



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 72/11

Zoran Bazdar, Nova Developments Corp
#200, 14020 - 128 Avenue
Edmonton, AB T5L 4M8

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 July 19, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
10136209	12520 St. Albert Trail NW	Plan:4965MC Block: A Lot: 1 / 1C	\$10,995,500	Annual New	2011

Before:

Ted Sadlowski, Presiding Officer
John Braim, Board Member
Judy Shewchuk, Board Member

Board Officer:

Annet Adetunji

Persons Appearing on behalf of Complainant:

Zoran Bazdar, Nova Developments Corp
Mike Mrdjenovich, Nova Developments Corp
John Epp, Barclay Street (EDM) Real Estate

Persons Appearing on behalf of Respondent:

Chris Rumsey, City of Edmonton, Assessor
Tim Dmytruk, City of Edmonton, Assessor

PROCEDURAL MATTERS

Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file.

BACKGROUND

The subject property consists of 7.1 acres of land with a 40,230 square foot building situated on the northwest corner of the intersection of St. Albert Trail and Yellowhead Trail. The site coverage is 13%. The total land size is 310,384 square feet; the building and attributable land occupy 160,920 square feet; and the excess land is 149,464 square feet.

ISSUE

Is the 2011 assessment of the subject property too high?

LEGISLATION

The *Municipal Government Act*, R.S.A. 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 Complainants provided an evidentiary brief (C-1) that included an outline of their disclosure plus a variety of specific details relating to the above property including; lease information; e-mail correspondence with the Respondent; Network sales information; rebuttal evidence to the Respondent's sales comparables; and some extracts from an appraisal on the subject property.

The Complainants objected to a 20% increase in assessment from \$9,270,000 for 2010 to \$10,995,500 for 2011 as no changes had been made to the property or building. They submitted 42 pages of evidence (exhibit C-1) supporting their position that the assessment of the excess portion of the land is too high.

The Complainants did not object to the assessment of the building at \$6,586,858. Although the actual rent is \$10 per square foot (C-1, p. 24) they were prepared to accept the Respondent's typical rent of \$14 per square foot and capitalization rate of 8%. However, the Complainants believed that the assessment of the excess land should be reduced from \$4,409,000 to \$2,989,280 for a total assessment of \$9,576,138. This figure is close to the \$9,300,000 price that the Complainants paid for the property in November 2009.

The Complainants submitted that Mr. Graham Downey, an accredited appraiser, placed a value of \$18 per square foot for all the land as at February 26, 2009 (C-1, p. 34). The Complainants suggested valuing the excess land as at July 1, 2010 at \$20 per square foot. To further support their position the Complainants submitted sales comparables (C-1, p 35 – 41) showing vacant land prices ranging from \$16.40 to \$25.26 per square foot and averaging \$19.84 per square foot.

The Complainants stated that the location of the subject property is inferior to that of the Respondent's comparables as there is limited access to the subject property and the visibility is poor due to the presence of an overpass at the intersection. Further, they stated that their CHY zoning is inferior to the CNC, CB2, and CSC zoning of the Respondent's comparables.

POSITION OF THE RESPONDENT

The Respondent provided the Board with an assessment brief (R-1) that included specific details of the subject property; 6 sales comparables and support information, plus a copy of the rezoning of the subject property from IB to CHY.

The Respondent agreed with the Complainants that the issue is the assessment of the excess land. The Respondent presented evidence (exhibit R-1) which included comparable sales of vacant land (R-1, p. 20) ranging in time adjusted sale prices from \$35.57 to \$88.06 per square foot with an average of \$41.45 per square foot. The subject sold in 2009 at \$29.59 per square foot and is assessed for 2011 at \$29.50 per square foot, well below the average adjusted sale price of the comparables.

The Respondent stated that all commercially zoned property is assessed at the same rate. The Respondent criticized the Complainants' comparables as none are zoned as commercial properties as is the subject.

The Respondent asked the Board to confirm the assessment of the excess land at \$4,409,000 for a total assessment at \$10,995,500 for the subject property.

