

Edmonton Composite Assessment Review Board

Citation: AEC INTERNATIONAL v The City of Edmonton, 2013 ECARB 00734

Assessment Roll Numbers: 9538000

10043192

10064564

10064565

10065105

Municipal Addresses: 6707 59 Street NW

6604 50 Street NW

6704 59 Street NW

6704 50 Street NW

5603 67 Avenue NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

AEC INTERNATIONAL

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Larry Loven, Presiding Officer

Howard Worell, Board Member

Judy Shewchuk, Board Member

Procedural Matters

- [1] Upon questioning by the Presiding Officer, the parties indicated that they had no objection to the composition of the Board. In addition, the Board members indicated that they had no bias in this matter.
- [2] The parties agreed to carry forward all evidence, submissions, cross-examination and argument during the merit hearing on roll number 9538000 to roll numbers 10043192, 10064564, 10064565 and 10065105 where applicable. It was further agreed that, while decisions would be rendered by the Board on the value for each roll number, these decisions would be contained in one Board Order.
- [3] The parties also agreed to carry forward all evidence, submissions, cross-examination and argument during the merit hearing on roll number 9538000 to rolls 10026911 and 9977985 where applicable. It was further agreed that the decisions for rolls 10026911 and 9977985 would be contained in separate Board Orders.

Preliminary Matters

- [4] During the course of the hearing, the Respondent made a recommendation to reduce the 2013 assessments on two of the roll numbers. On roll number 100065105, the recommended reduction was from \$25,392,000 to \$24,378,000. On roll number 10043192, the recommended reduction was from \$21,333,500 to \$20,338,500. The Complainant did not accept the reductions recommended by the Respondent and the merit hearing continued.
- [5] The Complainant provided Rebuttal Disclosure (Exhibit C-2) to both the Respondent and Board within the time limits outlined in MRAC s. 8(2)(c), as stated in para. 12 below. At the outset of the hearing the Board was informed that the Respondent intended to introduce surrebuttal during the hearing at the appropriate time. The Complainant objected to the Respondent's surrebuttal in principle and requested that it not be allowed. The Complainant advised the Board they had not seen the surrebuttal prior to the hearing and claimed it was new evidence and should not be heard by the Board. The Board gave the Complainant the opportunity to review the Respondent's surrebuttal and asked the Complainant to inform the Board which pages should be disallowed. The Complainant refused this opportunity, maintaining the objection in principle alone. The Board recessed to consider the Complainant's request. The Board found: firstly, the legislation contemplates Respondent's surrebuttal under MRAT s. 8(2)(c), given in para. 12 below, "*...to allow the respondent to respond to or rebut the evidence at the hearing.*" giving no requirement for the Respondent to disclose their response or rebuttal to the Complainant's response or rebuttal under MRAC s. 8(2)(b) prior to the hearing; and secondly, there appeared to be no new evidence or argument contained in the document. Based on these findings the Board decided to allow the Respondent's surrebuttal in its entirety. Upon reconvening, the Board informed the parties of its decision and offered the Complainant the opportunity to raise any further objections as the surrebuttal was being presented.

Background

- [6] The subject properties are a development of industrial warehouses located in the South East quadrant of the City of Edmonton in the Roper Industrial neighbourhood and are zoned IM. The subject properties have been assessed on the direct sales approach method. The individual details of the subject properties are as follows:
- Roll number 953800 – the property is located at 6707 59 Street and contains three buildings totaling 251,191 square feet with a site coverage of 34%. The 2013 assessment is \$32,221,500.
 - Roll number 10043192 – the property is located at 6604 50 Street and contains two buildings totaling 164,994 square feet with a site coverage of 39%. The 2013 assessment is \$20,453,500.
 - Roll number 10064564 – the property is located at 6704 59 Street and contains two buildings totaling 145,276 square feet with a site coverage of 25%. The 2013 assessment is \$21,333,500.
 - Roll number 10064565 – the property is located at 6704 50 Street and contains two buildings totaling 226,693 square feet with a site coverage of 39%. The 2013 assessment is \$ 26,440,000.

- Roll number 10065105 – the property is located at 5603 67 Avenue and contains two buildings totaling 168,000 square feet of space with a site coverage of 32%.

Issue(s)

- [7] Is the 2013 assessment of the subject properties at market value?
- [8] Has the correct method been applied to correctly value multi-building properties?
- [9] Are the Respondent's measurements of the subject properties correct?
- [10] Are the 2013 assessments of the subject properties equitable to similar properties?

Legislation

- [11] 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.

