

Edmonton Composite Assessment Review Board

Citation: Padraic Edmund Carr, Padraic Edmund Carr Professional Corporation v The City of Edmonton, 2013 ECARB 00150

Assessment Roll Number: 4139713
Municipal Address: 2915 - 66 STREET NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

Padraic Edmund Carr, Padraic Edmund Carr Professional Corporation
Complainant
and

The City of Edmonton, Assessment and Taxation Branch
Respondent

DECISION OF
Steven Kashuba, Presiding Officer
Jack Jones, Board Member
Darryl Menzak, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer the parties before the Board indicated no objection to the Board's composition. In addition, the Board Members indicated no bias with respect to this file.

Preliminary Matters

[2] At the outset of the hearing the Respondent objected to the content of the Complainant's rebuttal document (Exhibit C-2) indicating that it contained new evidence and that portions of the document should not be considered by the Board. The parties agreed that the hearing would continue and the Respondent's concerns with the respect to the rebuttal would be addressed when the rebuttal was to be presented.

[3] Upon presentation of the rebuttal the Respondent advised in detail the portions of the Complainant's rebuttal that were alleged to be new evidence and the Complainant responded indicating that the information was all public information accessed from the City of Edmonton website.

[4] The Board recessed and reviewed the Complainant's rebuttal document in detail (Exhibit C-2) and determined that it did contain new evidence which could not be heard by the Board. The intent of Complainant's rebuttal is to solely rebut the evidence of the Respondent.

[5] The new evidence included in the Complainant's rebuttal could have been included in an initial disclosure by the Complainant which would have allowed the Respondent an opportunity to respond.

[6] In making their decision the Board referenced the ***Matters Relating to Assessment Complaint Regulation, Alberta Regulation 310/2009, Sections 8 and 9*** as noted below under "Legislation".

[7] The decision of the Board was to delete the following information considered as new evidence from Exhibit C-2:

- a. Page 2- paragraph 3- beginning- "According..."
- b. Page 2- paragraph 7- beginning- "For Example..."
- c. Page 3- Top of page to the end of paragraph 1 ending- "...second storey."
- d. Pages 5 to 22 in their entirety with the exception of references to properties 2911-66 Street, 2919 - 66 Street. and 2925 - 66 Street found on pages 6, 7, and 8 as these three properties were used as comparables by the Respondent (Exhibit R-1, page 10).

Background

[8] The subject property is a 1,880 square foot office building constructed in 1988 on a lot size of 5,424 square feet, and located in the Tawa neighborhood. The current assessment is \$474,000.

Issue

[9] Is the 2013 assessment of the subject property at \$474,000 fair and equitable when compared to similar properties within the subject complex?

Legislation

[10] **The *Municipal Government Act, RSA 2000, c M-26*, reads:**

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.

[11] **The *Matters Relating to Assessment Complaint Regulation*, Alberta Regulation 310/2009, reads:**

Disclosure of evidence

8(1) In this section, “complainant” includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence

- a) the complainant must, at least 42 days before the hearing date,
 - (i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and
 - (ii) provide to the respondent and the composite assessment review board an estimate of the amount of time necessary to present the complainant’s evidence;
- b) the respondent must, at least 14 days before the hearing date,
 - (i) disclose to the complainant and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and
 - (ii) provide to the complainant and the composite assessment review board an estimate of the amount of time necessary to present the respondent’s evidence;
- c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

Failure to Disclose

9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

(3) A composite assessment review board must not hear any evidence from a complainant relating to information that was requested by the assessor under section 294 or 295 of the Act but was not provided to the assessor.

(4) A composite assessment review board must not hear any evidence from a municipality relating to information that was requested by a complainant under section 299 or 300 of the Act but was not provided to the complainant.

Position of the Complainant

[12] The Complainant was unable to attend the hearing but was represented by Dr. Louwrens Smit, a co-owner of the subject property (Exhibit C-2, page 1).

