

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2012 ECARB 2376

Assessment Roll Number: 1113976

Municipal Address: 11743 - 231 Street NW

Assessment Year: 2012

Assessment Type: Annual Revised

Between:

CVG for D & F Blounas Holdings Ltd.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Lynn Patrick, Presiding Officer
Brian Carbol, Board Member
John Braim, Board Member

Preliminary Matters

[1] At the outset of the hearing, the parties indicated that they had no objection to the composition of the Board. Each Board member indicated that they had no bias with respect to this matter.

Background

[2] The subject property comprises a 140.859 acre parcel of land located in the Winterburn Industrial district; more specifically, adjoining the south side of Yellowhead Trail and 231 Street which forms the west boundary of the City of Edmonton. The land is divided into three distinct areas comprising residential, industrial land and farmland but is all zoned IM - medium industrial. The property has been assessed on the Cost Approach to Value with the building component valued at \$1,813,307, a figure which is not at issue before the Board. Furthermore, the residential land component has been assessed on the basis of three acres and this area and value is not under dispute. A 2.77 acre portion of the property contains an oil well site.

Issues

[3] The Board considered the following issues:

- a. Should the area of land allocated to an oil well site be assessed as industrial use or agricultural use?
- b. Does the assessment of the industrial land reflect its market value?

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 2012 assessment of the subject property exceeded its market value for two reasons; namely, the area of land allocated for industrial use was incorrect and the assessment rate applied to the industrial land was higher than evidenced in the market.

[6] The oil well site comprises 2.77 acres and has been assessed at the rate applied to the industrial land. The Complainant stated it should be assessed at the farmland rate, the same rate applied to the well site access road that occupies an area of 1.82 acres (Exhibit C-1, page 12). If the well site land were to be included with the farmland area the industrial land would be reduced to 66.42 acres (currently 69.19 acres) and the farmland area increased to 71.46 acres (currently 68.69 acres).

[7] The well site is located at the boundary of the land used for industrial purposes and the farmland (C-1, page 11). At the time the well was drilled all the subject land, including the well site, was used for agricultural purposes and the lease rate was based on farmland values. In addition, the well site adjoins farmland on two sides and most of it is fenced off from the industrial land making it effectively usable as farmland. As such, the Complainant believed the assessment rate for the well site should also be based on the prescribed farmland rate of \$318/acre.

[8] The Complainant provided the Board with four sales of vacant land ranging in size from 80.0 acres to 90.74 acres that had sold between June 2010 and June 2011 and were time adjusted to valuation day in accordance with the Respondent’s time adjustment factors (C-1, pages 2 and 13 – 17). Two sales were zoned AG – Agricultural; one was zoned IMFA – medium industrial variation of St. Albert and one was zoned R1/R2 – single family and residential infill. The sale prices ranged from \$97,626 per acre to \$121,875 per acre, which indicates the subject had been assessed high at \$124,000 per acre. The four sales also had a much shorter time frame to

servicing and development than the subject property. The Complainant argued a value of \$110,000 per acre should be applied to the subject industrial land or \$7,306,200 for the 66.42 acres.

[9] Based on the revised apportionment and after applying a lower rate to the industrial land a revised assessment of \$9,554,500 would be appropriate for the subject property.

Position of the Respondent

[10] In defense of the assessment the Respondent provided an assessment brief that included eight sales of vacant land ranging in size from 24.98 acres to 111.13 acres. These had sold between November 2007 and June 2011. Three of sales were zoned IM like the subject while the remaining five were all AGI – Industrial Reserve that allows for both industrial and agricultural land use. The sale prices were time adjusted to valuation day and indicated a range in value from \$183,290 per acre to \$429,182 per acre. These supported the subject assessment of \$124,500 per acre.

[11] As additional support, the Complainant included a post-facto sale of a 133.55 acre property located 15 blocks to the east of the subject property to demonstrate the value of land located adjoining the Yellowhead Highway and Winterburn Road. This sale was also time adjusted to indicate a unit value of \$187,447 per acre, which also supported the subject's assessment.

[12] With regard to the well site being incorporated into the farmland area, the Respondent stated there was no evidence of the well site being farmed. In response to questions, the Respondent stated he did not know how the City Assessment Department normally dealt with well sites as he was only aware of one other site within the City's boundaries.

Decision

[13] The decision of the Board is to reduce the 2012 assessment from \$10,861,000 to \$10,517,000.

Reasons for the Decision

[14] With respect to the allocation of the well site land the Board finds that the well site land is more appropriately aligned with the farmland portion. The well site lease appears to have been implemented on or about 1981 when the subject land was agricultural and the well site and immediately surrounding land was all cultivated. Although no documentary evidence was provided in support, the Complainant stated that the compensation, or lease payment, for the well site and access road, was based on its value at that time and that clearly seems to be agricultural land. The Board finds that, on the balance of probabilities this would have been the most likely basis of compensation at that time.

[15] The Board also finds additional support in the fact that the industrial area has been fenced and only includes a small portion of the well site. The same fenced area also includes approximately 50% of the access road, which has been assessed as agricultural land.

[16] With respect to the value of the industrial land, the Board finds the Respondent's assessed value is supported by the comparables in evidence. The Board is persuaded by five of the Respondent's seven sales comparables, three of which are zoned IM, the same as the subject.

The other two are zoned AGI – Industrial Reserve, which appears to be the most similar zoning to IM. The subject property’s industrial area has two components, one of approximately 28 acres and one of nearly 38 acres for a total of 66 +/- acres. The comparables ranged from 25 acres to 85 acres and all support the current assessment.

[17] The Board also placed some weight on the Respondent’s post-facto sale as it was located very close to the subject and had been time adjusted back to valuation day. Although this sale had the benefit of power and gas services there was no water or sewer available. This sale, at \$187,000 per acre, also supports the assessed rate of \$124,500 per acre.

[18] The Board places no weight on the Respondent’s first two sales. Sale #1 is partly serviced and needs a substantial amount of fill. Sale #2 is in a far superior location at 137 Avenue and 156 Street and is to be redistricted to an IB land use.

[19] The Board places little weight on the four sales comparables provided by the Complainant as two of them are located in St. Albert. The Board has difficulty comparing the respective values that may pertain to each of the two cities and no evidence was provided to assist them in this matter. Furthermore one sale is complicated by having a landfill component and the other sale is zoned R1/R2.

[20] The Complainant’s other two sales are located in the Windermere subdivision of Edmonton and are both zoned AG – Agricultural. They are both affected by the Windermere Area Structure Plan and designated for future residential use. No evidence was provided to enable the Board to equate these two land uses with the subject’s industrial potential, nor the respective locations, as the subject has exposure to the Yellowhead Highway.

Heard October 19, 2012.

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

Lynn Patrick, Presiding Officer

Appearances:

Tom Janzen, CVG
for the Complainant

Darren Nagy, 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.