

Edmonton Composite Assessment Review Board

Citation: Michele Warwa-Handel, APTAS v The City of Edmonton, 2013 ECARB 00822

Assessment Roll Number: 10211491

Municipal Address: 101 AIRPORT ROAD NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

Michele Warwa-Handel, APTAS

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Petra Hagemann, Presiding Officer
Pam Gill, Board Member
John Braim, Board Member

Procedural Matters

[1] The parties indicated they had no objection to the composition of the Board. In addition, the Board members indicated they had no bias on this file.

Preliminary Matters

[2] There were no preliminary matters relating to this file.

Background

[3] The subject property comprises a City Centre Airport Building known as Hanger 39, constructed in 1974 and is located on the west side of the Airport just East of 121 Street and lying between 120th and 121st Avenues. The building comprises a 2 bay hangar of 93,597 sq ft and is situated on a parcel of land zoned MAI (Municipal Airport Industrial) that is 6.31 acres in size resulting in a site coverage ratio of 34%. The building has a wall height of 40.5' and incorporates mezzanine office areas of 15,760 sq ft for a total area of 109,357 sq ft. It is reported to be in average condition for its age and is close to the end of its economic life.

[4] This special use building has been assessed utilizing the cost approach to value and the land using the direct sales approach to value. The resulting assessment of \$4,828,000 equates to a unit rate for the hangar space of \$51.58/ sq ft.

Issue(s)

- [5] Has the cost approach to value of the building been correctly calculated?
- [6] Is the land value correct?
- [7] Should the assessment be reduced based on the previous 2012 decision ECARB 467?

Legislation

[8] 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

[9] The Complainant filed this complaint on the basis that the assessment of the subject property was much higher than the market value. With respect to the first issue, the Complainant contended that the utilization of the cost approach was not in dispute, but the depreciation applied was incorrect as it had failed to take into account the closure of the airport and the effect of a Notice of Intention to Expropriate (NIE) that had been served on the subject property by the City of Edmonton (exhibit C-1, page 2). The Complainant stated that it was generally known by the public that the City intended to redevelop the airport at some point in the future as the airport was already closed to scheduled flights and all buildings at the airport would eventually be removed. With respect to the subject property this had been specifically crystallized by the initial filing of a NIE on October 11, 2012 which had the effect of severely limiting any sale or leasing activity in connection with the subject building. Although the original NIE was abandoned a subsequent NIE dated March 1, 2013 reaffirmed the City’s intention (C-1, page 24).

[10] The Complainant argued that the obsolescence factor applied to the subject building should be increased to take into account the additional limiting effect that the NIE had on the future use of the subject property. The request was that a 75% depreciation adjustment should be applied to the assessed value of \$1,694,348 for a net building value of \$423,587 (Exhibit C-1, page 10).

[11] In support of this argument the Complainant provided a Board decision relating to Hangar 11 effective November 19, 2012, wherein the assessment on the building portion was reduced by 50% due to the negative value emanating from the press and the general knowledge

that the airport was effectively closed. Hangar 11 had not been affected by a NIE and the Complainant argued that the effect of the NIE created a much greater negative effect and hence the request for a 75% adjustment.

[12] With respect to the land value the Complainant argued that the value had been reduced by the same general knowledge that the airport was to be redeveloped and by the same NIE as noted above. The same 75% reduction was also requested to be applied to the land value of \$3,133,933 for the same reasons as noted above. This would result in a net land assessment of \$783,484.

[13] In support of the argument that the land was assessed higher than its market value the Complainant provided a chart of 3 sales of vacant land that were close in size to the subject property and were located in the north-west industrial district (C-1, page 27). One land parcel was zoned IB Industrial Business district and two were zoned IM Medium Industrial district. They ranged from 2.79 acres in size to 7.71 acres and sold between March 2009 and October 2011 with prices ranging from \$379,924/ acre to \$481,420/ acre with an average of \$431,701/ acre as compared to the subject that had been assessed at \$496,661/ acre.

[14] The Complainant argued the use of the property had changed from one related to aviation activity to a manufacturing use that does not require the use of the runways and this had a serious effect on its marketability.

[15] The Complainant also argued that because of their special use nature the value in use may change dramatically and consequently their functional obsolescence increases dramatically and combined with physical deterioration may result in the building having very little, if any, value.

Position of the Respondent

[16] In defense of the land portion of the assessment the Respondent provided a chart of 8 sales of vacant land that had sold between August 2009 and May 2012 that had been time adjusted to valuation day (R-1, page 16). The properties were all located in the north-west industrial district and the sizes ranged from 3.192 acres to 8.950 acres. The unit rates from the 8 sales ranged from \$11.92/ sq ft to \$15.46/ sq ft supporting the unit rate assessment of the subject of \$11.40/ sq ft.

[17] With regard to the building component the Respondent informed the Board that the subject building was a special use building and as they are usually owner occupied little rental data is normally available. Appraisers have concluded that the cost approach to value is the only approach of significance in the valuation of special-use properties. The Respondent applied an 80 % depreciation rate to the subject property which is the maximum allowed under the Marshall and Swift valuation guide which the Respondent used.

