

Edmonton Composite Assessment Review Board

Citation: 1096276 Alberta Ltd. v The City of Edmonton, 2013 ECARB 01189

Assessment Roll Number: 3822301

Municipal Address: 11057 95 Street 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 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.

[4] 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

[5] The subject property, built in 1951, is a two-storey building located at 11057 - 95 Street NW. The main floor consists of 3,037 square feet (sq ft) of retail space while the second floor consists of 2,182 sq ft of residential space. The 2013 assessment is \$413,000.

Issue

[6] Is the subject property assessed correctly?

Legislation

[7] **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.

[8] **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

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

[10] The Complainant stated that he had purchased the subject for \$301,200 in June 2012, very close to the valuation date of July 1, 2012. The Complainant stated that the sale price was low due to the undesirable neighbourhood which negatively affects the value of the subject.

[11] The Complainant asked the Board to reduce the assessment to \$300,000, based on the purchase price of the subject.

Position of the Respondent

[12] The Respondent presented an assessment brief (R-1, 25 pages).

[13] 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 ranging from \$10.50/sq ft to \$16.00/sq ft from five comparable properties (R-1, pages 18, 21-25). These comparables support the rental rate of \$9.00/sq ft applied to the retail portion of the subject. The Respondent also presented a chart (R-1, page 19) showing current retail store market rents in the same neighbourhood as the subject. These rates ranged from \$7.20/sq ft to \$18.84/sq ft, further supporting the rental rate of \$13.75/sq ft applied to the retail portion of the subject. As for the residential portion of the subject, the Respondent applied a rental rate of \$4.50/sq ft.

[14] 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 submitted that the assessment of the subject at \$78.46/sq ft falls below all of the comparables and is well below the average.

[15] The Respondent also presented tables of “what-if” scenarios (R-1, page 20). The first showed that in order to create a value of \$300,317, the rental rates would have to be \$6.50/sq ft for the retail area and \$3.50/sq ft for the residential area. The second table showed that if the rental rates applied were \$13.50/sq ft and \$6.75/sq ft, based on market and equity evidence, the value of the subject would increase to \$626,872.

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

Decision

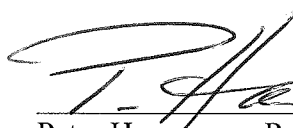
[17] The Board confirms the 2013 assessment of the subject at \$413,000.

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.