- [12] The *Matters Relating to Assessment Complaints Regulation, Alta Reg 310/2009* (MRAC) reads:

8(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.

9(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

Position of the Complainant

[13] The Complainant submitted a 50 page document (C-1) containing a summary, assessment details, maps and photographs, comparable properties, time adjustment and multiple improvement properties.

[14] The Complainant submitted a table showing: the number of buildings; their respective assessed rentable areas versus the (rent) roll area; the 2013 assessment; the assessment per square foot ranging from a low of \$116.63 to a high of \$151.14 per square foot; a revised assessment of \$110.00 per square foot; and, the respective revised assessments for each of the five subject properties (C-1, p. 4).

[15] The Complainant provided a chart (C-1, p. 10) containing eight sales comparables, stating this chart included all the sales of industrial properties over 100,000 square feet since July 1, 2009. The properties ranged in: area from 100,018 to 399,767 square feet; building count from 1 to 3; year of construction 1998/2001 to 2007/2011; time adjusted sale price per square foot from \$83.41 to \$226.10; assessment per square foot from \$85.41 to \$121.48 per square foot; and, assessment to sales ratio (ASR) from 0.39 to 1.03.

[16] The Complainant did not contest the time adjustment factors used by the Respondent.

[17] The Complainant argued the Respondent's application of the model to industrial properties containing multiple buildings is flawed, stating it appears that the Respondent erroneously valued each building on a multiple building property as if it could be sold separately. The Complainant submitted that a multiple building property needs to be valued as the total of the building and the improved (office) areas. The Complainant further argued that the Respondent did not include a coefficient in their model, as is now done in Calgary, to adjust for multiple buildings nor did the Respondent make any such adjustment. The Complainant requested the Board to consider the sales comparables and adjust the assessment of the subject properties accordingly. The Complainant suggested a reduction of 10% for this adjustment.

[18] The Complainant further argued for a another 10% reduction, based on their finding of a general trend of diminishing sale price per square foot as area increases, regardless of the number of improvements on a property.

[19] In summary, the Complainant argued that: the subject properties are over assessed based on flaws in the Respondent's model for multiple building industrial properties requiring a 10% reduction; the sales of properties with multiple improvements also support a 10 % reduction; the subject properties are assessed in equity higher than assessments of the sales comparables stating that two of the comparables most comparable to the subject properties support an assessment of \$100 per square foot; and, the assessed areas of the subject properties should be revised to rentable area based on the rent rolls.

[20] The Complainant submitted a rebuttal document (C-2) containing 162 pages providing argument and evidence in regards to: the Respondent's sales comparables versus assessments; Roper Road (*Pinnacle Business Park*) sales information; Board decisions regarding equity; and, jurisprudence regarding equity.

[21] In the Complainant's rebuttal document, the Complainant finds that the Respondent's sales comparables are 20 to 25% lower than the time adjusted sales price and argues that the Respondent's equity chart (R-1, p. 36) does little to support the equity of the assessment of the subject properties. For each of the subject properties, the Complainant submitted a chart detailing the variance between each of the time adjusted sales price for each of the Respondent's five sales comparables to the assessment per square foot, resulting in an assessment to sales ratio (ASR) ranging from 74% to 102%, averaging 81%, with a median of 79% including Roper Road (known as *Pinnacle Business Park*) with an ASR of 103%; and, a second chart showing average and median ASRs of and 75% and 77% respectively, without Roper Road. This, according to the Complainant, supports an assessment of \$110.32 and \$105.52 per square foot, respectively, for each of the five subject properties as summarized below.

Account	Address	Total Building Area	Assmt /SqFt	Equitable Value (based on \$110.32/SqFt)	Equitable Value (based on \$105.52/SqFt)
9538000	6707 59 St	249,593	\$ 129.10	\$ 27,536,397.64	\$ 26,337,053.36
10043192	6604 50 St	164,994	\$ 123.97	\$ 18,202,138.08	\$ 17,410,166.88
10064564	6704 59 St	145,276	\$ 146.85	\$ 16,026,848.32	\$ 15,329,523.52
100664565	6704 50 St	226,693	\$ 116.63	\$ 25,008,771.76	\$ 23,920,645.36
10065105	5603 67 Ave	168,000	\$ 151.14	\$ 18,533,760.00	\$ 17,727,360.00

[22] The Complainant argues that little or no weight should be placed on the assessment of *Pinnacle Business Park* in that it is unique to itself, and not comparable to either the subject properties or the sales comparables in that it: consists of 11 buildings; zoning is DC2 supporting more uses; has a significant amount of retail and office; quality is "best in class" rather than average; and actual time adjusted sales price indicates that it is an outlier.

