

Edmonton Composite Assessment Review Board

Citation: Canadian Imperial Bank of Commerce v The City of Edmonton, 2013 ECARB 01273

Assessment Roll Number: 5088828
Municipal Address: 3924 118 Avenue NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

Canadian Imperial Bank of Commerce

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

John Noonan, Presiding Officer

Jasbeer Singh, Board Member

Randy Townsend, Board Member

Procedural Matters

[1] There was no objection to the composition of the Board, nor declaration of bias from the members.

Background

[2] The subject property is a bank building constructed in 1966 in the Beacon Heights neighbourhood. The property's ground floor comprises 3419 square feet (sf) of area, assessed at an attributed typical rent of \$28 per sf., and 3239 sf. of basement assessed at a rent rate of \$4.50 per sf. After allowances for vacancy and structural, the net operating income is capitalized at a rate of 7.5% to produce the assessment of \$1,351,000.

Issue(s)

[3] Is the subject equitably assessed?

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 305(1) If it is discovered that there is an error, omission or misdescription in any of the information shown on the assessment roll,

- (a) the assessor may correct the assessment roll for the current year only, and
- (b) on correcting the roll, an amended assessment notice must be prepared and sent to the assessed person.

S 305(5) If a complaint has been made under section 460 or 488 about an assessed property, the assessor must not correct or change the assessment roll in respect of that property until a decision of an assessment review board or the Municipal Government Board, as the case may be, has been rendered or the complaint has been withdrawn.

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

[5] The Complainant produced evidence to show that two other banks located on 118 Avenue and of similar age and size were assessed at lower attributed rent rates than the subject. A Royal Bank across the street with an area of 5379 sf. had been assessed at a rent rate of \$14.75 and a TD Bank at 6521 118 Avenue with a main floor area of 6339 sf. had a rate of \$14.50 applied. The Complainant advised that the actual rentable area of the subject was 6325 sf. rather than the City's total assessed area of 6658 sf. In the interest of assessment equity, the Complainant requested the assessment be reduced to \$1,120,500 using the same income approach parameters with the exception of a \$14.75 rent rate applied to 6325 sf of main floor and basement area.

[6] A 2012 decision of the Edmonton Composite Assessment Review Board was introduced, dealing with the same subject and two comparables. Last year the subject had an assessed rental rate of \$27 and the comparables \$13.75 per sf. In that case, the Respondent advised that the comparables had been mistakenly classified as retail stores rather than banks; the Complainant argued that the rate applied to the comparables was not in error as their actual rents were in the vicinity of \$14 to \$17 per sf. The decision reduced the assessed rental rate to \$14 for the main floor area resulting in a 2012 assessment of \$715,000. That Board cited "sufficient and compelling proof" that the comparables were indeed mis-classified, and if they were, expressed concern as to lack of assurance from the City that the classification would be amended in subsequent years.

Position of the Respondent

[7] The City acknowledged an error had occurred two years running in the assessments of the two comparables advanced by the Complainant. Apparently, after discovery of the error last year, the assessor handling the files had corrected the “market building class” but not the subclass of “retail store” where instead they should have been “bank”. The mistaken subclass was again duplicated in the 2013 assessments of the two comparables. The Respondent’s presentation informs:

TD Bank – TR#5088323 – a revised notice will be mailed by the City of Edmonton for the 2013 Annual Assessment of \$1,501,500 correcting the rental rate to Bank at \$28 per sq ft.

RBC – TR#4537122 is under appeal – therefore the City of Edmonton will ask the Assessment review board to accept a revision to the amount of \$1,712,500 – this will correct the Bank rental rate to \$28 per sq ft.

[8] The Respondent presented four equity comparables, all banks built in the 70’s and assessed with a main floor rent rate of \$28. The assessment branch has two categories of banks: those built before 2003 are assessed at the \$28 rate; those built in 2003 and later are assessed at a higher per sf rate, believed to be \$35. Details of six bank leases dating from April 2010 to October 2011 were shown in defense of the \$28 typical rate applied. The annual rents ranged from \$22 to \$32 with median and average of \$28.50 and \$27.58 respectively. The locations were not disclosed; the effective years built ranged from 1978-1989.

Decision

[9] The Board confirms the 2013 assessment of \$1,351,000.

Reasons for the Decision

[10] This panel of the CARB accepts that the two comparables advanced by the Complainant were mistakenly classified as retail stores. Documents in the Complainant’s evidence show a land use code for the subject as “228 Bank and/or Trust-Finance Co” and the Building Class as “Bank”. The Assessment Detail Report for the TD comparable has a land use code of “200-One storey Retail/Wholesale”, and the webpage printout for the Royal Bank assessment comparable shows a land use of “One Storey Retail/Wholesale” and Building Class of “Retail Store”.

[11] Why these two comparables did not receive amended notices last year is a mystery. The assessors who appeared at this hearing, and were not involved last year, outlined how the problem with these two properties would be addressed this current year.

[12] This Board cannot abide the idea that assessment equity is served by the compounding of an error. Of the four equity comparables presented by the Respondent, two were also located on 118 Avenue, and also assessed at the same net rent of \$28 per sf. If the subject were granted a reduced rate, by extension, every other bank on 118 Avenue or indeed across the City that had the wit or luck to file a complaint this year ought to receive the same “equitable” treatment.

[13] Apart from the leasing information supplied by the Respondent from undisclosed other locations, the Board had no evidence about leases. As the subject property is owner-occupied, such information does not exist. Apparently, last year’s CARB hearing the same issue had some

information regarding the leases at the Complainant's nearby comparables, and put some degree of weight in considering them. This panel was not tasked to consider such specific market evidence, the issue being assessment equity. Consequently, the Board resists the temptation to arch eyebrows at the assessment practice of assigning all bank properties to pre- or post-2003 categories, apparently regardless of location or other factors.

Heard September 4, 2013.

Dated this 6th day of September, 2013, at the City of Edmonton, Alberta.

A handwritten signature in dark ink, appearing to read 'J Noonan', is written over a horizontal line.

John Noonan, Presiding Officer

Appearances:

Chris Buchanan, Altus Group
for the Complainant

Gail Rookes
Tracy Ryan
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.