DECISION

After hearing all the evidence and argument of the Complainant and the Respondent, the decision of the Board is to reduce the 2011 assessment from \$10,995,500 to \$9,576,000.

REASONS FOR THE DECISION

1. The Board was persuaded by the evidence of both parties that the value of the improvements and 160,920 sq ft of land was \$6,586,858. The parties disagreed with both the rental rate and the capitalization rate for the subject property but the Complainant conceded the Respondent's value for the improved property was relatively close. They did however contend the value applied to the excess land was the primary issue and this was agreed to by the Respondent. The Respondent had applied a rate of \$29.50/ sq ft for the land whereas the Complainant stated the value should be \$20.00/ sq ft.
2. The Network sales information provided by the Complainant consisted of 21 land sales. However the Board noted that only 4 sales (page 30) were potentially commercial in nature, like the subject. None of the sales were zoned CHY (highway commercial) like

the subject. These sales ranged in size from 4.18 acres to 7.95 acres and were located in a variety of locations between the city centre and the west side of the City. The only sale similar in size to the subject property is located in a new commercial area in the south west, a relatively newer area of development within the City. No evidence was provided to show this location is similar to the subject's location. The Board therefore placed little weight on this evidence.

3. The Complainant's appraisal of the subject property was effective February 26th, 2009 and the Board noted it was not time adjusted to valuation date, some 16 months later. Furthermore only two of the sales were of a commercial nature, and only one of the sales was in a similar location. However it was less than half the size of the subject. In conclusion there was only one sale put forward by the Complainant that was similar in location and zoning to the subject property.
4. The Respondent's sales information comprised 6 sales of commercially zoned land that ranged in size from 9309 sq ft to 145,496 sq ft as opposed to the subject's excess land area of 149,464 sq ft. Even though the sales were time adjusted, the Board noted two of the sales were dated in 2006 which is outside the normal time limits used by the Respondent and two were dated in 2007. The Board also noted only one of the sales was close to the subject in size. This sale was zoned CHY like the subject and the in argument it transpired this sale also had an access problem like the subject. This was the only sale put forward by the Respondent that could be considered a good comparable to the subject property in terms of location, size and zoning. This sale is considered to be stronger than the Complainant's sale that was similar only in location and zoning, but nevertheless, like the Complainant's it is only one sale.
5. The Complainants had purchased the property in its entirety in November 2009 for \$9,300,000. The Respondent had indicated in their time adjustment chart that values had declined between September 2009 and July 1, 2010 (the sale at 7724 – 104 Street in R-1, page 20). As the subject property sale was completed in November it is not unreasonable to assume the transaction was consolidated some time earlier than November and could have been September or October. The Board therefore assumes the value of the subject property has declined or at least remained stable since November 2009 and this supports a reduction in the assessment.
6. The Board considered the evidence to support or reduce the assessment at this point was fairly evenly balanced between the two parties.
7. The Board then looked at the three sales provided by the Complainant (C-1, page 33). There was limited information on the sales but they were all similar in size to the subject, and all occurred in 2010, albeit one slightly post-facto. The unit sale prices were \$17.00/ sq ft, \$20.80/ sq ft and \$25.00/ sq ft. The Board noted that the Respondent had indicated to the Complainant, in an email (page 32), the above three sales were valid sales and therefore the Board finds these sales to be acceptable. There was no evidence provided as to the specific location details of these properties but the Board considers the sales at 50th Street and 34 Avenue to be good general location comparables, as, contrary to the comments of the Respondent the Board considers these to be busy locations at or very close to a major traffic artery, like the subject.

8. There being no further evidence provided to the Board, the Board found the evidence weighed firmly in favor of the Complainant and was persuaded the three sales presented by the Complainant to be the best indicators of value at \$20/ sq ft. When applied to the subject land area this results in an excess land value of \$2,989,138 and a value for the three parcels of \$9,576,000 as noted above.

DISSENTING OPINION AND REASONS

There were no dissenting opinions.

Dated this 9th day of August, 2011, at the City of Edmonton, in the Province of Alberta.

Ted Sadlowski, 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, R.S.A. 2000, c.M-26.