[23] The Complainant raised no further objection to any part of the Respondent's surrebuttal at the time of its presentation.

Position of the Respondent

[24] In defense of the 2013 assessment, the Respondent provided a 105 page document (R-1), carried forward for each of the respectively listed subject properties as R-2 through to R-5, inclusive. The documents contained an Industrial Warehouse Brief, pictures, aerial photographs, a profile report, complainant issues, comparable sales, equity comparables and

additional information such as detail reports, Complainant's sales comparables, Complainant's sales comparables time adjustments, ASR response and Law Brief.

- [25] The Respondent referred the Board to its 2013 Industrial Warehouse Brief, noting seven factors affecting value in the warehouse inventory (R-1, p. 9). These factors were given as: total main floor area (per building), site coverage, effective age (per building), condition (per building), location of the property, main floor finished area, as well as upper level finished area (per building). The Respondent highlighted that the main floor area (per building) is based on the exterior measurements of the building and for multiple building accounts each building has been analyzed for its contributory value to the property to produce the aggregate value of each building for that property. The Respondent further highlighted to the Board not less than six adjustments, including rear building adjustment and cost buildings that may be applied to industrial properties; market value encompasses a range of values; and, the Respondent has met all governing legislation including regulations and quality standards.
- [26] Three Industrial Study Area Groupings Maps (R-1, pp. 13-15) were provided by the Respondent that showed the location of each Industrial Group in each of the three groupings, South, Northwest and Northeast.
- [27] The Respondent provided a chart containing four sales comparables of single building direct sales comparables and one eleven building sales comparable (R-1, p. 30). The four single building comparables ranged in values, as follows: effective year built from 1995/07/08 to 2008; site coverage from 39% to 42%; total building area from 74,801 to 132,720 square feet; and, time adjusted sales price (TASP) from \$126.68 to \$151.57 per square foot. The multiple building sales comparable had an effective year built of 2001, site coverage of 34%, total building area of 291,285 square feet, and a TASP of \$156.16. The Respondent noted that three of the four single building sales comparables were located in northwest Industrial Group 17 requiring an upward adjustment and the one multi building sales comparable located in the south Industrial Group 12, required a downward adjustment, compared to the subject properties in the south Industrial Group 18.
- [28] The Respondent submitted a chart containing four equity comparables (R-1, p. 36). The equity comparable presented for each of the five subject properties were the other four subject properties. The equity comparables varied as follows: building count from 2 to 3; effective year built from 2005 to 2011; site coverage from 25% to 39%; total building area from 145,276 to 226,693 square feet; and assessment of \$116.63 to \$151.14 per square foot.
- [29] The Complainant's Sales Comparable Chart (R-1, p. 42) containing eight sale comparables was presented by the Respondent to show that two of the Complainant's sale comparables should be considered invalid, non-arm's length sales, two require corrections to the time adjusted sale price, and one sales comparable that required correction to its TASP also sold with two cost buildings not included in the building area. The Respondent indicated that the Complainant's valid sales comparables require an upward adjustment.
- [30] The Respondent provided Direct Sales Reports for four of the Respondent's sales comparables, noting on each improvements to the properties since the date of sale. A fifth was identified as an outlier in the process of modeling and therefore not used in valuation. The Respondent's response to the Complainant's ASRs is twofold. First, the Respondent submitted that in order to be a valid and reliable ASR analysis the ASR's for the entire industrial inventory must be submitted as opposed to a small number of ASRs and advised

that the Respondent has met provincial quality standards and passed audit. Secondly, the Respondent quoted the International Association of Assessing Officers Standards on Verification and Adjustment (R-1, pp. 79-81) under s.5.10, that: *“Sales data files should reflect the physical characteristics of the property when sold. For ratio [ratio] studies, if significant physical changes have occurred to the property between the date of sale and appraisal date, the sale should not be included.”*

[31] The Respondent provided a chart (R-1, p. 86) showing the differences in rent roll size of the subject properties to the assessed total size varied from 4,773 square less to 1,119 square feet more. The Respondent stated the assessed size is taken from either the development plans or from the onsite visits, and these dimensions are transposed to the Direct Sales detail report(s).

