

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 1578

Assessment Roll Number: 9536541
Municipal Address: 7504 52 Street 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, each Board Member indicated that they had no bias with respect to this matter.

Background

[2] The subject property is a three building office/warehouse complex of 35,774 square feet. One of the buildings is valued on the cost approach and has minimal value. The other two buildings are valued on the direct sales assessment methodology and were constructed in 1991 and 2000. The subject has site coverage of 30%. The 2012 assessment is \$4,957,000.

Issue

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

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 filed this complaint on the basis that the subject property assessment of \$4,957,000 was inequitable and in excess of market value. In support of the position, the Complainant presented a 19-page evidence package to the Board marked as Exhibit C-1.

[6] The Complainant advised the Board that a previous CARB decision had reduced the previous year’s assessment (Exhibit C-1 pages 11-13).

[7] In support of its position, the Complainant presented seven sales comparables that were time adjusted from the sale date to the valuation date, using the same time adjusted factors as used by the City of Edmonton. The Complainant advised the Board that sale #'s, 1, 3, 6 and 7 were the most similar to the subject property and sale #7 was the most similar of all the sales comparables (Exhibit C-1 pages 1, 2).

[8] During cross examination by the Complainant to the Respondent, the Respondent stated that the City does not show a difference in value between an IB and IM zoning.

[9] During cross examination, the Complainant stated that a property purchased with 100% vacancy, may or may not affect the purchase price. In addition, the Complainant stated that below market leases could affect the purchase price.

[10] The Complainant asked the Respondent if there were two separate buildings and the Respondent answered in the affirmative.

[11] During argument and summation, the Complainant indicated that there were two separate buildings and the rear building was not worth as much as the front building.

[12] The Complainant advised the Board that the sale of the subject property was a non-arm’s length sale and the average yield of 8.6% throughout the remainder of the lease could have an upward issue with the sale price.

[13] The Complainant requested the Board to reduce the 2012 assessment to \$3,870,000 based on the time adjusted sale (TASP) per square foot (psf) of total area of \$110.00.

Position of the Respondent

[14] The Respondent defendant the 2012 assessment using seven sales comparables that range in TASP from \$129.20psf to \$146.39psf, compared to the subject property of \$140.84psf (Exhibit R-1 page 20).

[15] All of the comparables were in average condition and similar in site coverage, as was the subject property. In addition, sales comparables #'s, 5, 6 and 7 had finished upper mezzanines (Exhibit R-1 page 20).

[16] The Respondent advised the Board that the subject property was sold in November 2011 for \$5,500,000 and, although the sale is post facto, the sale could be used for trending purposes (Exhibit R-1 page 28).

[17] During cross examination, the Respondent noted that the Complainant's sale #'s, 1, 2, 3 and 7 had leases below market and sale #4 was vacant at the time of purchase.

[18] During cross examination, the Respondent noted that the first five of the Complainant's sales comparables were inferior to the subject property in terms of site coverage.

[19] During argument and summation, the Respondent advised the Board that the City considers the Complainant's sale #5 (at 5820 96 Street) to be non-arm's length as the sale involved related corporate directors (Exhibit R-1 page 30).

[20] During argument and summation, the Respondent advised the Board that the City considered the Complainant's sale #6 (8803 58 Avenue) invalid as the vendor sold the property to one of its employees (Exhibit R-1 page 31).

[21] During argument and summation, the Respondent advised the Board that the Respondent presented the Board seven sales all located in Southeast Edmonton and asked the Board to confirm the 2012 assessment of \$4,957,000.

Decision

[22] The decision of the Board is to confirm the 2012 assessment of \$4,957,000.

Reasons for the Decision

[23] The Board believes the best indicator of market value is the sale of the subject property itself. The Board was persuaded by the sale of the subject property for \$5,500,000 in November 2011. The Board recognizes the sale is post facto, but the sale occurred within the assessment year and the valuation assessment takes into account the condition as of December 2011.

[24] The Board takes some comfort from the Respondent advising the Board that the industrial warehouse inventory had increase slightly from the valuation date. The Board notes the Complainant did not object to this assertion.

[25] The Board put some weight on the Respondent's sales comparables. The sales comparables were similar in site coverage, condition, age and TASP per square foot for total area of the building.

[26] The Board notes that the subject property would have to decrease by more than 10% to even come close to the 2012 assessment.

[27] The Board is not persuaded by the Complainant's sales comparables. The sales comparables are not all that comparable in that a number of them have issues. Some of the issues include, but are not limited to: below market lease rates, and non-arms length sales. One sold to an employee and does not qualify for use by the City, as the sale did not meet the definition of market.

Dissenting Opinion

[28] There was no dissenting opinion.

Heard October 10, 2012.

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

Robert Mowbrey, Presiding Officer

Appearances:

Peter Smith
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.