

Edmonton Composite Assessment Review Board

Citation: Fairtax Realty Advocates Inc. v The City of Edmonton, 2013 ECARB 00820

Assessment Roll Number: 9978306

Municipal Address: 4600 99 STREET NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

Fairtax Realty Advocates Inc.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

REVISED DECISION OF
Shannon Boyer, Presiding Officer
Jack Jones, Board Member
Robert Kallir, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer the Respondent said that he had no objection to the Board's composition. The Board Members stated that they had no bias with respect to this file.

Preliminary Matters

[2] The Complaint did not appear at the hearing. The Board Officer informed the Board that proper notice had been provided to the Complainant and that no postponement request had been requested or granted. In compliance with section 463 of the *MGA*, the Board proceeded to deal with the complaint.

Background

[3] The subject property is a neighbourhood shopping centre consisting of multiple spaces located at 4600 - 99 Street, legally described as Plan 4187RS, Block 1, Lot 5. The subject property has been assessed utilizing the income approach to valuation. In February 2012 there was a fire to a portion of the property which was structurally repaired by year end 2012.

Issues

[4] Is the 2013 assessment of the subject property at \$9,844,000 correct?

[5] What is the correct tax exempt portion allocated to the subject property?

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.

Position of the Complainant

[7] In the Complainant’s absence, two documents that were properly disclosed by the Complainant were entered into evidence as exhibits C-1 and C-2.

[8] The Complainant’s documentary evidence stated that the assessment should take into account the vacancies in the property resulting from a fire that occurred in February 2012, a capitalization rate (cap rate) of 7.5% and an 8% vacancy rate (based on the average vacancy rate over the 3 year period from 2010 to 2012). In light of these factors, the Complainant asked that the assessment be reduced from \$8,265,065.00 to \$7,860,365.00.

Position of the Respondent

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

[10] The Respondent referred to pages 9 and 11 of R-1, which set out the current and revised rent rolls as determined by the Respondent as well as the rental information provided by the Complainant set out in pages 16 to 40 of R-1.

[11] The Respondent referred to pages 41 and 42 of R-1, evidencing a sale in 2010 of the subject property in conjunction with the property located at 3905 - 29 Street NE for a combined sale price of \$16,900,000.00. On the basis of the allocation of \$7,600,000.00 for the property at 3905 - 29 Street the value ascribed in the sale for the subject property in 2010 is \$9,300,000.00.

[12] The Respondent referred to page 45 of R-1 and stated that the assessment of the subject property takes into account the percentage of space leased to the Centre for Autism Services as 10.64% and that number should be increased to 11.096%. The Respondent stated that in view of

the exemption provided to the Centre for Autism Services pursuant to legislation, the Respondent is recommending that the assessment of \$9,844,000.00 should be reduced on the basis of the percentage of space leased to the Centre for Autism Services being 11.096% and not 10.64%.

[13] The Respondent referred to pages 61 and 62 of R-1, which deals with certain aspects of the methodology used by the Respondent in its valuation approach to the subject property.

[14] The Respondent referred to the equity comparables set out in pages 66 to 71 of R-1 and the sales comparables set out in pages 72 and 73 of R-1.

[15] In summary, the Respondent requested the 2013 assessment of the subject property be confirmed at \$9,844,000.00 and recommended that the tax exempt portion for the percentage of space leased to the Centre for Autism Services be revised to 11.096% from 10.64% based on the actual lease area.

Decision

[16] The 2013 assessment of the subject property is confirmed at \$9,844,000.00 and the tax exempt portion allocated to the Centre for Autism Services is revised from 10.64% to 11.096%, as recommended by the Respondent.

Reasons for the Decision

[17] Although there was a fire on the subject property in February 2012, the subject property was structurally repaired by year end 2012. The City of Edmonton is legislated to assess a property's condition as at December 31 of the previous year which in this case is December 31, 2012.

[18] While there was a loss in rental income because of the fire referred to in paragraph 18 above, the Respondent allocates a 5% vacancy allowance. Whereas the Respondent does adjust for properties that have a chronic vacancy rate the said vacancy rate must be above 10% for a consecutive 3 year period for the Respondent to allocate a vacancy rate in excess of 5%. The Complainant did not provide evidence of the vacancy rate for the required 3 year period.

[19] There was a sale in 2010 of the subject property in conjunction with the property located at 3905 - 29 Street NE for a combined sale price of \$16,900,000.00. On the basis of the allocation of \$7,600,000.00 for the property at 3905 - 29 Street NE the value ascribed in the sale for the subject property in 2010 is \$9,300,000.00. On a time adjusted basis the sale price as at July 2012 would be \$10,112,820.00 which supported the 2013 assessment of the subject property.

[20] The cap rate of 7.5% utilized by the Respondent for the subject property is consistent for all equity comparables utilized by the Respondent in performing the assessment value of the equity comparables to the subject property.

[21] Taking into account the cap rate for sale comparables to the subject property of 4.1% to 7.7%, the Board finds that a 7.5% cap rate rate for the subject property is reasonable.

[22] The Board agreed with the Respondent's recommendation to increase the exemption percentage from 10.48% to 11.096% for the space occupied by the Centre for Autism Services Alberta as noted in page 46 of R-1.

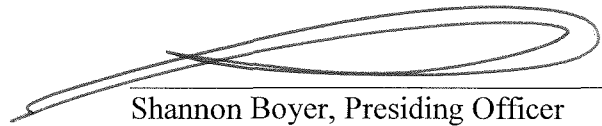
[23] The Board finds that the 2013 assessment of the subject property at \$9,844,000.00 to be fair and equitable.

Dissenting Opinion

[24] There was no dissenting opinion.

Heard on June 25, 2013.

Dated this 12th day of August, 2013, at the City of Edmonton, Alberta.


Shannon Boyer, Presiding Officer

Appearances:

Chelase Bradshaw

Ryan Heit

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.