

Edmonton Composite Assessment Review Board

Citation: 1096276 Alberta Ltd. v The City of Edmonton, 2013 ECARB 01188

Assessment Roll Number: 4044301
Municipal Address: 9562 111 Avenue NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

1096276 Alberta Ltd

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Petra Hagemann, Presiding Officer
Judy Shewchuk, Board Member
Howard Worrell, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the party indicated that there was 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 Complainant did not disclose evidence to the Respondent or the Composite Assessment Review Board, as required under section 8(2) of the *Matters Relating to Complaints Regulation* (MRAC). Section 9(2) of MRAC states that “a composite assessment review board *must not* hear any evidence that has not been disclosed in accordance with section 8” (emphasis added).

[3] The Complainant raised the possibility of an adjournment, but the Board pointed out that under section 15(1) of MRAC, adjournments are granted only in “exceptional circumstances.” The Complainant admitted that he had received proper notice of the disclosure requirements, but did not give provide reasons for why no evidence was submitted. Failure to comply with legislated disclosure deadlines does not amount to an exceptional circumstance. As such, the Board did not grant the Complainant’s request for an adjournment.

[4] The Presiding Officer advised the Complainant that should the Respondent wish to present his evidence, the Complainant would be limited to speaking to the information contained in the Respondent’s brief only, being careful not to introduce any additional new evidence.

[5] In the interests of fairness and equity, the Respondent agreed to proceed with the presentation of his evidence, which would provide the Complainant with the opportunity to question the Respondent on his evidence. Within these limits, the Board agreed to proceed with the hearing.

Background

[6] The subject property, built in 1967, is a single storey retail store located in the Alberta Avenue neighbourhood at 9562 - 111 Avenue NW. It has a main floor area of 3,372 square feet (sq ft) and is located on a 4,650 sq ft lot. It is occupied by a printing shop. The 2013 assessment of \$531,500 is based on the income approach to value.

Issue(s)

[7] Is the subject property assessed correctly?

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.

[9] **The *Matters Relating to Assessment Complaints Regulation*, AR 310/2009, 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;

s 9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

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

s 15(1) Except in exceptional circumstances as determined by an assessment review board, an assessment review board may not grant a postponement or adjournment of a hearing.

Position of the Complainant

[10] The Complainant had disclosed no evidence prior to the hearing, nor did he present any evidence at the hearing.

[11] The Complainant stated that based on his purchase of a neighbouring building, which is also under appeal, the assessment of the subject property is too high. The Complainant stated that there was graffiti on his building and that the value of the subject is negatively affected by the undesirable neighbourhood.

[12] The Complainant asked the Board to reduce the assessment to \$400,000.

Position of the Respondent

[13] The Respondent presented an assessment brief (R-1, 23 pages).

[14] The Respondent stated that the income approach to value was utilized to arrive at the 2013 assessment. One factor in the income approach is the rental rate. The Respondent presented evidence of rental rates of \$12.75/sq ft, \$14.75/sq ft, and \$13.25/sq ft from three comparable properties (R-1, pages 19-22). These comparables support the rental rate of \$13.75/sq ft applied to the subject. The Respondent also presented a chart (R-1, page 23) showing current retail store market rents of \$10.80/sq ft, \$15.70/sq ft and \$15.70/sq ft, further supporting the rental rate of \$13.75/sq ft applied to the subject.

[15] The Respondent submitted three comparable sales which sold at \$192.39/sq ft, \$271.64/sq ft, and \$109.53/sq ft for an average of \$191.19/sq ft. These properties were assessed at \$178.99/sq ft, \$217.23/sq ft, and \$82.74/sq ft for an average of \$159.65/sq ft. The Respondent noted that the assessment of the subject at \$157.62/sq ft falls within the range of the assessments of the comparable sales and slightly below the average.

[16] The Respondent asked that the Board confirm the 2013 assessment based on the income approach to value.

Decision

[17] The Board confirms the 2013 assessment of the subject at \$531,000.

Reasons for the Decision

[18] The Board notes that the Respondent presented evidence in the form of income and sales comparables which support the assessment. The Complainant, on the other hand, neither disclosed nor presented evidence to support its claim that the subject is unfairly assessed. The

Board stresses that onus is on the Complainant to disclose and present evidence in support of its position. Since onus was not met, the Board confirms the assessment.

Heard commencing July 29th, 2013.

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



Petra Hagemann, Presiding Officer

Appearances:

Patrick D Tighe
for the Complainant

Tim Dueck
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.