

Edmonton Composite Assessment Review Board

Citation: ST REGIS GROUP INC v The City of Edmonton, 2012 ECARB 1178

Assessment Roll Number: 1527050

Municipal Address: 18113 107 AVENUE NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

ST REGIS GROUP INC

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Lynn Patrick, Presiding Officer
Jasbeer Singh, Board Member
Mary Sheldon, Board Member

Preliminary Matters

[1] The parties did not have any objection to the composition of the Board. The members of the Board did not indicate any bias with respect to this matter.

[2] At the outset of the hearing, the Complainant wished to present as evidence to the Board the information that had been properly disclosed to the Respondent as well as some pages of extra information which had not been disclosed as required. The Complainant indicated to the Board that all of this extra disclosure was available on the City of Edmonton website. The Complainant indicated further that while one portion of information in the extra disclosure did refer to some information in the package properly disclosed, the extra disclosure was new evidence. The Respondent objected to this extra disclosure being presented as evidence as it had not been disclosed within the legislated timelines. After a short recess to deliberate, the Board ruled that the extra information not properly disclosed by the Complainant would not be accepted as evidence and that the Complainant could only refer to the evidence properly disclosed pursuant to s. 9(2) MRAC.

Background

[3] The subject property is an industrial condominium unit located at 18113 107 Avenue in the Wilson Industrial subdivision of Edmonton. The total area of the subject is 394.2 square meters and was built in 1979. There is some finished main floor space as well as some finished

upper space. The total main floor area of the subject is 2,400 square feet. The office main floor space is 1,334 square feet while the total finished upper area space is 1,334 square feet. The 2012 assessment of the subject is \$471,000.

Issue(s)

[4] Is the 2012 assessment of the subject correct, fair and equitable?

Legislation

[5] The Municipal Government Act reads:

Municipal Government Act, RSA 2000, c M-26

s 1(1)(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 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

[6] The Complainant argued that the 2012 assessment of the subject was excessive and did not reflect what the subject would sell for on the open market.

[7] In support of this position, the Complainant presented a list of all the condominiums units in the complex where the subject is located, along with the 2012 assessments for each unit (C-1, pages 3-7).

[8] The Complainant noted that the 2012 assessments for the units ranged from \$331,000 to \$480,000. The Complainant advised the Board that the units had finished main floor space and that some had finished upper space as well. The amount of finished main floor and upper floor space varied with the unit. However, the Complainant advised the Board that, in his experience, the amount and quality of finish did not substantially increase the value of these industrial condominiums for a purchaser and, in essence, did not factor into the purchase price. In his opinion, a factor that would account for an increase in value for a unit in this condominium

complex would be the location such as a corner unit. The Complainant advised that the subject was not a corner unit.

[9] The Complainant also advised the Board that, in his opinion, the comparable sales presented by the Respondent were not truly similar to the subject in that those comparables faced directly onto 107 Avenue, whereas the units in the complex in which the subject was located were located in two buildings facing inwards towards each other. In the opinion of the Complainant, the location of the Respondent's comparables was superior to the subject because of the exposure to the high traffic road.

[10] The Complainant also argued that the sale price of the comparables provided by the Respondent, which involved a vendor take back mortgage as part of the sale transaction, should be adjusted downwards to reflect the fact that no financing aspects were present such as an appraisal, and related requirements including the costs associated with a mortgage.

[11] The Complainant argued to the Board that the most reasonable estimate of value for the subject would be \$378,000 which was the average assessment for the units in the complex, excluding the subject.

[12] The Complainant requested that the Board reduce the 2012 assessment of the subject to \$378,000.

Position of the Respondent

[13] The Respondent argued that the 2012 assessment of the subject was correct, fair and equitable.

[14] In support of this position, the Respondent provided a chart of the sales of three properties which, in the opinion of the Respondent, were similar to the subject (R-1, page 19). All were located very close to the subject along 107 Avenue. Total main floor area ranged from 1,495 square feet to 2,012 square feet. Finished main floor office space ranged from 735 square feet to 940 square feet and total finished upper area ranged from 611 square feet to 764 square feet. The time adjusted sale price per square foot of the total area ranged from \$121.07 to \$165.30 while the subject was assessed at \$126.17 per square foot.

[15] The Respondent noted that the subject had the largest amount of main floor office space and finished upper area space of the comparables. The Respondent argued that the market evidence presented demonstrated that the assessment of the subject was within an acceptable range.

[16] The Respondent also presented a chart of equity comparables to the subject (R-1, page 23). All these comparable industrial condominium units were in the same complex as the subject. The range of main floor finished space ranged from 196 square feet to 1,435 square feet (the subject has 1,335 square feet for finished main area) and the upper finished area ranged from 540 square feet to 1,435 square feet (the subject has 1,335 square feet for finished upper space). This chart also showed that some units had neither main floor finish nor upper floor finish.

[17] The Respondent pointed out that the subject had the highest proportion of finished main floor and upper level space of any unit, except one, in the complex. The Respondent reminded

the Board that the amount of finished area on the main floor as well as the amount of developed upper area were important factors shown to affect value in the condominium warehouse inventory (R-1, page 27).

[18] The Respondent cautioned the Board that the assessment for the subject requested by the Complainant represented an average of the assessments of all the units in the complex. In the opinion of the Respondent, this implied that all the units were similar, whereas the units varied widely in terms of finished area.

[19] The Respondent also advised the Board that while the sales comparables provided had been given an adjustment of location on 107 Avenue, the subject had also been given that adjustment.

[20] The Respondent requested that the Board confirm the 2012 assessment of the subject at \$471,000.

Decision

[21] The decision of the Board is to confirm the 2012 assessment of the subject at \$471,000 as being correct, fair and equitable.

Reasons for the Decision

[22] The Board notes that jurisprudence has established that the burden of showing that the assessment of a subject is not correct is the responsibility of the Complainant.

[23] In this case, the Board is of the opinion that the Complainant failed to discharge this responsibility. The Complainant did not provide any sales of comparable properties in the market place beyond a statement that properties in the complex have traded for \$360,000. The Complainant based his argument for a reduction in the subject assessment upon an average of the assessments of the units in the complex.

[24] The Board notes the evidence of the Respondent that finish of both the main floor and upper level is an important factor in the model for valuing the condominium warehouse inventory. The Respondent provided to the Board evidence to show that the level of finish in the various units in the complex was very different and that the assessments reflected this difference. The Board notes that the Complainant did not provide any evidence, beyond a verbal statement of his experience in the real estate business, to establish that the level of finish did not equate to a substantial increase in value in the marketplace.

[25] In the opinion of the Board, to accept the Complainant's argument without market evidence and to accept an average of the assessments of all the units in the complex as a reasonable assessment for the subject would be unfair and inequitable.

[26] The Board confirms the 2012 assessment of the subject at \$471,000.

Dissenting Opinion

[27] There was no dissenting opinion.

Heard commencing October 17, 2012.

Dated this 8th day of November, 2012, at the City of Edmonton, Alberta.

Lynn Patrick, Presiding Officer

Appearances:

Ed Guertin
for the Complainant

Suzanne Magdiak
for the Respondent

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.