

## **Edmonton Composite Assessment Review Board**

**Citation: CVG v The City of Edmonton, 2012 ECARB 1756**

**Assessment Roll Number:** 3517968  
**Municipal Address:** 11755 108 Avenue NW  
**Assessment Year:** 2012  
**Assessment Type:** Annual New

Between:

**CVG**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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

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### **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 is a single tenant office/warehouse building located in the central neighbourhood of Queen Mary Park. The improvement was constructed in the 1950s, but its effective year built is 1978. The subject contains 30,850 square feet (sq. ft.) of gross floor area including 8,076 sq. ft. of office and it has a net rentable area of 25,856 sq. ft. The property is in average condition and has site coverage of 27% on the 112,591 sq. ft. site. The subject's 2012 assessment is \$2,827,000 and it was assessed using the Direct Sales Comparison Approach.

### **Issues**

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

[4] Is the subject property's assessment fair in comparison to similar properties?

### **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 presented evidence (C-1, 25 pages) and argument for the Board’s review and consideration.

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

[8] The Complainant provided nine sales comparables (C-1, p. 1), third party data sheets and confirmation of assessments (C-1, pp 8-23) for the Board’s review. Eight of the nine sales indicated a time adjusted sales price (TASP) range of \$59.85 per square foot to \$86.13 per square foot and an average TASP of \$72.51 per square foot.

[9] The Complainant indicated to the Board 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. 24) in their calculations.

[10] In addition the Complainant presented the 2012 assessments on eight of the nine sales comparables. The assessment range is \$72.74 per square foot to \$150.44 per square foot and the average is \$87.78 per square foot.

[11] The Complainant indicated that the subject property’s 2012 assessment is on the basis of \$91.63 per square foot.

[12] The Complainant stressed that sales comparables five, six and seven (C.-1, pp 16, 19 and 20) were the most reliable indicators of value for the subject property. These sales comparables had TASPs of \$86.13 per square foot, \$73.41 per square foot and \$76.68 per square foot respectively. The indicated average of these comparables was \$78.74 per square foot.

[13] In addition to the direct sales comparison information, the Complainant presented an income approach for the subject property. In this approach the Complainant used a potential rental rate of \$7.10 per square foot, a 5% vacancy rate and a 3% non-recoverable expense allowance, resulting in a net annual operating income (NOI) of \$169,167. The Complainant based the potential rental rate on actual rental rates in the subject property and the capitalization

rate of 8.5% was from third party information on his sales comparables 1, 2, 4 and 8, which exhibited rates of 6.73%, 7.80%, 8.47% and 8.70% respectfully.

[14] The application of the 8.5% capitalization rate to the aforementioned (NOI) results in a value through the income approach of \$1,990,197. The Complainant noted that this supports his opinion that the 2012 assessment of the subject property is not correct.

[15] It is the Complainant's opinion that the assessment of the subject property should be based on its net rentable area of 25,856 square feet, rather than the City's stated gross floor area of 30,850 square feet.

[16] In summary, the Complainant requested the 2012 assessment of the subject property be reduced to \$2,050,000, based on \$80 per square foot applied against the net rentable area of the improvement.

### **Position of the Respondent**

[17] The Respondent presented evidence (R-1, 36 pages), Law and Legislation (R-2, 44 pages) and argument for the Board's review and consideration.

[18] 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 the building, the total area of the main floor, amount of finished area on the main floor and amount of developed mezzanine area (R-1, p. 7).

[19] 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 passed and that the City of Edmonton had met all governing legislation including regulations and quality standards.

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

[21] The Respondent presented seven sales comparables (R-1, p. 19). Three were located in the northeast quadrant of the City and the remaining four were located in close proximity to the subject property. One property sold twice (sales one and three), once in January 2008 and again in November 2010. All sales took place between January 2008 and April 2011. Site coverage ranged from 22% to 79%. The subject's site coverage is 27%. TASP's ranged from \$89.88 per square foot to \$129.78 per square foot, compared to the subject's assessment at \$91.64 per square foot.

[22] The Respondent provided the Board with five equity comparables (R-1, p. 27). Four of these equity comparables were located in the general vicinity of the subject property and the fifth was to the east on Stadium Road. Site coverages ranged from 25% to 60% compared to the subject's site coverage of 27%. Assessments ranged from \$88.37 per square foot to \$96.71 per square foot, for an indicated average of \$92.58 per square foot. The subject property is assessed at \$91.63 per square foot.

[23] The Respondent questioned the reliability of the Complainant's sales comparables one and eight (R-1, pp 28 and 29). The Respondent indicated that there had been a vendor leaseback

at below market lease rates on sales comparable one. On sales comparable eight, discussions the Assessment Department validation team had with the vendor and purchaser indicated there had been financial duress prior to the completion of the sale.

[24] Upon questioning from the Board, the Respondent suggested that all of his sales comparables support the assessment of the subject, particularly sales comparables one, two, three and four, which are located in the general vicinity of the subject property. The average TASP of all his sales comparables is \$110.64 per square foot, well above the subject property's assessment at \$91.64 per square foot.

[25] The Respondent confirmed that the size of the improvement of the subject is 30,850 square feet, and that this is the size the assessment is based on.

[26] In response to questioning from the Board, the Respondent confirmed there had been a negative allowance of -10% made in the assessment of the subject property (R-1, p. 15). This negative allowance was meant to reflect the subject's irregular shape created by the long narrow portion to the north. This narrow portion is used as a driveway.

[27] In summary the Respondent requested the Board confirm the 2012 assessment of the subject property at \$2,827,000.

### **Decision**

[28] It is the decision of the Board to confirm the 2012 assessment of the subject property at \$2,827,000.

### **Reasons for the Decision**

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

[30] The Board has reviewed all sales and equity comparables put forward by both the Complainant and the Respondent, and makes the following comments:

- i. The Board finds the location of the subject property, which is in close proximity to the central core of the City, to be somewhat unique. In this regard the Board notes that none of the Complainant's sales comparables are located in the same general market area as the subject property, while four of the Respondent's sales comparables are.
- ii. Site coverages of the Complainant's sales comparables averaged 38% compared to the subject property's site coverage of 27%. The Respondent's sales comparables averaged site coverage of 54%.
- iii. The equity comparables presented by the Complainant were also his sales comparables, and none except for equity comparable nine were located in the subject's market area. The Board notes that four of the Respondent's seven equity comparables are in the subject's market area.
- iv. The Board notes that the Respondent questioned the reliability of two of the Complainant's sales comparables. The Board finds this reliability issue was not satisfactorily addressed by the Complainant.

[31] The Board places little or no weight on the sales and equity comparables put forward by the Complainant, and the sales comparables put forward by the Respondent, for reasons stated in i, ii, iii and iv above.

[32] The Board places no weight on the results of the Complainant's income approach as insufficient evidence was put forward to support the market elements used in this approach.

[33] The Board accepts the improvement size (30,850 sq. ft.) of the subject property provided by the Respondent as no pertinent evidence related to the size issue was received from the Complainant.

[34] It is the Board's opinion that the equity comparables put forward by the Respondent, particularly those located in the subject's market area, indicate the subject property's assessment is fair and equitable.

[35] The Board notes that legislation requires the Complainant to provide sufficient evidence to prove that the subject property's assessment is incorrect. It is the Board's opinion that this requirement was not met by the Complainant. Therefore the Board finds that the onus has not been met and confirms the assessment.

### **Dissenting Opinion**

[36] There was no dissenting opinion.

Heard on October 18, 2012.

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

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Warren Garten, Presiding Officer

### **Appearances:**

Tom Janzen  
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.*