

Edmonton Composite Assessment Review Board

Citation: AEC International v The City of Edmonton, 2013 ECARB 00736

Assessment Roll Number: 10026911
Municipal Address: 9803 12 Avenue SW
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 Worrell, 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.

Preliminary Matters

[2] The parties agreed to carry forward evidence, submissions, cross-examination and argument during the merit hearing from roll numbers 9538000 and 9977985 where applicable.

[3] 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 that he 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

[4] The subject property, located at 9803 12th Avenue, is an industrial warehouse of 97,174 square feet. It is located in the Southwest quadrant of the City of Edmonton in the Ellerslie Industrial neighbourhood and is zoned EIB. The subject property has been assessed on the Direct Sales method.

Issue(s)

[5] Is the 2013 assessment of the subject property equitable to similar properties?

Legislation

[6] 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.

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

s 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.

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

[8] The *Matters Relating to Assessment and Taxation Regulation, Alta Reg 220/2004* (MRAT) reads:

s 10(3) For any stratum of the property type described in the following table, the quality standards set out in the table must be met in the preparation of assessments:

Property Type	Median Assessment Ratio	Coefficient of Dispersion
Property containing 1, 2 or 3 dwelling units	0.950 - 1.050	0 - 15.0
All other property	0.950 - 1.050	0 - 20.0

Position of the Complainant

[9] The Complainant submitted a 16 page document (C-1) containing a summary, maps and photographs, assessment details, and comparable properties. The Complainant requested the subject property's assessment be revised to \$10,505,000 based on \$105.50 per square foot. (C-1, p. 3).

[10] The Complaint provided a chart (C-1, p. 7) containing three sales comparables. The properties ranged in area from 100,018 to 118,800 square feet; year of construction 1997 to 2008; time adjusted sale price from \$108.82 to \$140.09 per square foot; assessment per square foot from \$92.94 to \$110.32; and assessment to sales ratio (ASR) ranging from 0.75 to 0.85.

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

[12] In summary, the Complainant argued that the subject property is over assessed in equity higher than assessments of the sales comparables supporting an assessment of \$105.50 per square foot, based on the average of the two closest comparables.

[13] 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, Board decisions regarding equity, and jurisprudence regarding equity.

[14] In the Complainant's rebuttal document, the Complainant finds that the Respondent's sales comparables are from 21% to 27% lower than the time adjusted sales price. The Complainant submitted a chart (C-2, p. 9) detailing the variance between each of the time adjusted sales prices of each of the Respondent's four sales comparables to the assessment per square foot, resulting in an assessment to sales ratio (ASR) ranging from 73% to 79%, averaging 75% with a median of 77%, and supporting an assessment of \$105.52 per square foot for the subject property.

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

Position of the Respondent

[16] In defense of the 2013 assessment, the Respondent provided a 64 page document (R-1) that contained Mass Appraisal principles, sales and equity comparables, location maps of the subject, network documents for each sales comparable, photographs of the subject property and a Law and Legislation brief.

[17] Three Industrial Study Area Groupings Maps (R-1, pp. 12-14) were provided by the Respondent that showed the location of each Industrial Group in each of the three groupings, South, Northwest and Northeast.

[18] The Respondent referred the Board to the Direct Sales Detail Report of the subject property, (R-1, p. 18) noting the total area given as 97,173.78456 square feet is correct.

[19] The Respondent provided a table containing four sales comparables (R-1, p. 25) ranging as follows: effective year built from 1995/07/08 to 2008; site coverage from 39% to 42%; size from 65,241 to 132,720 square feet; and Time Adjusted Sales Prices (TASPs) that ranged from \$126.68 to \$151.57 per square foot in comparison to the subject property with an effective year built of 2006; site coverage of 38%; 97,174 square feet in size; and, assessment per square foot of \$118.42. The Respondent highlighted that total main floor area requires a downward adjustment in one of the sales comparables and the industrial group in three of the comparables would require an upward adjustment. The Respondent's notes indicate that adjustments have not been made for cost buildings, and that for one of the comparables removing the cost buildings would reduce the building and site coverage resulting in an increase in TASP per square foot. The Respondent's sales comparables #2 and #4 are also relied upon by the Complainant (R-1, p. 25).