[32] The Respondent submitted a 9 page surrebuttal (R-6) containing the direct sales report for the assessments of the Respondent's five sales comparables with comments on each regarding improvements to the sales comparables that have been added since the date of sale. The Respondent argued that these sales comparables should not be used because significant physical changes have occurred since the date of sale. The Respondent also provided an excerpt from MRAT highlighting portions of s. 10(3) regarding quality standards, stating that they had met the quality standards set out for any stratum of the property type (all other property) of median assessment ratio, 0.950 – 1.050 and coefficient of dispersion, 0 – 20.0. The Respondent further argued that the sample size of the comparables presented to the Board is small, and as it does not include all of the sales used for mass appraisal, the Complainant's analysis of the Coefficients of Dispersion (COD) is incomplete and inaccurate. The Respondent summarized that the CODs look to meet the standards outlined in MRAT.

[33] In summary, the Respondent requested the Board to confirm the following 2013 assessments:

- Roll number 9538000 at \$32,221,500.
- Roll number 10043192 at \$20,453,500.
- Roll number 10064565 at \$26,440,000.

The Respondent requested the Board to confirm the following recommended reductions to the 2013 assessment;

- Roll number 10064564 at \$ 20,338,500.
- Roll number 10065105 at \$24,378,000.

Decision

[34] It is the decision of the Board to reduce the 2013 assessment of the subject properties as follows:

Account	Address	Assessment	Revised Value
9538000	6707 59 St	\$ 32,221,500.00	\$ 25,777,000.00
10043192	6604 50 St	\$ 20,453,500.00	\$ 16,363,000.00
10064564	6704 59 St	\$ 21,333,500.00	\$ 17,067,000.00
100664565	6704 50 St	\$ 26,440,000.00	\$ 21,152,000.00
10065105	5603 67 Ave	\$ 25,392,000.00	\$ 20,313,500.00

Reasons for the Decision

- [35] The Board questions the Complainant's argument regarding the Respondent's apparent methodology of assessing multiple buildings on a property as erroneous based on excerpts from the City of Calgary evidence before a Calgary CARB. The Board finds that the Respondent's 2013 Industrial Warehouse Assessment Brief (R-1, p. 9) lists total main floor area per building as a factor found to affect value in the warehouse inventory and provides the following explanation, *"For multiple building accounts 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 each building for the particular property."*
- [36] The Board finds the Complainant's claim that sales of multiple building properties support a 10% reduction as previously decided by other CARBs, appears to be solely based on a table of 2010 CARB reductions of Multi-Building properties located in the City of Calgary and, given the Respondent's methodology for assessing the subject (industrial warehouse properties, as outlined in para. 36 above), to be not applicable to the assessment of the subject properties in the City of Edmonton.
- [37] With regards to the Complainant's request that revisions to the assessment of the subject properties be based on rentable area determined from rent rolls as the areas used by the Respondent appear to be inconsistent, the Board finds that the rentable area of some of the subject properties exceeds that of the assessed area. Moreover, the Board finds the factor used by the Respondent in assessing value is the exterior measurements (per building) was not disputed by the Complainant and was relied upon by the Complainant to determine requested revised assessments for the subject properties.
- [38] The Board finds that the four equity comparables (R-1, p. 36) provided by the Respondent are the other four of the five subject properties, supporting the assessment of the subject properties. The Complainant presented no equity comparables to the Board. Based on the map of the subject properties provided by the Complainant, the five subject properties appear to be part of the same development. Based on the foregoing, the Board finds there is little for it to rely upon with regards to the equity comparables presented.
- [39] The four single building and one multiple building sales comparables provided by the Respondent ranging in time adjusted sales price per square foot from \$134.14 to \$156.16 tend to support the assessed amount per square foot of the subject properties, as do the eight sales comparables provided by the Complainant, ranging from \$83.41 to \$215.54 per square foot. The Board notes three of the five sales comparables provided by the Respondent, were also relied upon by the Complainant. The assessment per square foot for each of the subject properties is given in the table below.

Account	Address	Assessment	Total Building Area	Assmt /SqFt
9538000	6707 59 St	\$ 32,221,500	249,593	\$ 129.10
10043192	6604 50 St	\$ 20,453,500	164,994	\$ 123.97
10064564	6704 59 St	\$ 21,333,500	145,275	\$ 146.85
10064565	6704 50 St	\$ 26,440,000	226,692	\$ 116.63
10065105	5603 67 Ave	\$ 25,392,000	168,000	\$ 151.14

[40] However, the assessment per square foot of four of the five of the Respondent's comparables varied from \$94.04 to \$110.50, whereas the Complainant's ranged from \$85.58 to \$121.48. The variance between the assessed values and the time adjusted sales price per square foot are summarized below.

