject property for the 2012 assessment.
- iv. The cap rates for the equity comparables ran from 7.00 to 8.00% with an average of 7.60%. This is lesser than the 8% cap rate used for the 2012 assessment of the subject property.

[21] The Board is persuaded that the 2012 assessment of the subject property at \$1,742,000 is fair and equitable.

Dated this 18th day of July, 2012, at the City of Edmonton, Alberta.

Don H. Marchand, Presiding Officer

Appearances:

Michael Uhryn, MNP LLP
for the Complainant

Steve Lutes, Legal Counsel
Tim Dueck, Assessor
for the Respondent