

Edmonton Composite Assessment Review Board

**Citation: Brenda MacFarland Property Tax Consulting v The City of Edmonton, 2013
ECARB 01168**

Assessment Roll Number: 4121356

Municipal Address: 17320 Stony Plain Road NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

Brenda MacFarland Property Tax Consulting

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
George Zaharia, Presiding Officer
Lillian Lundgren, Board Member
Darryl Menzak, Board Member

Procedural Matters

[1] When asked by the Presiding Officer, the Respondent did not object to the composition of the Board. In addition, the Board Members indicated no bias in the matters before them.

Preliminary Matters

[2] The Complainant sent a letter to the Board advising that she would not be able to attend the hearing because of a scheduling conflict. However, the Complainant did submit an Assessment Appeal Disclosure Report (Exhibit C-2) and an Assessment Appeal Rebuttal Report (Exhibit C-3). In accordance with section 463 of the *Municipal Government Act*, the Board proceeded to hear the complaint in the absence of the Complainant.

Background

[3] The subject property, known as Pro Truck Accessories, is located at 17320 Stony Plain Road NW in the Stone Industrial neighborhood. The 14,282 square foot (sf) building comprises: 7,421 sf of CRU space, 4,892 sf of office space and 2,721 sf of warehouse/shop space. It was constructed in 1990 as a Quality 04 and is assessed in average condition as a "store". The lot size is 62,000 sf with 23% site coverage.

[4] The subject property sold on September 26, 2007 for a time adjusted sale price of \$2,771,040, and is valued by the income approach with a 2013 assessment at \$2,814,500.

Issues:

1. Is the subject property assessed equitably with similar properties?
2. Is the subject property assessment correct?
 - (a) Is the rental rate used to prepare the assessment correct?
 - (b) Is the capitalization rate used to prepare the assessment correct?

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 463 If any person who is given notice of the hearing does not attend, the assessment review board must proceed to deal with the complaint if

- (a) all persons required to be notified were given notice of the hearing, and
- (b) no request for a postponement or an adjournment was received by the board or, if a request was received, no postponement or adjournment was granted by the board.

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 basis for this complaint is that the subject property assessment of \$2,814,500 is inequitable and incorrect.

[7] The Complainant submitted that the subject property, Pro Truck Accessories, is a dealer of aftermarket accessories for pickup trucks. Until recently, the subject operated as a car dealer under the name Mayfield Auto Clearance Centre and, despite the change in business, the subject property remains the same in its important physical attributes. The service area that was previously used to prepare cars for the new owners is now used to install and set up truck accessories. The Complainant stated that the subject remains more like a typical car lot than a typical retail establishment.

[8] The Complainant argued that the classification of “store” is inappropriate because a typical retail use would not have similar low site coverage or significant space dedicated to prep and installation. Retail site coverage is typically 35% or higher compared to the subject site coverage of 23%.

[9] The Complainant argued that the subject property is inequitably assessed with similar properties. The Complainant identified two assessment comparables that have lower per square foot assessments than the subject property (Exhibit C-2, pages 2 and 3).

	Address	Effective Year Built	Bldg Area (square feet)	Lot Size (square feet)	Assessment
Subject	17320 Stony Plain Road	1990	14,282	62,000	\$2,814,500 (\$197.07/sf)
#1	10220 170 Street	1987	44,371	148,371	\$4,875,000 (\$109.87/sf)
#2	10220 172 Street	1985	7,772	70,181	\$1,306,500 (\$168.10/sf)

Note: The subject property is assessed as a store on the income approach, Comparable #1 is assessed as a new car dealership on the cost approach, and Comparable #2 is assessed as a used car sales centre on the income approach.

[10] The Complainant also argued that the subject property assessment is incorrect because the \$14.00/sf rental rate and the 6.5% capitalization rate used to prepare the assessment are incorrect. The comparable located at 10220 172 Street is assessed on the income approach using a rental rate of \$12.50/sf and a capitalization rate of 7.5%. Using the same rental rate and capitalization rate as the comparable, the resultant assessment for the subject property is \$2,192,396.

[11] In conclusion, the Complainant stated that the foregoing analysis indicates that there are two nearby comparable properties that have significantly lower assessments than the subject property. However, the second comparable, 10220 172 Street NW, should be given greater weight because it is more similar to the subject in terms of building size and lot size. Further, it is assessed in the same manner as the subject property using the income approach. For these reasons, the Complainant requested the Board to reduce the assessment to \$2,142,500.

Rebuttal to the Respondent's Market Evidence

[12] The Complainant stated that the Respondent's market evidence does not support the assessed rental rate, the assessed capitalization rate, or the total assessed value. In addition, the Complainant stated that the Respondent's equity comparables are all significantly newer than the subject property, whereas the Complainant's equity comparable is more similar to the subject in terms of geography, age and use.

[13] In response to the Respondent's statement that “Used car sales centres are assessed on the income approach”, the Respondent did not present any used car dealerships as market evidence or equity comparables. The only used car sales centre assessed using the income approach is the

comparable presented by the Complainant located at 10220 172 Street NW. The Complainant argued that used car sales and new car sales are similar uses, and regardless of the methodology used to assess these properties, the assessments should be fair and equitable.

