

Edmonton Composite Assessment Review Board

Citation: John C. Manning v The City of Edmonton, 2012 ECARB 1838

Assessment Roll Number: 1066364

Municipal Address: 3731 98 STREET NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

CVG - Canadian Valuation Group, Agent for Thermak Investments Inc.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Don Marchand, Presiding Officer

Darryl Menzak, Board Member

Judy Shewchuk, Board Member

Preliminary Matters

[1] Each of the Board members indicated that they had no bias with respect to this complaint; as well, both parties indicated that they had no objection to the composition of the panel.

[2] Each of the parties was sworn in prior to giving evidence.

[3] The Parties indicated that the evidence presented respecting this complaint was very similar to roll 8626863 (citation: **2012 ECARB 2246**). Accordingly, they advised that a large percentage of the evidence would be carried forward to this hearing.

Background

[4] The subject property is a multi-tenant office/warehouse building, located in the Strathcona Industrial Park area of Edmonton. The parcel contains 0.731 acres or a site area of 31,861 square feet. The assessment summary identifies the improvements as built in 1981 and having 17,158 square feet of building space. The site coverage is 49%. The property is situated on an interior lot with access and exposure to 98th Street. The 2012 property assessment under complaint is \$1,746,000.

Issue(s)

[5] Is the 2012 assessment correct?

Legislation

[6] The Board's jurisdiction is within the ***Municipal Government Act, RSA 2000, c M-26*** [MGA]:

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.

[7] The Board gave consideration to the requirements of an assessment, contained in the MGA:

289(2) Each assessment must reflect

- a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and
- b) the valuation and other standards set out in the regulations for that property.

[8] The valuation standard is set out within the ***Matters Relating to Assessment and Taxation Regulation, Alta. Reg. 220/2004*** [MRAT]:

2. An assessment of property based on market value

- a) must be prepared using mass appraisal,
- b) must be an estimate of the value of the fee simple estate in the property, and
- c) must reflect typical market conditions for properties similar to that property

[9] Market value is defined within the MGA as:

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;

Position of the Complainant

[10] The Complainant submitted an evidence package of 12 pages marked exhibit C-1.

[11] The Complainant presented five sales comparables ranging in time adjusted sale price (TASP) from \$71.67 to \$100.00 per square foot which, in the opinion of the Complainant, support his request for a reduction to \$95.00 per square foot or a revised assessment of \$1,630,000.

[12] The Complainant's comparables:

Comp #	Address	Age	Site Cov.	Bldg. size sq. ft.	TASP/Sq. Ft.
1	9805-51 Avenue	1971	21%	18,556	\$71.67
2	803-77 Avenue	1982	29%	24,485	\$98.01
3	8135-Wagner Rd	1969	35%	15,972	\$75.13
4	5820-96 Street	1979	45%	10,000	\$100.00
5	9405-58 Avenue	1974	23%	12,724	\$78.88
Subj.	3731 – 98 Street	1981	49%	17,158	\$101.76

[13] In response to the Respondent's questions the Complainant agreed that the seller of 9805–51 Avenue was motivated but also stated that the TASP of that property was the lowest at \$71.67 per square foot.

[14] The Complainant questioned the Respondent's sales comparables drawing attention to the fact that 9333 – 27 Avenue had a site coverage of 30% while the subject's site coverage is 49%. He also stated that the Respondent's comparables at 9719 – 63 Avenue and 7324 – 76 Avenue were in superior locations to the subject.

[15] The Complainant stated that in general his comparables were more comparable to the subject than the Respondent's comparables; however, the Complainant stated that the Respondent's comparable at 9246 – 34A Avenue, with a TASP of \$94.80 per square foot, supports the Complainant's request for a reduction to \$95.00 per square foot.

Position of the Respondent

[16] The Respondent submitted an assessment brief of 37 pages (exhibit R-1) and a law and legislation brief of 44 pages (exhibit R-2).

[17] The Respondent drew the CARB's and the Complainant's attention to the factors affecting value for the subject. The factors are: the location, the parcel size, the age, condition, and footprint of each building as well as the amount of main floor and upper area development, the upper space being at a lesser rate than the main.

[18] The Respondent presented six sales comparables ranging in TASP from \$94.80 to \$141.09 per square foot thereby supporting the assessment of the subject at \$101.76 per square foot.

[19] The Respondent's comparables:

Co mp #	Address	Age	Site Cov.	Main Floor Area	Off. Fin.	Mezz. Fin.	Total Area c/w Mezz.	Office Area %	TASP/s q. ft.
1	5704-92 St	1972	46%	23,880	4,520		23,880	18.9%	\$97.70
2	9333-37 Ave	1977	30%	16,598	4,844	3,305	19,903	49.1%	\$141.09
3	9246-34a Ave	1979	38%	14,754	4,349	5,051	19,806	63.7%	\$94.80
4	3120-93 St	1986	36%	17,802	6,428		17,802	36.1%	\$129.20
5	9719-63 Ave	1990	44%	17,123	5,600		17,123	32.7%	\$105.12
6	7324-76 Ave	1976	37%	15,089	4,140		15,089	27.4%	\$122.27
S.	3731 -98 St.	1981	49%	15,715	3,272	1,442	17,158	30.0%	\$101.76

[20] The Respondent questioned four of the Complainant's five sales comparables as having issues making them less appropriate than the Respondent's comparables. The Respondent further stated that three of his six comparables were situated within ten blocks of the subject and asked the CARB confirm the assessment at \$101.76 per square foot or \$1,746,000.

Decision

[21] The CARB confirms the 2012 assessment at \$1,746,000.

Reasons for the Decision

[22] The Board reviewed the Complainant's comparable in light of the questioning and responses provided in the hearing **2012 ECARB 2246** of roll number 87626863. The Complainant's sale comparable # 4 at 5820- 96 Street is a transaction between related parties. The Complainant's sale comparable # 1 at 9805- 51 Avenue, has a warehouse component of 15,055 square feet out of a total area of 18,556 square feet and was considered to be in poor condition at the time of sale. The Complainant's sale comparable # 2 at 803- 77 Avenue is considered to be a duress sale as the vendor was in financial difficulty. The Complainant's sale comparable # 5 at 9405 – 58 Avenue was in poor condition when it sold for \$940,000 in September 2010. The Respondent provided evidence indicating that it was the renovated and subsequently sold in February 2012 for \$2,200,000. As a result the CARB placed little weight on these sales comparables.

[23] The remaining comparable #3 is for a 1969 built building on a parcel with site coverage of 35%. This comparison requires significant upward adjustment to be similar to the subject which was built in 1981 with site coverage of 49%.

[24] The Board gives consideration to both parties' evidence and argument in support of their positions. Because of the questioning and concern expressed by the Respondent towards the Complainant's comparable sales, the Board is satisfied that there is insufficient evidence to cast doubt on the correctness of the assessment.

[25] The Board agrees with the Complainant, that the site coverage for the Respondent's comparable # 2 is not similar to the subject and that the locations of comparables # 5 and # 6 are superior to the subject and adjustments are warranted. However, the Board is satisfied that the assessment at the rate of \$101.76 is adequately supported by the Respondent's sales comparables as evidence.

Heard commencing October 22, 2012.

Dated this 20th day of November, 2012, at the City of Edmonton, Alberta.

Don Marchand, Presiding Officer

Appearances:

Tom Janzen, CVG
for the Complainant

Luis Delgado, 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.