

Edmonton Composite Assessment Review Board

Citation: Anna Kiegler, AEC INTERNATIONAL v The City of Edmonton, 2013 ECARB 00163

Assessment Roll Number: 10125694

Municipal Address: 7211 - 8 Street NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

Anna Kiegler, AEC INTERNATIONAL

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Steven Kashuba, Presiding Officer
Pam Gill, Board Member
Taras Luciw, Board Member

Procedural Matters

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

Preliminary Matters

[2] See CARB decision on Roll Number 10125694 rendered on May 22, 2013.

Background

[3] The subject property is a 4.129 acre parcel of land that has two buildings on it, the main building at 15,699 square feet and the secondary building at 8,000 square feet. The construction of both buildings started in 2008; however, at the time of the judicial sale in 2010 it was determined that the completion was set at 95%. The subject property is located in the Maple Ridge Industrial neighborhood. The 2013 assessment of the subject is \$6,199,000.

Issue(s)

[4] Is the assessment of the subject property correct in light of the sales comparables?

Legislation

[5] 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.

Position of the Complainant

[6] The Complainant presented written evidence (Exhibit C-3, 31 pages) and oral argument for the Board’s review and consideration.

[7] The subject was sold pursuant to a judicial sales order in December 2010 for \$3,215,000. It was listed with a commercial real estate broker and sold on the open market. The Complainant argued that while court ordered sales are not the best indicators of value, it doesn’t necessarily mean that it’s not a good indicator or that market value was not achieved. Comparable sales (Exhibit C-3, page 13) indicate the subject was sold at fair market value.

[8] The Complainant provided the Board with 4 comparable sales (Exhibit C-3, page 13) that ranged from \$142.14/square foot to \$194.04/square foot. The 2013 assessments for these properties range from \$112/square foot to \$236/square foot. The subject was sold at \$135.65/square foot in 2010 and is assessed at \$262/square foot in 2013.

[9] The Complainant advised the Board that at the time of sale the buildings were 95% complete and there was no office space.

[10] The vendor at the time of sale submitted that the cost to complete the building would be \$800,000, however, the purchaser maintained a record of the cost to complete and submitted a record of \$885,022.10 (Exhibit C-2, page A86-A92).

[11] The Complainant also submitted rebuttal evidence in which the assessments per square foot (Exhibit C-2, page 5) were included of the Respondent's sales comparables (Exhibit R-5, page 31) along with the assessment to sales ratios (ASR). The ASRs showed a range from 0.63 to 0.80.

[12] The Complainant noted that the ASR of the subject is 1.77, and argued that the Respondent's sales ought not to be relied on because of this disparity in the ASRs.

[13] The Complainant time adjusted the subject's sale to July 1, 2012 (Exhibit C-3, page 3: \$3,509,000) and added the cost to finish the building (Exhibit C-2, page A86-A92: \$885,022) and requested that the Board reduce the 2013 assessment to \$4,394,000 or \$185/square foot, which falls in the range of the sales comparables presented.

Position of the Respondent

[14] The Respondent presented written evidence (Exhibit R-5, 110 pages) and oral argument for the Board's consideration.

[15] The Respondent submitted that the subject property was valued on a cost basis and not direct sales approach.

[16] The Respondent submitted that as of October 2011, the subject was 100% complete and fully occupied. A portion of the second building was assessed on a cost basis. However, as of July 2012, the second building was no longer assessed as a storage shed and the entire property was assessed on a direct sales basis.

[17] The Respondent reiterated that the subject was sold pursuant to a foreclosure proceeding. Cushman and Wakefield were engaged to market the property and it was listed on an "as is" basis at \$3.35 million. The estimated cost to complete the project was \$800,000.

[18] The Respondent did not dispute the Cushman and Wakefield estimated cost to completion for the subject at \$800,000.

[19] The subject has been improved since 2010. At the time of sale there was no main floor office in either building, the rear building was a material storage shed, with one missing wall and no heat. The subject has been improved to include 4,472 square feet of office space in the main building and 1,000 square feet of office space in the secondary building, which now has the fourth wall and is heated.

[20] The Respondent argued that the Complainant's sales are not valid as they are not multi-building sales. Multiple building properties have higher construction costs, typically generate higher income, and site configuration is improved. Economies of scale will also come into play (Exhibit R-5, page 11).

[21] The Respondent provided time adjusted sales of single building and multiple building properties (Exhibit R-6, page 31). The three single building properties ranged from \$264.58/sqft to \$320.84/square foot and the multiple building properties time adjusted sales ranged from \$148.08/square foot to \$352.16/square foot. The subject is assessed at \$261.56/square foot.

[22] The subject was not given a location adjustment for the second building (located at the rear of the property), as the whole property is occupied by a single tenant and there is no detriment to the second building.

[23] The Respondent addressed the Complainant's rebuttal on the ASR and explained that the ASR range of plus/minus 5% was what the Respondent strived for on the overall median of all the industrial properties not just a hand full of properties (Exhibit R-1, page 2).

[24] The Respondent requested that the Board confirm the assessment at \$6,199,000 or \$262/square foot.