[20] The Respondent submitted a table containing three equity comparables (R-1, p. 30) varying as follows: all located in Industrial Group 18; ranging in effective year built from 2003 to 2010; site coverage from 34% to 44%; total building area from 63,718 to 125,137 square feet; and assessment per square foot from \$110.32 to \$129.67. Versus the subject property's effective year built of 2006, 38% site coverage, 97,174 square feet of total building area, and an assessment per square foot of \$118.42.

[21] The Respondent provided land titles documents and corporate search documents (R-1, pp. 43-46) to show that the Complainant's sales comparable located at 5918 Roper Road is non-arm's length.

[22] The Respondent provided a Direct Sales Reports for the Respondent's sales comparable located at 18507 104 Avenue noting improvements to the property since the date of sale (R-1, pp. 47).

[23] 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 advises 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 ration [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.*"(R-1., p 48).

[24] The Respondent submitted a 9 page surrebuttal (R-6) containing the direct sales reports for the assessments respecting three of the four Respondent's 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 to since the date of sale. The Respondent also provided an excerpt from MRAT highlighting portions of s. 10(3) regarding quality standards and 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.

[25] The Respondent requested the Board to confirm the 2013 assessment of the subject property at \$11,507,000.

Decision

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

Account	Address	Assessment	Revised Value
10026911	9802 12 Ave SW	\$ 11,507,000	\$ 10,254,000

Reasons for the Decision

[27] The Board finds that the eight equity comparables (R-1, p. 30) provided by the Respondent support the assessment of the subject property. The Complainant presented no equity comparables to the Board. Based on the foregoing, the Board finds the equity comparables presented support the per square foot assessment of the subject property.

[28] The four sales comparables provided by the Respondent ranging in time adjusted sales price per square foot from \$126.68 to \$151.57 tend to support the assessed amount per square

foot of the subject properties, as do the three sales comparables provided by the Complainant ranging from \$108.32 to \$140.09. The Board notes two of the six sales comparables provided by the Respondent were also relied upon by the Complainant. The assessment per square foot for the subject property is given as \$115.56 and \$118.42 per square foot by the Complainant and the Respondent, respectively.

[29] However, the assessment per square foot of the Respondent's comparables varied from \$92.94 to \$110.32, 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 Comparables		R's Comparables		AVG	MED
	ASR (as calculated by the Complainant)	ASR (corrected to Respondent's TASP & Assessed Area)	ASR (as calculated by Complainant)	ASR (corrected to Respondent's TASP & Assessed Area)		
17404 111 Ave			0.73	0.73		
18507 104 Av	0.79	0.79	0.79	0.79		
5918 Roper Rd (N	0.85	0.85				
7612 17 St	0.83	0.74	0.74	0.74		
12956 156 St			0.75	0.75		
AVG	0.82	0.79	0.75	0.75	0.78	0.77
MED	0.83	0.79	0.75	0.75	0.78	0.77

[30] 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 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.

[31] The Board understands that the value of these 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. Removing this comparable from the above analysis increases the ASR differential. Based on the foregoing, the Board finds the ASRs of both the Complainant and the Respondent to support the Complainant's argument that the subject properties have been over assessed.

[32] Based on its consideration of the above reasons, the Board finds the subject property to be over assessed in comparison to the sales comparables provided. Furthermore, the Board finds guidance in the case of *Bramalea*, as applied to the assessments of the subject property, where the range of actual values of the subject property 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 the lower equitable value of the subject property to be the equitable value of the sales comparables or in the range of 17% to 25% below the assessed value.

Account	Address	Assessment	Total Building Area	Assmt /SqFt	Requested Value (revised to \$105.52/Sq.Ft)
10026911	9803 12 Ave S	\$ 11,507,000	97,174	\$ 118.42	\$ 10,253,800

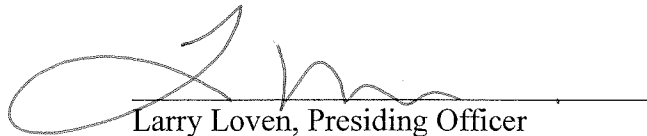
The Board notes that the reduction to \$105.50 per square foot requested by the Respondent represents a reduction of 23% based on the median assessment per square foot of the Respondent's four sales comparables, or an 11% reduction from the assessment per square foot of the subject property, is supported by the Board's analysis of the variance between the time adjusted sales price and the assessed value of the comparables.

Dissenting Opinion

[33] None noted.

Heard commencing August 13, 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.