[18] With regard to the issue of the NIE the Respondent informed the Board that the expropriation process is a long drawn out process and was not imminent. The actual NIE was just the start of a process that may take a number of years before the Complainant would be required to vacate the premises. It could also be challenged in court. Furthermore the Complainant was still using the building as at December 31, 2012.

[19] By way of rebuttal of the Complainant's evidence, the Respondent provided a conversion chart (R-1, page 15) and additional information on the Complainant's sales (R-1, pages 27 & 28) contending that the Complainant's sales were only slightly lower than the subject assessment rate, ranging from \$8.75/ sq ft to \$10.85/ sq ft. The first sale was disregarded by the Respondent

as it had an irregular shape issue that would require an upward adjustment to make it similar to the subject property. The second sale had no drainage line network and would need an upward adjustment to make it comparable to the subject property. The Respondent argued that the Complainant's sales would support the assessment if the appropriate adjustments were made to compensate for the differences.

Decision

[20] The decision of the Board is to confirm the 2013 assessment of \$4,828,000.

Reasons for the Decision

[21] The Board finds the assessment is predicated on the value of the fee simple interest in both the land and buildings.

[22] **With respect to the issue; - "Has the cost approach to value of the building been correctly calculated?"** In determining the assessment for the building the Board reviewed the history of the subject; the subject property was originally leased to Spar Aerospace Limited the date and term of which are unknown. Denille Industries Ltd. sub-leased the premises commencing June 2008 until May 2014 with the first right to re-lease. The Board was not provided with any lease details including details on the right to re-lease and was not in a position to be able to determine the enforceability of this right. The Board therefore finds that as at valuation day the subject property continued to be leased to the Complainant and, in spite of the NIE also continued to operate as at December 31, 2012.

[23] With regard to the hangar building assessment the Board recognizes that the hangar is progressing towards the end of its life expectancy (C-1, page 39). The Board also recognizes the Respondent has applied the maximum depreciation indicated in the depreciation tables. The Board assumes this relates to physical depreciation and both functional and economic obsolescence. However the Board recognizes that there must be a factor or percentage that can be applied during the last few years of the life of a building prior to it being totally unusable. In the case of the subject property it appears the confirmation of the expropriation proceedings may form the end of the building's life if the City of Edmonton (the City) decide to redevelop at that time.

[24] However, as the NIE relates to 535 acres of land it is likely that any redevelopment may be carried out in several phases and the City may continue to lease out the subject building, thus extending the actual life expectancy and the functional life of the building. The building is currently being used as industrial space that is not related to its original intended use as a hangar that was designed specifically for the maintenance and storage of aircraft. The current use of the building may actually extend the actual life of the building.

[25] The City of Edmonton already owns the land and the building and the NIE is intended only to expropriate the leaseholder's interests and any sub-leases that may be in place. All leaseholders and sub leaseholders expropriated by the City will be compensated for their interests at the time of expropriation.

[26] **Regarding the issue; - "Is the land value correct?"** The Board placed less weight on the Complainant's sales as they were more limited in quantity and the servicing status of sale #2 was inferior to the subject and would require an upward adjustment to make it comparable to the subject property. Such an adjustment would certainly support the assessment.

[27] The Board was persuaded by the evidence of the Respondent wherein 8 vacant sales were provided that support the current assessment. The Board accepts the argument that the majority of the sales appear to be on major traffic arteries but the subject property, although it does not have direct exposure to major traffic arteries does have good access to them and lies close to the downtown core. The Board has heard that location adjustments can vary from 5% to 20% and the Board finds that even using the middle to higher end of this range of adjustments when applied to the 8 sales support the assessment.

[28] **With respect to the issue; - “Should the assessment be reduced based on the previous 2012 decision ECARB 467?”** The Board placed little weight on the previous year’s CARB decision on Hangar 11. Hangar 11 although similarly affected by the potential closure of the Edmonton Municipal airport had its assessment reduced due to a reduced market value of the hangar buildings. In Jan 2003 the buildings were appraised by Bourgeois and Co at \$850,000. During the year there was considerable negative press regarding the future of the airport and later that year the Edmonton Regional Airport Authority, offered to purchase the building for \$250,000 and terminate the 25 year lease on the land. This suggested a decrease in value of \$600,000. The anchor tenant of Hangar 11 vacated in 2003 and it was difficult to attract tenants related to airport operations as per their lease. In 2005 an amendment to their lease allowed a change in use however by valuation date of July 2011, Hangar 11 had only leased 50% of its premises suffering considerable loss of income.

[29] The Board is of the opinion that the key difference in these two cases is that the tenant of Hangar 39 when leasing the subject property in 2008 was fully aware of the imminent expropriation. The subject is fully leased and suffers no loss of income.


[30] The Board determines that the 2013 assessment of the subject is correct, fair and equitable.

Dissenting Opinion

[31] There was no dissenting opinion.

Heard commencing June 26, 2013.

Dated this 19th day of July, 2013, at the City of Edmonton, Alberta.


Petra Hagemann, Presiding Officer

Appearances:

Michele Warwa-Handel, APTAS
for the Complainant

Michael Johnson, Assessor, City of Edmonton
Steve Lutes, Legal Counsel, 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.