

Edmonton Composite Assessment Review Board

Citation: Kirkside Real Estate Corporation dba Cornerstone Management v The City of Edmonton, 2013 ECARB 01237

Assessment Roll Number: 7899362
Municipal Address: 11411 40 Avenue NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

Kirkside Real Estate Corporation dba Cornerstone Management

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.

Background

[2] The subject property is a shopping centre located at 11411 40 Avenue. The 2013 assessment is \$8,091,000.

Issue(s)

[3] Is the assessment of the subject correct?

Legislation

[4] **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.

[5] The *Matters Relating to Assessment Complaints Regulation* (MRAC), 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.

Position of the Complainant

[6] The Complainant neither submitted any disclosure nor appeared at the hearing.

Position of the Respondent

[7] The Respondent advised the Board that their brief had been delivered to the Complainant. However, no further correspondence took place between the two parties.

[8] The Respondent elected not to present their evidence to the Board as the Complainant had failed to meet onus.

Decision

[9] The decision of the Board is to confirm the 2013 assessment.

Reasons for the Decision

[10] The Complainant did not comply with the disclosure requirements under section 8(2) of 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).

[11] Jurisprudence has established the onus of showing the incorrectness of an assessment rests with the Complainant. Since there is no evidence before the Board in support of the claim, the Complainant has not discharged their burden of proof. The Board finds that the Complainant failed to meet onus and therefore confirms the 2013 assessment of the subject property at \$8,091,000.

Dissenting Opinion

[12] There was no dissenting opinion.

Heard commencing August 1, 2013.

Dated this 1st day of August, 2013, at the City of Edmonton, Alberta.


Petra Hagemann, Presiding Officer

Appearances:

No Appearance

for the Complainant

Frank Wong

Steve Lutes

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.