[13] The Complainant presented evidence {Exhibit C-1 (Complaint Form), and Exhibit C-2} and argument for the Board's review and consideration.

[14] The Complainant noted that the subject property's assessment for 2013 at \$474,000 had increased 22.8% over the 2012 assessment which was \$388,500 (Exhibit C-1, page 3, Exhibit C-2, page 2).

[15] The Complainant indicated that the subject property had received no improvements since the original construction.

[16] The Complainant referenced the comparables presented by the Respondent (Exhibit R-1, page 10, Exhibit C-2, page 3) and noted that two of the comparables, #1 and #3 were two storey buildings whereas the subject property is a single storey building. The Complainant noted that the Respondent's comparable #2 is similar to the subject property in type and size but questioned the reference to warehouse space, noting that the subject property also utilizes floor space in the same manner for file storage.

[17] The Complainant requested the 2013 assessment of the subject property be reduced from \$474,000 to \$388,500 (Exhibit C-1, page 1)

Position of the Respondent

[18] The Respondent presented evidence (Exhibit R-1) and argument for the Board's review and consideration.

[19] The Respondent presented three sales comparables, which included assessments comparables (Exhibit R-1, page 10) in support of the 2013 assessment of the subject property at \$252 per square foot. The time adjusted sales values ranged from \$136 to \$277 per square foot and the corrected assessment values of the same properties ranged from \$222 to \$250 per square foot.

[20] The Respondent advised that sales comparable #2 was not considered a valid sale as the property had been purchased by a former tenant. The Respondent also advised that sales comparables #1 and #3 were utilized even though they were two storey units and because there had been no other sales within the subject complex.

[21] The Respondent advised that the assessment corrections that were made to the comparables (Exhibit R-1, page 10) were a result of data corrections to the detail reports for these properties.

[22] The Respondent referenced the "Mass Appraisal" (Exhibit R-1, pages 19 to 31) and the "Law and Legislation" (Exhibit R-1, pages 32 to 44) portions of the brief.

[23] In summary, the Respondent requested the 2013 assessment of the subject property be confirmed at \$474,000.

Decision

[24] The decision of the Board is to reduce the 2013 assessment of the subject property from \$474,000 to \$417,000.

Reasons for the Decision

[25] After review and consideration of the evidence and argument presented by both parties the Board determined the 2013 assessment of the subject property at \$474,000 was not appropriate.

[26] The Board found that the sales comparables presented by the Respondent (Exhibit R-1, page 10, #1 to #3) were not appropriate for use in valuing the subject property as two of the comparables (#1 and #3) were two storey buildings whereas the subject property is a single storey. The third comparable (#2) was not considered a valid sale by the Respondent.

[27] This left the Board with only the assessment values of the same properties to consider. Again the Board found that the two storey comparables #1 and #3 were not comparable to the single storey subject property leaving #2 as the sole assessment comparable.

[28] The Board found that assessment comparable #2 is similar to the subject property with respect to age, size, and location. The Board also accepts the Complainant's contention that the portion of space designated as "warehouse" for comparable #2 would be similarly used for file storage within the subject property as both businesses are similar in nature.

[29] The Board determined that an appropriate value for the subject property would be the corrected assessed unit value of comparable #2 at \$222 per square foot. The Board determined the revised 2013 assessment of \$417,000 (rounded) for the subject property by applying a unit rate of \$222 per square foot to the subject area of 1,880 square feet.

[30] The Board finds that the revised 2013 assessment of the subject property at \$417,000 is fair and equitable.

Dissenting Opinion

[31] There was no dissenting opinion.

Heard commencing May 23, 2013.

Dated this 28th day of May, 2013, at the City of Edmonton, Alberta.

Steven Kashuba, Presiding Officer

Appearances:

Dr. Louwrens Smit
for the Complainant

Gail Rookes, Assessor, City of Edmonton

Chelsea Bradshaw, Assessor, City of Edmonton
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.