

NOTICE OF DECISION NO. 0098 88/12

CVG
1200-10665 JASPER AVENUE
EDMONTON, AB T5J 3S9

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 17, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3920725	N/A	Plan: 8022431 Unit: 92	\$13,500	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:

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 002181

Assessment Roll Number: 3920725

Municipal Address: N/A

Assessment Year: 2012

Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Dean Sanduga, Presiding Officer

Petra Hagemann, Board Member

Dale Doan, Board Member

Preliminary Matters

[1] When asked by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board members indicated that they had no bias in the matter before them.

Background

[2] The subject property is an underground parking stall below the Le Marchand residential tower located at 11503 100 Avenue NW. The building was constructed in 1980. Of the 198 parking stalls under the building, 153 stalls are owner-occupied. Forty-five stalls, including the subject, are owned by Wheaton Investments Ltd., the owner of the adjacent Le Marchand office building. The subject is a single parking stall consisting of 161 square feet (sq ft) and is assessed as non-residential.

Issue(s)

[3] Is the assessment of the subject parking stall correct?

[4] Is the assessment class as applied to the subject correct?

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.

s 460(5) A complaint may be about any of the following matters, as shown on an assessment or tax notice:

- (a) the description of a property or business;
- (b) the name and mailing address of an assessed person or taxpayer;
- (c) an assessment;
- (d) an assessment class;
- (e) an assessment sub-class;
- (f) the type of property;
- (g) the type of improvement;
- (h) school support;
- (i) whether the property is assessable;
- (j) whether the property or business is exempt from taxation under Part 10.

Position of the Complainant

[6] The Complainant presented the assessments of five comparable parking stalls with sizes ranging from 157 to 313 sq ft and assessments ranging from \$37.27 to \$57.32 per sq ft (C-1, page 1). Comparables #1 to #4 are residential parking stalls. Comparable #5, a residential tower located at 12125 Jasper Avenue, included seven parking stalls assessed at \$37.27 per sq ft. The Complainant argued that, based on these comparables, the subject's \$83.85 per sq ft assessment is excessive.

[7] The Complainant stated that the subject has been assessed as non-residential, land use code (LUC) 281 (C-1, page 2). The Complainant further pointed out that any parking stall in the subject building assessed as residential could be sold individually, and it is therefore unfair to apply the much higher non-residential assessment and mill rate to the subject unit and not to the other 153 units.

[8] The Complainant further stated that comparable #5 reflects seven parking stalls owned by the owner of one of the main floor office condominium units in the building that are taxed under the residential assessment class.

[9] Based on the above, the Complainant requested the assessment class of the subject parking stall be changed from non-residential to residential and the 2012 assessment be reduced to \$6,500.

Position of the Respondent

[10] The Respondent submitted an assessment brief (R-1) defending the assessment of the subject property at \$13,500. In support of this position, the Respondent presented three underground parking stall sales comparables located in the same building as the subject (R-1, page 10). The sales ranged in date from October 2008 to February 2011 and in selling price from \$18,000 to \$25,000. The average sale price of these comparables was \$105.00 per sq ft compared to the assessment of the subject at \$84.00 per sq ft.

[11] The Respondent also presented the Board with an equity chart demonstrating that, at \$13,500, the subject property is assessed the same as all of the other non-residential parking stalls in the subject's building (R-1, page 10).

[12] The Respondent advised the Board that the City of Edmonton assesses parking stalls based on use. Condominium residential stalls are assessed according to LUC 158 and condominium non-residential stalls are assessed according to LUC 281. The subject property is owned by Wheaton Investments Ltd., owners of the adjacent office building known as the Le Marchand Mansion. The Respondent stated that the use of these parking stalls is obviously for commercial use, and therefore the subject property is properly classified as a non-residential condominium stall.

[13] The Respondent asked the Board to confirm the 2012 assessment at \$13,500.

Decision

[14] The decision of the Board is to confirm the 2012 assessment as correct, fair and equitable.

Reasons for the Decision

[15] The Board reviewed the equity comparables presented by the Complainant, all of which are assessed as residential condominium parking stalls with an average of \$48.15 per sq ft. The

Board, however, placed greater weight on the equity comparables submitted by the Respondent (R-1, page 10) because these parking stalls are located in the subject building. The Respondent's equity comparables are also assessed the same as the subject at \$84.00 per sq ft and as non-residential condo parking units.

[16] The Board finds that the best indicator of market value for the subject are the Respondent's three sales comparables located in the subject building. These sales of residential (LUC 158) condo parking stalls ranging from \$18,000 to \$25,000 demonstrate that market value for residential parking stalls is of equal or greater value than the assessment of the subject non-residential stall at \$13,500.

[17] In response to the Complainant's request that the Board change the assessment class of the subject parking stall from non-residential to residential, the Board has the following comments. The City of Edmonton assesses parking stalls based on use, i.e. residential (LUC 158) or non-residential (LUC 281). Per MGA s 460(5)(d), the Board has jurisdiction to change the subject property assessment class from non-residential to residential, but it does not have jurisdiction to change the land use code. The Board however, was not presented with any evidence that the use of the subject's parking stall has changed from non-residential to residential and therefore the Board's decision is to leave the assessment class of the subject property unchanged as non-residential.

[18] The Board confirms the 2012 assessment of \$13,500 as correct, fair and equitable.

Dissenting Opinion

[19] There was no dissenting opinion.

Heard commencing July 17, 2012.

Dated this 31st day of July, 2012, at the City of Edmonton, Alberta.

Dean Sanduga, Presiding Officer

Appearances:

Tom Janzen, CVG
for the Complainant

Ning Zheng, Assessor, City of Edmonton
for the Respondent