Comparable	C's Comaparables		R's Comaparables		AVG	MED
	ASR (as calculated by Complainant)	ASR (corrected to Respondent's TASP & Assessed Area)	ASR (as calculated by Complainant)	ASR (corrected to Respondent's TASP & Assessed Area)		
12956 156 St	0.75	0.75	0.75	0.75		
5918 Roper Rd (NAL)	0.89	0.85				
18507 104 Av	0.79	0.79	0.79	0.79		
7612 17 St	0.83	0.74	0.83	0.74		
17404 111 Ave			0.73			
5605 70 St	0.54	0.54				
4103 84Ave	0.91	0.91				
5219 47 Av (NAL)	0.39	0.37				
12810 170 St	1.03	1.17				
8103 Roper Rd			1.02	1.02		
AVG	0.81	0.82	0.82	0.83	0.82	0.82
MED	0.79	0.77	0.79	0.77	0.78	0.78
AVG (ex Roper Rd)	0.81	0.82	0.78	0.76	0.79	0.79

[41] The Board accepts that: the sales comparables presented do not include all of the sales used in mass appraisal; the Respondent has met the quality standards of the stratum of (industrial) property as set out in MRAC; and the Coefficient of Dispersion (COD) is the average percentage deviation of assessment ratios from the median assessment ratio for a group of properties appears have been met. However, the Board is given little else to rely upon, other than the sales comparables presented.

[42] The Board understands that the value of the improvements to the sales comparables are not captured in the time adjustments to the sale, but may have been accounted for in the assessments of the comparable properties. Although it was argued by the Respondent that these increases in value are not reflected in the time adjusted sales, the Board finds that if the increases in value were captured in the assessments of the sales comparables, then the differential could potentially be decreased only if the sales comparables were assessed below market value; otherwise, the differential should increase. For example, looking at the Respondent's sales comparable, 8103 Roper Road (*Pinnacle Business Park*), where according to the Respondent 144,036 square feet of main floor office finish has been added since the date of sale, the ASR of this sales comparable, given to be 1.02 by the Complainant, implies somehow the assessment of the property has included the value of the improvements

since the sale date, yet matches the TASP of the property within 2%, exclusive of the improvements. Removing this comparable from the above analysis increases the ASR differential. Based on the foregoing, the Board finds the ASRs of the sales comparables support the Complainant's argument that the subject properties have been over assessed.

[43] Based on its consideration of the above reasons, the Board finds the subject properties to be over assessed in comparison to the sales comparables provided. Furthermore, the Board finds guidance in the case of *British Columbia (Assessor for Area 9 - Vancouver) v. Bramalea Ltd., 1990 (B.C.C.A.)*, as applied to the assessments of the subject properties, where the range of actual values of the subject properties overlap the assessed values, but the equitable values of the sales comparables do not overlap the corresponding actual values. Following along with *Bramalea*, where preference is given to the lower equitable value of a property, the Board finds that the lower equitable value of the subject properties to be the equitable value of the sales comparables or in the range of 18% to 22% below the assessed value.

[44] Notwithstanding the Complainant's objection to the Respondent's *Roper Road* sales comparable, the Board finds excluding this comparable increases the ASR variances further lowering the value of the subject properties in equity, as well as increasing the equitable value per square foot of the subject properties as determined by the Complainant.

[45] As the Board was given limited information, beyond the factors affecting value, on which to rely regarding inputs that would account for the differences in the per square foot assessments of the subject properties, the Board has applied a fixed rate reduction of 20% based on the average of the average and median values of the ASR's of the Complainant's and Respondent's sales comparables as summarized in the table below, rather than the equitable values, as determined by the Complainant, of \$110.32 per square foot (excluding *Roper Road*) or \$105.52 per square foot (including *Roper Road*).


Account	Address	Total Building Area	Assmt/SqFt	Assmt/SqFt (based on 20% reduction)	Revised Value
9538000	6707 59 St	249,592	\$ 129.10	\$ 103.28	\$ 25,777,200.00
10043192	6604 50 St	164,994	\$ 123.97	\$ 99.17	\$ 16,362,800.00
10064564	6704 59 St	145,275	\$ 146.85	\$ 117.48	\$ 17,066,800.00
100664565	6704 50 St	226,692	\$ 116.63	\$ 93.31	\$ 21,152,000.00
10065105	5603 67 Ave	168,000	\$ 151.14	\$ 120.91	\$ 20,313,600.00

Dissenting Opinion

[46] None noted.

Heard August 12, 2013.

Dated this 11th day of September, 2013, at the City of Edmonton, Alberta.


Larry Loven, 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.