

Edmonton Composite Assessment Review Board

Citation: John C. Manning v The City of Edmonton, 2012 ECARB 1181

Assessment Roll Number: 1554252

Municipal Address: 10685 176 Street NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

John C. Manning

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Warren Garten, Presiding Officer
Brian Hetherington, Board Member
James Wall, Board Member

Preliminary Matters

- [1] Upon questioning by the Presiding Officer, the parties did not object to the composition of the Board. In addition, the Board Members expressed no bias with regards to this matter.

Background

- [2] The subject property is improved with a single tenant office/warehouse building containing a total of 19,850 square feet (sq. ft.), including 5,085 sq. ft of main floor office space. There is a finished mezzanine of 4,352 sq. ft. The improvement occupies 27% of the 58,340 square foot lot. Located at 10685 176 Street in the McNamara industrial area of Northwest Edmonton, the subject building was constructed in 1978 and was assessed for 2012 at \$2,053,500 utilizing the Direct Sales Comparison Approach to valuation.

Issue(s)

- [3] Is the Market Value, based on the Direct Sales Comparison Approach to Value correct?

Legislation

- [4] 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

[5] The Complainant presented evidence (C-1, 17 pages) and argument for the Board's review and consideration.

[6] The Complainant argued that the subject is over-assessed based on the Direct Sales Comparison Approach.

[7] The Complainant provided nine sales comparables (C-1, p. 1) and third party data sheets (C-1, pp 7-15) for the Board's review. These sales ranged in time adjusted sale price (TASP) from \$70.08 per square foot to \$95.39 per square foot. The average TASP of the nine comparables is \$83.28 per square foot.

[8] The Complainant indicated that the time adjustment factors applied to the sales comparables in C-1 are the same factors used by the City of Edmonton (C1, p. 16) in their calculations.

[9] The Complainant indicated that the subject property's 2012 assessment was on the basis of \$103.44 per square foot.

[10] Upon being questioned by the Board, the Complainant stated that his sales comparables two, three, four, seven and nine were his best indicators of value for the subject property. The TASP for these sales comparables ranged from \$70.08 per square foot to \$95.39 per square foot and indicated an average of \$83.74 per square foot.

[11] In summary, the Complainant requested the 2012 assessment of the subject property be reduced to \$1,700,000, based on \$85 per square foot.

Position of the Respondent

[12] The Respondent presented evidence (R-1, 35 pages), Law and legislation (R-2, 44 pages) and argument for the Board's review and consideration.

[13] The Respondent outlined the mass appraisal methodology for valuing properties (R1, pp 4 - 8) and informed the Board that the subject property had been valued by Direct Sales Comparison. Factors found to affect value in the warehouse inventory include location, size of lot, age and condition of buildings, the total area of the main floor, amount of finished office area on the main floor as well as any developed mezzanine (R-1, p. 7).

[14] The Respondent stressed that the assessment models, the process utilized and the results are submitted annually to the Assessment Services Branch of the Department of Municipal Affairs for audit purposes. The Respondent indicated that the audit had been satisfied and that the City of Edmonton had met all governing legislation including regulations and quality standards.

[15] The Respondent indicated that the Direct Sales Comparison Approach to valuation provided the best indication of value for properties such as the subject.

[16] The Respondent presented six sales comparables (R-1, p. 19). Four comparables were located in the general northwest industrial area of the City, the same as the subject. The remaining two were located on Yellowhead Trail east and in central North Edmonton. These sales took place between April 2008 and April 2011. Their site coverage ranged from 17% to 44%. The subject's site coverage is 27%. Time adjusted sales prices TASP were \$107.16 per square foot to \$158.46 per square foot, compared to the subject's assessment at \$103.45 per square foot.

[17] The Respondent questioned the reliability of the Complainant's sales comparables three and nine (R1, pp 27, 28). When validating sales comparable three, the City's Assessment Department found it had been subject to a purchase agreement by the lessee. Further, representatives from the Assessment Department were told by the agent for the seller that the vendor had been highly motivated (financial duress) and that the property sold for less than market value. For these reasons the Respondent indicated these were not reliable sales.

[18] Upon questioning from the Board, the Respondent suggested that his sales comparables two, three and six, offered the best indication of market value for the subject property. The TASP of these sales comparables ranged from \$107.16 per square foot to \$158.46 per square foot and they were all located in the northwest quadrant of the City of Edmonton.

