

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01392

Assessment Roll Number: 9944398

Municipal Address: 7503 Girard Road NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

CVG

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 representative.

Preliminary Matters

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

Background

[4] The subject is a single building warehouse property located at 7503 Girard Road NW in the Girard Industrial neighbourhood of southeast Edmonton. Built in 1982, the building was assessed in average condition and has a total main floor area of 29,749 sq ft, including 6,039 sq ft of finished office space. There is an additional 3,000 sq ft of finished mezzanine.

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 \$3,998,000 was in excess of the market value. In support of this position, the Complainant presented a 14 page assessment brief (Exhibit C-1), testimonial evidence and argument.

[8] The Complainant provided a chart of seven sales comparables that were built between 1971 and 2001 and ranged in site coverage from 25% to 55%. Building sizes ranged between 10,000 sq ft and 44,994 sq ft, while the time-adjusted sale prices ranged between \$94.61 and \$121.76/ sq ft (C-1, page 1). The subject property is shown below the table of the Complainant's seven sales comparables.

	Address	Year Built	Site Cover %	Total Area	Sale Date	TASP \$/ sft
1	5725 – 92 Str	1971	37	15,002	May-09	121.76
2	7216 - 76 Ave	1976	54	15,000	May-09	100.61
3	7703/15 - 69 Str	1975	34	15,800	Jul-09	118.48
4	9719 - 63 Ave	1988	44	17,149	Jul-10	119.23
5	5820 - 96 Str	1979	45	10,000	Aug-10	112.70
6	7603 - McIntyre Rd.	2001	25	44,000	Dec-10	109.78
7	4115 - 101 Str	1978	40	44,994	Dec-10	94.61
Sub	7503 Girard Rd	1972	28	32,749		122.08

[9] The Complainant requested the Board to place more weight on sales comparables #1, #3, #6 and #7 as these had the most characteristic similarities with the subject (C-1, page 2). However, during the hearing, the Complainant placed more reliance on sales comparable #6.

[10] The Complainant stated that the Respondent's sales comparables were dissimilar because of their size and condition and argued that they were superior properties. The Complainant requested that the Board reduce the subject's 2013 assessment to \$110/ sq ft or a total of \$3,600,000.

Position of the Respondent

[11] The Respondent presented a 46 page document (Exhibit R-1) that included an Assessment Brief and a Law & Legislation Brief.

[12] The Respondent's assessment brief included a chart of five sale comparables and relevant comments on the Complainant's seven 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 five sale comparables and the subject property with 2013 assessment of \$122/ sq ft are as follows:

	Address	Loc. Grp.	Year Built	Site Cover %	Main Flr	Main Floor Office	Upper Finish	Total Area	Cond.	Sale Date	TASP \$/ sft
1	7324 76 Ave	18	1976	37	15,089	4,140	0	15,089	Avg	Apr-11	129
2	6803 72 Ave	18	1978	30	26,499	4,059	0	26,499	Avg	Sep-11	123
3	8011 Davies Rd	18	1981	31	18,412	2,784	0	18,412	Avg	Dec-11	141
4	9402 31 Ave	18	1981	22	20,011	7,115	0	20,011	Avg	Jan-12	170
5	9405 58 Ave	18	1979	23	12,724	3,029	0	12,724	Avg	Feb-12	173
Sub	7503 Girard Rd	18	1982	28	29,748	6,039	2,999	32,748	Avg	Assmt	122

[13] 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)

[14] The Respondent stated that the Complainant's sale #5 was a non-arm's length sale and should receive no weight (R-1, page 20). The remaining six of the Complainant's sales comparables needed upward adjustment in multiple dimensions (R-1, page 20). The Respondent further argued that:

- a. The age of the subject property had been misstated on the Complainant's disclosure as 1972 (C-1, page 1), and the correct effective year built was 1982 (R-1, page 20).
- b. Five of the six valid sales comparables had much higher site coverage compared with the subject property's 28% (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).

- c. Finished office space on the main floor was deemed a positive attribute that added value to the property. Only one of the Complainant's six valid sales comparables had as much finished main floor office space as the subject's 6,039 sq ft.
- d. Two of the Complainant's comparables (sale #1 and sale #2) had below market leases at the time of the sale and hence, the sales prices could not be relied upon (C-1, pages 3 and 4).
- e. Sales comparable #3 had been purchased by the lead tenant of the property and the leases in place were stated to be short-term and below market. The Respondent argued that in such circumstances, the Network reported sale price could not be relied upon (C-1, page 5).
- f. Two other sales comparables (sale #4 and sale #5) presented by the Complainant were 'vacant' at the time of the sale and therefore, the Network reported sale prices could not be accepted as reflective of the market valuations for similar properties. In addition, the Complainant's comparable #4 was in 'Fair' condition and hence, not comparable with the subject property (C-1, pages 6 and 7).

