

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 1556

Assessment Roll Number: 1073204
Municipal Address: 3333 68 Avenue NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Robert Mowbrey, Presiding Officer
Jack Jones, Board Member
Pam Gill, Board Member

Preliminary Matters

[1] Upon questioning by the Presiding Officer, each of the parties stated that they had no objection to the composition of the Board. In addition, the Board members indicated no bias on this file.

[2] The parties indicated that their evidence would be carried forward from roll number 1073386.

Background

[3] The subject is an industrial property located in Edmonton's Southeast (Annexed) Industrial neighborhood. The subject property has a lot size of 188,461 square feet and is assessed as land only and valued on the cost approach. The 2012 assessment is for \$1,342,000.

Issue

[4] What is the market value of the subject property?

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 filed this complaint on the basis that the subject property assessment of \$1,342,000 was inequitable and in excess of market value. In support of this position, the Complainant presented a 21 page assessment brief marked as Exhibit C-1.

[7] The Complainant advised the Board that the only issue being pursued with this file was the contamination issue. A sandblasting operation on the adjacent property has spread airborne contamination on the subject property, one of three properties affected. Attached is an environmental report identifying the various contaminants (Exhibit C-1 pages 9-20).

[8] In addition, the owner of the property had obtained a verbal cost estimate of \$500,000 to strip the top soil from the three lots to remove the contamination. The subject property comprised 38% of the total land and therefore 38% of the cost would equate to \$190,000 (Exhibit C-1 page 1).

[9] During argument and summation, the Complainant stated there was no dispute that the subject property was contaminated and a purchaser would therefore not pay the full purchase price. The Complainant stated that some allowance should be made for the contamination.

[10] With the Complainant having the last word, the Complainant stated once again, that the subject property would not achieve full value due to the contamination.

[11] The Complainant requested the Board reduce the land assessment by the verbal proportionate cost estimate of \$190,000 to an amended 2012 assessment of \$1,009,500.

Position of the Respondent

[12] In defending its position, the Respondent presented a 65 page assessment brief marked as Exhibit R-1.

[13] The Respondent provided four equity comparables, which were in proximity to the subject property. One of these comparables was the subject. All shared the subject's IM zoning. The average assessment per square foot was \$6.15 (Exhibit R-1 page 9).

[14] During cross-examination, the Respondent admitted that, as of December of the assessment year, there was some sort of contamination.

[15] During argument and summation, the Respondent advised the Board that there were no actual documents in evidence as to the cost of remediation.

[16] The Respondent requested the Board to confirm the 2012 assessment of \$1,342,000.

Decision

[17] The decision of the Board is to confirm the 2012 assessment of \$1,342,000.

Reasons for the Decision

[18] The Board notes that both the Complainant and the Respondent agree there is some sort of contamination regarding the subject property. While the Board has a high degree of empathy for the Complainant's position, the Board was not persuaded by the Complainant's evidence.

[19] The Complainant was unable to provide any written evidence or documentation regarding the cost of remediation. The Complainant provided verbal testimony from the owner giving an estimate of \$500,000 for remediation. The Complainant then apportioned the cost to the three properties. The Board has difficulty believing that the contamination would be homogeneous across the three properties; and accordingly, finds this evidence unreliable.

[20] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. The Board is satisfied that the Complainant has proven that, given the contamination, the assessment is inaccurate. However, the Complainant has failed to provide

adequate evidence to establish the subject property's fair market value, and what the correct assessment should be. Accordingly, the Board is unable to reduce the assessment.

Heard October 9, 2012.

Dated this 22 day of October, 2012, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

Tom Janzen, CVG
for the Complainant

Darren Nagy, Assessor
Steve Radenic, Assessor
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.