Decision

[25] It is the decision of the Board to reduce the 2013 assessment of the subject from \$6,199,000 to \$5,095,500.

Reasons for the Decision

[26] The basis upon which the Complainant requests a reduction in the assessment of the subject property is sales comparables. However, the following reasons will define why the Board experienced great difficulty in using either the Complainant's or the Respondent's sale comparables to confirm or alter the assessment.

[27] Since the subject property is located in a relatively new industrial subdivision, the weight that the Board places upon sales comparables advanced by either party must have regard for the element of comparability.

[28] The difficulty of establishing market value for the subject property through sales comparables stems from the fact that the developer of the subdivision declared bankruptcy in 2010 and the subject property became the subject of a judicial sale.

[29] From the evidence provided, the Board concludes that the judicial sale of the subject property, which occurred in December of 2010, was a valid sale occurring at arm's length and does reflect market value of \$3,215,000 at the time of the sale.

[30] The Complainant has requested a value of \$185/square foot to be applied to the subject and the Respondent's request is \$262/square foot.

[31] Of the 6 sales comparables provided by the Complainant (Exhibit C-3, page 13), the Board places little weight upon sales 3, 5, and 6. According to the information provided, first by the Complainant as regards sale #3 and #6, followed by way of argument from the Respondent for sale #5, these sales were not consummated at arm's length.

[32] The only valid sales remaining are sales 1, 2, and 4. These sales were on single building properties and the site coverage was significantly higher than the subject, they were also all smaller in comparison to the subject and therefore the Board placed little weight on these sales comparables.

[33] Out of the 6 sales provided by the Respondent (Exhibit R-5, page 31), 3 were of single building properties. Of the 3 multi-building sale comparables, one is the sale of the subject property, while the other 2 sales occurred in other industrial subdivisions and cannot be relied upon to reflect special characteristics and the market value per square foot of the subject property.

[34] Comparable #5 was the sale of a far superior building than the subject in terms of site coverage and quality of building finish. The fourth comparable is superior in terms of site coverage and is three times larger than the subject.

[35] As a result, the Board places little weight upon the sales comparables of the Respondent.

[36] In addition to the sales comparables, the Respondent did provide the Board with 5 equity comparables (Exhibit Exhibit R-5, page 42). However, equity comparables were not at issue. As a result, and because all but one of the comparables were in the same sector of the City as the subject property, the Board places little weight upon the Respondent's equity comparables.

[37] In their rebuttal disclosure, the Complainant pointed out (Exhibit C-2, page 5) that the Board should not rely upon the Respondent's sales comparables because of the disparity between the assessments per square foot and time-adjusted sales values per square foot. These values ranged from 0.63 to 0.80 (Exhibit C-2, page 5), far from the desirable relationship of 1.00.

[38] The Board notes that the assessments of the Respondent's sales comparables ranged from \$167/square foot to \$256/square foot.

[39] In the view of the Board, the only conclusion that the Board is able to draw from this table is that the subject is over assessed.

[40] The Board is of the opinion that the best estimate of market value is the time adjusted sale of the subject property taken together with the value added by \$885,000 in construction costs of completion.

[41] To translate the time-adjusted market value of the subject property into a current market value per square foot, one would take the calculated current market value of the subject divided by the total area of the finished floor.

[42] The Board notes (Exhibit R-5, page 26) that building #1 is composed of 9,028 square feet of warehouse floor space, 3,472 square feet of main floor office space, and 3,200 square feet of mezzanine space. Building #2, which was completed after the judicial sale of 2010, is composed of 7,000 square feet of warehouse space, and 1,000 square feet of main floor office space. In total, the area of finished floor space in the two buildings is 23,700 square feet inclusive of the mezzanine.

[43] In the absence of any evidence to the contrary, the Board concludes that the value that is placed on each square foot of finished floor space will be the same throughout, for warehouse floor space, office floor space, and mezzanine space.

[44] Also at the time of the sale, the developer indicated that it would cost approximately \$800,000 to complete the construction of the two buildings. This amount, added to the sale price of \$3,215,000, results in an anticipated market value of \$4,100,000 at the actual time of the sale.

[45] This value of \$4,100,000, if time-adjusted by the City's increase in market value from December 2010 to the valuation date of July 1, 2012 by a factor of 9.16% results in a time-adjusted market value for the subject property of \$4,476,000 or \$189/square foot.


[46] While the Board finds that at \$262/square foot the subject is over assessed, the calculation as described in paragraph 40 that concludes a value of \$189/square foot may not reflect the true value of the subject. The Board takes into consideration the requests by both the Complainant and the Respondent as well as the rebuttal evidence in the assessments per square foot of the Respondent's sales comparables and concludes that a value of \$215/square foot or \$5,095,500 would be a fair and equitable assessment for 2013.

Dissenting Opinion

[47] There was no dissenting opinion.

Heard commencing May 22, 2013.

Dated this 8th day of July, 2013, at the City of Edmonton, Alberta.


Steven Kashuba, Presiding Officer

Appearances:

John Smiley
for the Complainant

Steve Lutes

Will Osborne
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.