[15] The Respondent stated that the Complainant's preferred sales comparable (#6) indicated an incorrect building size of 44,000 sq ft (C-1, page 1). The actual building size was 40,000 sq ft plus an upper (mezzanine) finished area of 2,501 sq ft. With these correct measurements the 2013 assessment is \$114/ sq ft. In view of its much larger building size with a smaller main floor finished office space compared to the subject, its assessment of \$114/sq ft supported the subject's assessment of \$122/ sq ft.

[16] The Respondent requested that the Board confirm the 2013 assessment of \$3,998,000.

Decision

[17] The Board confirms the 2013 assessment at \$3,998,000.

Reasons for the Decision

[18] The Board noted the most significant factors affecting assessment value as outlined by the Respondent at R-1, page 8 (see para 13).

[19] The Board considered the Complainant's sales comparables and noted the following:

- a. Sale #1. Similar location, half the building size but six years older with a 32% higher site coverage, no upper finished space and about half the finished main floor office space as the subject.
- b. Sale #2. Similar location, slightly more than half the building size, six years older, similar in condition with 93% higher site coverage, no upper finished space and half the main floor finished office space as the subject.

- c. Sale #3. Similar location, half the building size, seven years older with 21% greater site coverage and similar condition. This had no upper finished space and only 65% of the main floor finished office space as the subject. The property had been purchased by the lead tenant.
- d. Sale #4. More desirable location, but only 57% of the subject's size, six years newer with 57% higher site coverage and comparable finished main floor office space. The property was vacant at the time of sale but the most significant difference was its condition – listed as 'fair' with the subject being in average condition.
- e. Sale #5. Similar location, similar age and condition but only a third of the subject's building size with 60% higher site coverage. Finished main floor office space was 40% of the subject. The property was vacant at the time of sale and the sale had been flagged as a non-arm's length transaction.
- f. Sale #6. Similar location, 19 years newer than the subject but in similar condition with 35% larger building size and 10% lower site coverage. Finished main floor office space was 66% of the subject with a comparable amount (2,501 sq ft) of office space on the upper mezzanine level.
- g. Sale #7. Similar location, 13 years older than the subject but in similar condition with 51% larger building size and 43% higher site coverage. Finished main floor office space was 25% larger than the subject with no upper finish.

[20] The Board reviewed the sale comparables presented by the Respondent (R-1, page 20):

- a. Sale #1. Similar location, half the building size, six years older with 32% greater site coverage and similar condition, no upper finished office space and 68% of main floor finished office space as the subject.
- b. Sale #2. Similar location, 10% smaller building size, four years older with comparable site coverage and similar condition, no upper finished office space and only 66% of the main floor finished office space as the subject.
- c. Sale #3. Similar location, nearly 60% of the building size, similar age with 10% greater site coverage and similar condition, no upper finished office space and less than half (47%) of the main floor finished office space as the subject.
- d. Sale #4. Similar location, age and condition, two-thirds the building size with 21% lesser site coverage, no upper finished office space and 18% larger main floor finished office space as the subject.
- e. Sale #5. Similar location, less than half the building size (43%), three years older with 18% lesser site coverage and similar condition, no upper finished office space and only half of the main floor finished office space as the subject.

[21] The Board finds that most of the comparables presented by both parties differ significantly from the subject property in terms of location, age, extent of finished office space and site coverage.

[22] However, the Board finds the Respondent's sale comparable #2 persuasive, in that it shows strong comparability with the subject in terms of location, age, site coverage, building size and condition. The most significant difference lies in the size of the finished main floor office space. While the subject has 6,039 sq ft, or 20% of the total main floor space, finished as office space, comparable (#2) has only 4,059 sq ft or 15% of the total main floor finished as office space with no finished upper office space. Even without the additional value of the finished office space, comparable #2, with a time-adjusted sale price of \$123/ sq ft provides strong support for the subject property's 2013 assessment at \$122/ sq ft.

[23] 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.

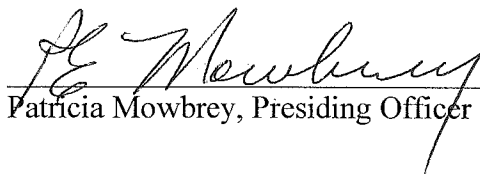
[24] The Board finds the 2013 assessment of \$3,998,000 is correct, fair and equitable.

Dissenting Opinion

[25] There was no dissenting opinion.

Heard commencing 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.