[14] The Complainant stated that the Board should not accept the Respondent's nine lease comparables as reliable evidence because no addresses, roll numbers, or other identifying information were presented. Therefore, it is impossible to verify the leases.

[15] In response to the Respondent's three sale comparables, the Complainant noted that sale comparables #1 and #2 sold for lower per square foot rates than the subject assessment. They are also currently assessed at lower per square foot rates than the subject. The Respondent's sale comparable #3 is superior to the subject property because it has a bank.

[16] The Complainant stated that Retail Cap Rate Analysis presented by the Respondent is not reliable because there is a lack of information respecting the lease rates used to derive the capitalization rates. The Complainant further stated that the only market data reporting a capitalization rate is the sale of 16220 Stony Plain Road published by The Network. It has a reported capitalization rate of 7.69% which is closer to the 7.5% capitalization requested by the Complainant.

Rebuttal to the Respondent's Equity Comparables

[17] The Complainant stated that the Respondent's four equity comparables are all newer than the subject property which was constructed in 1990. The comparables feature intense retail uses, none of which are car dealerships.

[18] The Complainant defended the use of the comparable located at 10220 172 Street NW because it has similar exposure to the subject property. The subject is barely visible from the southern fork of Stony Plain Road, and the comparable is barely visible from 170 Street. Photographs were provided. The Complainant concluded that since the location of the subject and the comparable is similar, the same rental rate and capitalization should be applied to both properties.

Position of the Respondent

[19] The Respondent submitted that the subject property is assessed at market value and is assessed equitably with similar properties. The subject property is assessed as a store, and is not similar to new car dealerships.

[20] The Respondent argued that the 6.5% capitalization rate used to assess the subject property is correct. In support of this argument, the Respondent presented a Retail Cap Rate Analysis chart showing an average capitalization rate of 6.63% (Exhibit R-1, page 11). The analysis is based on three sales of commercial properties that transferred between February 2010 and June 2012.

[21] The Respondent argued that the \$14.00/sf rental rate used to prepare the subject assessment is supported by the current rental rates in similar properties. The Respondent presented six Commercial Retail Unit (CRU) lease rates ranging from \$13.00/sf to \$22.73/sf (Exhibit R-1, page 24). The Respondent offered to present the names, addresses and any other details respecting the leases to the Board, provided the information was kept confidential. The Board did not request the information.

[22] The Respondent also argued that the \$14.00/sf rental rate used to assess the subject is equitable. The Respondent presented four equity rents for similar retail properties located in the same market area (Exhibit R-1, page 17). The rental rates used to assess these properties range from \$16.25/sf to \$19.00/sf with an average rental rate of \$17.56/sf. The Respondent pointed out that the subject property, which was constructed in 1990, is older than the comparables which were constructed between 2006 and 2011. However, the subject is assessed well below the range of the comparable CRU spaces.

[23] The Respondent commented on the Complainant's two comparables as follows:

- Comparable #1 is located at 10220 170 Street NW. It is not similar to the subject property because it is a new car dealership, whereas the subject property is a store that sells and installs truck accessories.
- Comparable #2 is located at 10220 172 Street NW. It is in an inferior location because of lesser visibility or exposure of the property. An aerial map was provided that shows the subject property fronting onto Stony Plain Road and backing onto 102 Avenue, while the Complainant's comparable #2 fronts on to 172 Street. The Respondent explained that this comparable has a higher capitalization rate and a lower rental rate than the subject property because it does not achieve the same exposure as the subject property. Furthermore, it is five years older than the subject property.

[24] In summary, the Respondent requested the Board to confirm the assessment at \$2,814,500.

Decision

[25] The decision of the Board is to confirm the 2013 assessment at \$2,814,500.

Reasons for the Decision

[26] In determining whether the subject property is equitably assessed with similar properties, the Board reviewed the Complainant's equity comparables and finds that the Complainant's comparables are not sufficiently comparable to test the subject assessment. The Complainant's comparable #1 located at 10220 170 Street NW is not similar because it is a new car dealership. Comparable #2 is inferior in terms of location and slightly inferior in terms of age.

[27] The Board also reviewed the Respondent's equity evidence and finds that the subject rental rate of \$14.00/sf bears a reasonable relationship to the equity rental rates of the Respondent's four comparables. The \$14.00 rental rate applied to the subject property is considerably lower than the rental rates applied to the comparable properties which are newer properties.

[28] In determining whether the subject assessment is correct, the Board notes that the Complainant did not provide any market evidence to show that the subject assessment is incorrect. In defense of the assessment, the Respondent provided a capitalization rate analysis to support the use of a 6.5% capitalization rate. In addition, the Respondent presented lease rate comparables to support the \$14.00 rental rate used to assess the subject.

[29] The Board is persuaded that the 2013 assessment at \$2,814,500 is fair and equitable.

Heard July 11, 2013.

Dated this 30th day of July, 2013, at the City of Edmonton, Alberta.



George Zaharia, Presiding Officer

Appearances:

No Appearance
for the Complainant

Alana Hempel
Gail Rookes
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.