

Edmonton Composite Assessment Review Board

Citation: ADL Management Inc. v The City of Edmonton, 2013 ECARB 01178

Assessment Roll Number: 4350500

Municipal Address: 11546 80 STREET NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

ADL Management Inc.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Dean Sanduga, Presiding Officer
Brian Hetherington, Board Member
Dale Doan, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties indicated that there was no objection to the composition of the Board. In addition, the Board members indicated that they had no bias in the matter before the hearing.

Background

[2] The subject property is a 6,644 square foot building on a 7,924 square foot lot, located at 11546 80 Street NW in the Edmonton Parkdale area. The two-floor Quality 4 building, classified as retail, has a main floor of 5,063 square feet and an upper floor area of 1,582 square feet. It was built in 1969.

Issues

[3] Is the subject assessed in excess of its market value?

[4] Should the assessment of the subject be reduced based on last year's assessment?

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 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] To support a reduction in the 2013 assessment, the Complainant provided the Board with 11 comparable rental offerings (C-1, pg 9). The comparable warehouse properties ranged in size from 5,000 to 24,172 square feet, compared to the subject property's size of 3,000 square feet.

[7] The Complainant hired the services of Graham Downey of Downey and Associates, an accredited Appraiser and Real Estate Broker to review rental rates for the 11 comparable warehouse properties. The rental rates offered for those properties, according to Downey, ranged from \$6.25 to \$9.25 per square foot, which produced an average of \$7.76 per square foot.

[8] The Complainant advised the Board that neighbourhood of the subject property is very old and undesirable and that property values in the area are decreasing. The subject property is adjacent to an old house with a wired fence, unmaintained and ready to be demolished. The subject property is also surrounded by rundown garages, driveways, garbage cans and junk; an old ugly building, railway tracks and Northland barns. There has not been any improvement in this area for many years.

[9] The Complainant stated that the rental rates of \$13.75 per square foot attributed to the subject is excessive. He indicated that the current actual rental achieved is \$8.00 per square foot.

[10] The Complainant requested the 2013 assessment value to be reduced from \$656,000 to \$617,000.

Position of the Respondent

[11] The Respondent presented the Board with a 56-page brief (Exhibit R-1) in support of the City's 2013 assessment of \$656,000.

[12] To support the value of the property assessment, the Respondent presented the Board with a chart of three retail rentals of similar sized properties located in the northeast quadrant of Edmonton, which are similar to the subject property. (R-1 page 12) The average rental value was \$11.19 per square foot.

[13] A chart of four equity comparables was presented on retail stores in the Northeast part of the city (R-1 page 13); the cap rate of three of those comparable properties were at 7.5 %, while the fourth was at 8% and the subject's capitalization rate is 8%.

[14] In response to questions by the Complainant, the Respondent acknowledged that the City comparable rental assessments are on retail store properties located on or near 118 Avenue and because of the undesirable location of the subject property an adjustment was made by increasing the capitalization rate to 8% which is higher than capitalization rate on most of the similar retail store location at 7.5%.

[15] The Respondent advised that a blended rental rate of \$9.75 was used in the calculation of the office and warehouse component of this property and a rental rate of 5.00 per square foot is used for the upper area component of the subject property, and further advised that there is no value assessed on 1,248 square feet of mezzanine storage. If a blended rate was used for the whole property the rate would be \$8.75 to arrive at the same income for the property. If a mezzanine area was also taken into account in the size area calculation the blended rate would then be \$7.29 (R-1 page 29).

[16] The Respondent further advised that the typical rents applied to the area are derived through the immediate neighborhood in which the subject property is located; therefore the subject property has also been given a higher capitalization rate than the rest of the neighborhood due to the undesirable location of the subject property.

[17] In summary the Respondent requested the 2013 assessment of the subject property be confirmed at \$656,000

Decision

[18] The assessment of \$656,000 is confirmed.

Reasons for the Decision

[19] The Board was not impressed by the presentations of either party, and was puzzled at the Valuation Group listing as Retail, when it had clearly been used as a warehouse. However, the Board noted that there was no evidence that the Complainant had attempted to seek a re-classification of his property.

[20] The Board noted that the Complainant, while acknowledging the Retail classification, told the Board that the building had been designed for storage/office use and was inappropriate for retail. The Board also noted that from this perspective, the Complainant had compared the subject property's use as a warehouse with a set of 11 comparable properties which were all industrial warehouse properties.

[21] The Board recognized the information that had been prepared for the Complainant by Graham Downey of Downey and Associates, based on the review of the 11 comparable properties, but was not convinced of the relevance when the subject property was zoned as retail. In addition, the properties listed as comparables by the Complainant were from all parts of the city, with none in close proximity to the subject. Further, the data prepared by Downey and Associates from the marketing sheets of the 11 properties contained no evidence of actual leases. The data used in the calculations was based on the marketing information, as opposed to lease agreements, which led to unjustifiable arguments.

[22] The Board also noted that the Complainant acknowledged that he had offered space in his building for lease at a rental rate of \$9.00 and had so far had one offer at a price of \$6.00. Responding to a question from the Chair, he said that this was a marketing ploy and he would likely settle for a lease rate of between \$6.50 and \$9.00 per square foot.

[23] While the Complainant said that the City had suggested a rental rate for the subject property of \$13.75, there was no evidence to support this claim in the material presented by either party. The City's rental rates for the property, as presented in the Tax Assessment form (R-1, p 6) showed rental rates of \$9.75 for the main floor and \$5.00 for the upper floor.

[24] The Respondent, in recognizing the apparent difficulty of operating the warehouse building in a predominantly residential area, had demonstrated an understanding by implementing a cap rate of 8% on the subject property, which compared to 7.5% for the business property presented by the Respondent as comparables.

[25] On the other hand, the Board did not feel that the Respondent's list of comparables was appropriate for Board consideration. Of the four equity comparables, one was owned by the Complainant and was the subject of a hearing to be held later in the day.

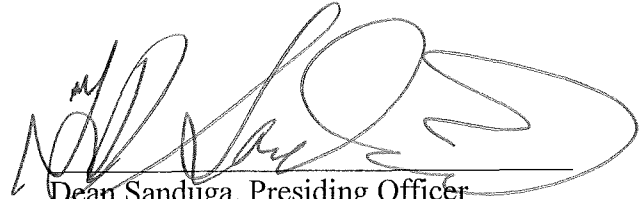
[26] The Board did not feel that the Complainant had presented sufficient evidence to support a reduction in the assessment.

Dissenting Opinion

[27] There was no dissenting opinion.

Heard on July 23, 2013.

Dated this 9th day of August, 2013, at the City of Edmonton, Alberta.



Dean Sanduga, Presiding Officer

Appearances:

Aldo De Luca, ADL Manangement Inc.
for the Complainant

Alana Hempel, City of Edmonton
Chelsea Bradshaw, 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.