

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 1849

Assessment Roll Number: 9553025
Municipal Address: 4303 82 Avenue NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Warren Garten, Presiding Officer
James Wall, Board Member
Brian Hetherington, 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 is an industrial property located at 4303 82 Avenue in the southeast Morris Industrial neighbourhood. The site contains two buildings, both built in 1979. The buildings are in average condition and have been assessed using the direct sales comparison approach. Building one contains 31,800 sq. ft. of space, while building two contains 25,200 sq. ft. The site coverage is 41%. The subject's 2012 assessment is \$5,590,000. The subject property has been assessed for 2012 using the direct sales comparison approach.

Issue(s)

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

[4] Is the assessment of the subject property fair and equitable compared 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, 21 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 five sales comparables (C-1, p. 1), third party data sheets and assessment sheets for each of these sales (C.-1, pp 7-16 inclusive), for the Board’s review. The sales ranged from a time adjusted sale price (TASP) of \$82.62 per square foot to \$102.31 per square foot and their assessments ranged from \$75.66 per square foot to \$100.64 per square foot. The average time adjusted sale price of the five comparables is \$87.02 per square foot and their average assessment is \$89.48 per square foot.

[9] The Complainant’s evidence confirmed that the time adjustment factors applied to the sales comparables in C-1 are the same factors used by the City of Edmonton (C-1, p. 17) in their assessment calculations.

[10] The Complainant indicated that the subject property’s 2012 assessment was on the basis of \$98.07 per square foot.

[11] The Complainant argued that his sales comparables one and four (C.-1, pp 7 and 13) were the most reliable indicators of value for the subject property. These sales comparables had TASPs of \$72.07 and \$86.67 respectively. The indicated average of these two sales comparables is \$79.37 per square foot.

[12] 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 \$7.50 per square foot, a 5% vacancy rate and a 3% non-recoverable expense allowance, resulting in a net annual operating income (NOI) of \$389,877. The Complainant based the potential rental rate on actual rates in the subject property and the capitalization rate of 8% was from third party information on his sales comparables 1-4.

[13] The application of the 8% capitalization rate to the aforementioned (NOI) results in a value through the income approach of \$4,873,463. The Complainant noted that this supports his opinion that the 2012 assessment of the subject property is not correct.

[14] In cross-examination the Complainant agreed with the Respondent that his sales comparables two and three were much larger than the subject and sales comparable number two was older. The Complainant also responded to questions from both the Respondent and the Board regarding the components used in the income approach.

[15] In his summation the Complainant asked the Board to reduce the 2012 assessment to \$4,600,000, based on his direct comparison approach which indicated \$80 per square foot, supported by his income approach.

Position of the Respondent

[16] The Respondent presented evidence (R-1, 37 pages), Law and Legislation (R-2, 44 pages) and argument for the Board's review and consideration.

[17] The Respondent outlined 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, total main floor area, amount of finished area on the main floor and developed upper area (R-1, p. 7).

[18] 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.

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

[20] The Respondent outlined to the Board the City's policy regarding Multi-Building Accounts (R-1, p. 30). In this process, "each building has been analyzed for its contributory value to the property. For such accounts, a single assessment has been produced that represents the aggregate market value of that particular property."

[21] The Respondent suggested that multi-building sites had a greater sales potential than similar sites with only one building. However, when questioned by the Board for support of this concept, response was limited.

[22] The Respondent stated that only two of the Complainant's five sales comparables were improved with multi-buildings (sales comparables one and five).

[23] The Respondent presented seven sales comparables (R-1, p. 21), all located in the southeast industrial area of the City. Sales 1-4 were improved with one building and the remainder of the sales were improved with two buildings. There was no commonality between these sales and those presented by the Complainant. These sales took place between July 2008 and May 2011 while the valuation date for the 2012 assessment is July 1, 2011. Site coverage ranged from 12% to 46%, the subject's site coverage is 41 %. The Respondent suggested that the TASP of \$97.70 per square foot, \$112.48 per square foot, \$129.20 per square foot and \$122.27

per square foot for the Respondent's sales 1-4 respectively, support the subject's assessment of \$98.07 per square foot.

[24] The Respondent indicated that these sales comparables were located in the same market area as the subject, and had an average TASP of \$115.41 per square foot. The Respondent stated all of the comparables can be relied upon to support the assessment of \$98.07 per square foot of the subject property.

[25] In summation the Respondent questioned the comparability of the Complainant's sales comparable three as it is a semi-retail use located on a major roadway.

[26] The Respondent in his summation indicated that the Assessment Department validates and researches all sales prior to their inclusion in the model.

[27] The Respondent provided the Board with five equity comparables (R1, p. 29). These equity comparables were all located in the southeast area, in the same market as the subject property. They indicated an average assessment of \$101.30 per square foot, which supports the subject property's assessment of \$98.07 per square foot.

[28] In summary the Respondent requested the Board confirm the 2012 assessment of the subject property at \$5,590,000.

[29] In his closing argument the 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.

Decision

[30] The decision of the Board is to reduce the 2012 assessment of the subject property to 4,845,000.

Reasons for the Decision

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

[32] The Board reviewed all sales comparables provided by both the Complainant and Respondent and finds it can rely on only some of them, particularly those put forward by the Complainant. The Respondent's sale one is given some consideration in arriving at a fair and equitable assessment.

[33] In considering the evidence put forward by the Complainant the Board finds that the onus was met.

[34] The Board notes no commonality between the sales comparables presented by both parties.

[35] The Board places no weight on the income approach provided by the Complainant as he failed to fully satisfy the Board that all of the components used were obtained from the market.

[36] The Board considered the Respondent's stated methodology in assessing multi-building sites and questions the validity of this methodology as no clear evidence was offered in support.

[37] The Board offers the following comments on the Respondent's evidence:

- i. The Board notes that neither the Respondent's sales nor equity comparables are located in the same industrial subdivision as the subject property.
- ii. Only the Respondent's sales comparable one had a location that was similar to the subject. Sales comparables two, four, six and seven exhibit locations with exposure to major traffic arteries.
- iii. All of the Respondent's sales comparables' improvements are considerably smaller than the subject's, particularly Respondent's sales three and four.
- iv. Respondent's sales comparable five's suitability for manufacturing use, reduces this property's reliability as an indicator of value for the subject property. In addition its site coverage is 12% versus the subject property's 41%.
- v. Respondent's sales comparable six has lower site coverage than the subject (14% versus 41%) and there is a large office building on the site.

[38] The Board prefers the Complainant's sales comparables one and four as indicators of value for the subject property. The Board finds these two properties are only one year older than the subject (1978 versus 1979). The improvement sizes are 50,250 sq. ft. and 44,994 sq. ft. respectively, compared to the subject's overall size of 57,000 sq. ft. Site coverages of 44% and 40% on these comparables relate well to the subject property's 41% site coverage.

[39] The Board considered all equity evidence put forward, however it is the Board's opinion that the evidence provided by direct sales comparison fairly represents the market value of the subject property.

[40] The average TASP of Complainant's sales comparables one and four, and Respondent's sale one is \$85.48 per square foot. This is considered to fairly reflect the market value of the subject property. This value is supported by the equity rate of the Complainant's sales comparables one and four. Therefore it is the Board's opinion that a fair and equitable assessment for the subject property is on the basis of \$85 per square foot. The Board therefore reduces the subject property's assessment accordingly.

Dissenting Opinion

[41] There was no dissenting opinion.

Heard October 18, 2012.

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

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.