[19] The Respondent brought to the Board's attention *post facto* information on the Complainant's sales comparable one. This information (R1, p. 26) indicates this property sold on January 27, 2012 for \$129.89 per square foot, which represents an increase of 69% since February 2008. Although the Respondent understood this sale could not be used other than for trending purposes, he put it forward as evidence of a rising market during a period of time when the market was thought to be stable.

[20] The Respondent made the following observations on the Complainant's sales comparables:

- i. The Respondent brought to the Board's attention that the Complainant's sales comparables one and six had much higher site coverage than the subject (49% and 45% versus 27%).
- ii. The Respondent suggested that the improvement sizes of his sales comparables five and six were considerably larger than the subject's (31,388 sq. ft. and 29,201 sq. ft. versus 19,850 sq. ft.).
- iii. The Respondent suggested that the Complainant's sale four is eight years older than the subject property.

- iv. The Respondent indicated that the Complainant's sales comparables five and seven were vacant at time of sale and further that the Complainant's sale nine had a lease which was below market rate at sale date.

[21] In his closing argument that Respondent suggested that the Complainant had not met onus, as he had not provided sufficient and compelling evidence such that the 2012 assessment could be found to be incorrect.

[22] In summary the Respondent requested the Board confirm the 2012 assessment of the subject property at \$2,053,500.

Rebuttal

[23] In a rebuttal document (C-2), the Complainant provided an e-mail from the Network answering a query made by CVG. This e-mail confirmed that all of the Complainant's sales comparables (C-1, pp 7-15 inclusive) had been confirmed as arms length transactions through Alberta Registries.

Decision

[24] It is the decision of the Board to reduce the 2012 assessment of the subject property from **\$2,053,500 to \$1,786,500** based on a revised assessment of \$90 per square foot.

Reasons for the Decision

[25] In reaching its decision, the Board considered all argument and evidence.

[26] The Board finds that the Complainant has provided sufficient evidence to put the correctness of the assessment into question. He has therefore met the onus.

[27] The Board agreed with the Complainant that location is an important factor in the choice of sales comparables. The Board was not persuaded by Respondent's sales comparables two, four and five (R1, pp 21, 23 and 24) as they had exposure to major traffic arteries, while the subject does not. Sales comparable six is not located in the subject area, but rather just north of downtown.

[28] The Board reviewed all comparables provided by both the Complainant and Respondent and finds that the Complainant's sales two, three, four, seven and nine, as well as the Respondent's sales comparable one, offered the best indicators of value for the subject property:

- i. 16707-113 Avenue: this property submitted as sales comparable two by the Complainant has a somewhat smaller improvement than the subject, its site coverage is very similar (26% versus 27%), and it was two years older than the subject. It has a TASP of \$87.45 per square foot.
- ii. 14215-120 Avenue: this property submitted as sales comparable three by the Complainant has slightly higher site coverage than the subject (33% versus 27%) and it is two years newer than the subject. It has a TASP of \$70.08 per square foot.

- iii. 14705-116 Avenue: this property submitted as sales comparable four by the Complainant has slightly higher site coverage than the subject (33% versus 27%), it is eight years older than the subject and slightly smaller in improvement size (15,837 sq. ft. versus 19,850 sq. ft.). It has a TASP of \$78.36 per square foot.
- iv. 14603-118 Avenue: this property submitted as sales comparable seven by the Complainant is older than the subject (1967 versus 1978), it has very similar site coverage to the subject but is approximately 6,200 square feet larger in improvement size. It has a TASP of \$95.39 per square foot.
- v. 11610-178 Street: submitted by the Complainant as sale comparables nine, is much newer than the subject (1997 versus 1978), is approximately 66,400 square feet larger than the subject and has similar site coverage. It has a TASP of \$87.44 per square foot.
- vi. 10439-176 Street: this property was submitted as sales comparable one by the Respondent. It has slightly lower site coverage and is newer than the subject (1992 versus 1978). It also had a much larger improvement (32,354 sq. ft. versus 19,850 sq. ft.). It has a TASP of \$117.43 per square foot.

[29] The Board finds that the foregoing sales comparables can be relied upon to indicate market value for the subject property. In this regard they indicate an average TASP of \$89.36 per square foot. The Board finds that this represents a fair and equitable assessment rate for the subject property. Therefore it is the Board's opinion that the 2012 assessment for the subject property should be reduced to **\$1,786,500**, based on rounding \$89.36 per square foot to \$90 per square foot.

Dissenting Opinion

[30] There was no dissenting opinion

Heard commencing October 17, 2012.

Dated this 9 day of November, 2012, at the City of Edmonton, Alberta.

Warren Garten, Presiding Officer

Appearances:

Peter Smith
for the Complainant

Marty Carpentier
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.