

Edmonton Composite Assessment Review Board

Citation: John C. Manning v The City of Edmonton, 2013 ECARB 01391

Assessment Roll Number: 8636342

Municipal Address: 5830 99 Street NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

John C. Manning

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Patricia Mowbrey, Presiding Officer
Jasbeer Singh, Board Member
Taras Luciw, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties indicated they had no objection to the composition of the Board. In addition, the Board members indicated they had no bias on this file.

[2] All witnesses were sworn in at the request of the Respondent's legal counsel.

Preliminary Matters

[3] There were no preliminary issues before the Board.

Background

[4] The subject is a single-tenant office/warehouse property located at 5830 – 99 Street NW along a major roadway (99 Street) in the Coronet Industrial neighbourhood of southeast Edmonton. It has a site-coverage of 15% and was built in 1969. The building is in average condition, has a main floor area of 6,400 sq ft, 366 sq ft of which is finished office space.

Issue

[5] Is the subject property assessed in excess of its market value when compared to sales of similar properties?

Legislation

[6] **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

[7] The position of the Complainant was that the assessment of \$1,332,000 was in excess of the market value. In support of this position, the Complainant presented a 17 page assessment brief (Exhibit C-1), testimonial evidence and argument.

[8] The Complainant provided a chart of six sales comparables that were constructed between 1971 and 1989 and ranged in site coverage from 12% to 34%. Building sizes ranged from 5,512 sq ft and 18,556 sq ft and the time adjusted sale prices ranged from \$77.00 to \$202.43/ sq ft (C-1, page 1). The subject property is shown below the table of the Complainant's six sales comparables.

	Address	Year Built	Site Cover %	Total Area	Sale Date	TASP \$/ sft
1	9508 - 62 Ave	1965	20	5,512	Jan-09	202.43
2	6140 - 99 Str	1968	34	8,500	Mar-09	185.01
3	9740 - 54 Ave	1956	12	8,347	Jun-09	165.75
4	840 - 78 Ave	1989	18	6,330	Jul-09	199.00
5	8315 Davies Rd	1973	24	8,000	Mar-10	178.14
6	9805 - 51 Ave	1971	21	18,556	Feb-11	77.00
Sub	5830 - 99 Str	1969	15	6,400	Assmt	208.13

[9] The Complainant requested that the Board place more weight on sales comparables #2, #5 and #6 as these had the most characteristic similarities with the subject (C-1, page 2).

[10] The Complainant stated that the subject had a narrow frontage and very deep lot configuration which constrained its use and development potential (C-1, page 5). The Complainant argued that the unusual shape warranted a lower assessment for the subject property.

[11] During questioning, the Complainant confirmed that the size measurements had been taken from the third party (Network) documents. However, the Complainant was unable to advise the Board:

- a. If any of the six comparables (C-1, page 1) were located on a major artery and carried major traffic influence.
- b. If comparable #3 (C-1, page 8), built in 1956, had undergone any renovations or improvements.
- c. If any municipal by-laws imposed any restrictions on the use or development of the subject property.
- d. If the shape of the subject's lot had any negative impact on its market value.

[12] The Complainant stated that the Respondent's sales comparables were dissimilar because of the condition and were superior properties that deserved to be treated as outliers by the Board. The Complainant requested that the Board reduce the subject's 2013 assessment to \$160/ sq ft or a total of \$1,024,000.

Position of the Respondent

[13] The Respondent presented a 42 page document (Exhibit R-1) that included an assessment brief and a Law & Legislation brief.

[14] The Respondent stated that the most significant factors affecting value, in the order of importance were, (R-1, page 8-10):

1. Total main floor area (per building)
2. Site coverage
3. Effective age (per building)
4. Condition (per building)
5. Location
6. Main floor finished area (per building)
7. Upper finished area (per building)

[15] The Respondent's assessment brief included a chart of seven sale comparables and relevant comments on the Complainant's six comparables. The Respondent highlighted the significant valuation factors that needed adjustments, upward or downward, to provide a true comparison (R-1, page 20). The Respondent's seven sales comparables and the subject property with 2013 assessment of \$208/ sq ft are as follows:

	Address	Loc. Grp.	Year Built	Site Cover %	Total Main Flr	Main Floor Office	Upper Finish	Area	Cond.	Sale Date	TASP/sft
1	9739 - 63 Ave	12	1957	16	4,335	485	0	4,335	Avg	Apr-11	193
2	9325 - 63 Ave	12	1963	24	5,122	1,507	0	5,122	Avg	Dec-10	226
3	9765 - 63 Ave	12	1957	16	5,538	1,344	1,344	6,882	Avg	Apr-12	291
4	840 - 78 Ave	20	1985	20	7,058	1,596	0	7,058	Avg	Jul-09	205
5	1554 - 70 Ave	20	1980	17	7,258	1,140	1,140	8,398	Avg	Jan-08	193
6	9740 - 54 Ave	18	1956	11	7,440	1,440	0	7,440	Avg	Jun-09	186
7	5915 - 91 St	12	1981	16	7,785	2,279	2,279	10,065	Avg	Jul-08	251
Sub	5830 - 99 St	12	1969	15	6,400	335	0	6,400	Avg	Assmt	208

[16] The Respondent stated that the Complainant's sale #6 was not on the open market and should receive no weight (R-1, page 28). The remaining five of the Complainant's sales comparables needed upward adjustment in multiple dimensions (R-1, page 20). The Respondent further argued that:

- a. Four of the five valid sales comparables had much higher site coverage compared with the subject property's 15% (C-1, page 1 and R-1, page 20). The Respondent emphasized that the site-coverage was the second most significant factor in assessment valuation, (R-1, page 8).
- b. Unlike most of the Complainant's comparables, the subject property enjoyed excellent exposure to major arterial traffic on 99th Street.
- c. Two of the Complainant's comparables (sale #2 and sale #3) were vacant at the time of the sale and hence, the sales prices could not be relied upon (C-1, pages 7 and 8).
- d. The subject is located in 'Industrial Group 12 – Major Roadways South'. This is considered to be the second most desirable industrial location in the city. Five out of six of the Complainant's sales comparables were located outside of this, in 'Industrial Group 18 – Core South' and 'Industrial Group 20 – Partially Serviced'. These are less desirable than the subject's location (R-1, page 10). The only comparable from the Complainant's list of six, located within Group 12, is #2, and that property had more than twice the site coverage compared to the subject property.

[17] The Respondent explained the methodology of classifying the industrial properties in different groups and how the two adjacent properties could be placed in different groups (R-1, pages 12 - 14). The Respondent stated that the industrial properties in Group 12 could receive a valuation premium of 10% - 15% over similar properties in Group 18.

[18] The Respondent stated that the subject property was located on a major traffic artery, and had been assessed with 'major' traffic influence (C-1, page 13).

[19] The Respondent stated that the sales comparable #4 (located at 840 – 78 Avenue) was common to both parties. It was assessed at \$205/ sq ft, and provided support for the subject property's 2013 assessment of \$208/ sq ft (R-1, page 20).

[20] The Respondent requested that the Board confirm the 2013 assessment of \$1,332,000.

Decision

[21] The Board confirms the 2013 assessment at \$1,332,000.

Reasons for the Decision

[22] The Board noted that location, for mass appraisal purposes, placed industrial properties in groupings for comparability and were based on neighbourhood boundaries, major roadways or level of servicing. The groupings included in the parties' comparables were: 'Industrial Group 12', the second highest in desirability, 'Industrial Group 18', the fourth highest in desirability, and 'Industrial Group 20', the fifth highest in desirability. The subject is in Industrial Group 12.

[23] The Board considered the Complainant's sale comparables and noted the following:

- a. Sale #1. Less desirable location, comparable in age but 13% smaller building size with a 40% higher site coverage and more than six-times the finished main floor office space of the subject.
- b. Sale #2. Less desirable location, similar in condition but 25% larger building size, ten years newer with 126% higher site coverage and more than six-times the finished main floor office space of the subject.
- c. Sale #3. Less desirable location, similar in condition but 13 years older with 16% larger building size and 25% lower site coverage. This property has more than four-times the finished main floor office space of the subject.
- d. Sale #4. Less desirable location, similar in condition but 10% larger building size, 16 years newer with 33% higher site coverage and almost five-times the finished main floor office space of the subject.
- e. Sale #5. Less desirable location, similar age and condition but 25% larger building size with 60% higher site coverage. Small finished main floor office space, as the subject.

- f. Sale #6. Less desirable location, similar in age but three-times the size of the building and 40% higher site coverage than the subject. The accompanying Network data sheet comments indicated: 'Narrow site with an unusual depth. Acquired with the adjoining property. The vendor was experiencing financial difficulties'. The Respondent had argued that this sale had not been on the open market, probably sold for less than market and its reported sale price could not be relied upon to reflect the true market valuation at the time.

[24] The Board reviewed the sales comparables presented by the Respondent (R-1, page 20) and noted:

- a. All seven of the Respondent's sales comparables were in average condition, the same as the subject.
- b. Four of the seven sales (#1, #2, #3 and #7) were from Industrial Group 12, and shared the same location attribute with the subject.
- c. Three of these four sales comparables (#1, #3 and #7) had similar (16%) site coverage as the subject (15%).
- d. Three of the Respondent's comparables (#1, #2 and #3), while 16% - 32% smaller in building size had substantial main floor finished office space and were 6 to 12 years older than the subject

[25] The Board finds that several of the Respondent's sales comparables with similar location, condition, site coverage and age attributes as the subject, as well as the comparable #4 (included by both parties), supported the subject property's 2013 assessment at \$208/ sq ft.

[26] The Board finds that the Complainant's evidence, testimony and argument did not provide sufficient and compelling reasons for the Board to reduce the assessment. Jurisprudence has established that the burden of proof of demonstrating an assessment is incorrect rests with the Complainant.

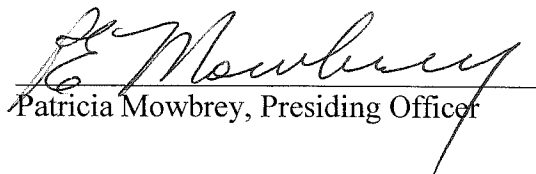
[27] The Board finds the 2013 assessment of \$1,332,000 is correct, fair and equitable.

Dissenting Opinion

[28] There was no dissenting opinion.

Heard September 16, 2013.

Dated this 16th day of October, 2013, at the City of Edmonton, Alberta.


Patricia Mowbrey, Presiding Officer

Appearances:

Peter Smith

for the Complainant

Cam Ashmore

Suzanne Magdiak

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.