

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01393

Assessment Roll Number: 9983202
Municipal Address: 4104 78 Avenue 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] During the hearing, the Complainant presented rebuttal to the Board to which the Respondent objected, stating that;

- a. The Complainant's submission that multiple buildings on a property should be treated as one building, was not a proper rebuttal;
- b. The Complainant's rebuttal contained new evidence that could have been included in the original disclosure (C-1);
- c. The Complainant's rebuttal document did not rebut anything that had been presented by the Respondent.

[4] The Respondent argued that through the rebuttal, the Complainant was attempting to split its case, and the same should not be permitted. The Respondent referred to *R. v. Krause*, [1986] S.C.J. No. 65, para 15 and 16 (R-1, pages 46-47).

[5] The Board recessed to deliberate and rendered a decision to the parties. The Board decided that the Complainant's rebuttal would be disallowed, as it was comprised of information that could have been included in the Complainant's original disclosure and did not appear to rebut any evidence that had been presented at the hearing by the Respondent.

[6] There were no other preliminary issues before the Board.

Background

[7] The subject is a 3-building office/warehouse property located at 4104 – 78 Avenue NW in the Weir Industrial neighbourhood of southeast Edmonton. All three buildings are in average condition. Building #1, with an effective year built of 1987, has a total main floor area of 67,646 sq ft, 6,821 sq ft of which is finished office space. Building #2, with an effective year built of 1977, has a total main floor area of 39,171 sq ft, 5,967 sq ft of which is finished office space. Building #3, with an effective year built of 2003, has a total main floor area of 63,998 sq ft, 5,400 sq ft of which is finished office space. There is an additional 3,375 sq ft of finished upper (mezzanine) space in building #3. It has a site-coverage of 36%.

Issue

[8] Is the subject property assessed in excess of market value?

Legislation

[9] **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

[10] The position of the Complainant was that the assessment of \$18,724,000 was in excess of the market value. In support of this position, the Complainant presented a 13 page assessment brief (Exhibit C-1), testimonial evidence and argument.

[11] The Complainant provided a chart of six sale comparables that were built between 1968 and 2001 and ranged in site coverage from 40% to 54%. Building sizes ranged between 44,994 sq ft and 260,916 sq ft, while the time-adjusted sale prices ranged between \$74.37 and \$105.52/

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	4101/25 - 84 Ave	1998	54	162,860	Feb-10	90.47
2	4600 - 99 St	1977	43	97,743	Oct-10	105.52
3	4115 - 101 St	1978	40	44,994	Dec-10	94.61
4	4704 - 97 St	1979	44	58,837	Aug-11	102.70
5	3650/3850 98 St	1968	41	260,916	Aug-11	84.39
6	2103 - 64 Ave	2001	41	251,959	May-09	74.37
Sub	4104 - 78 Ave	77/87/02	36	174,195	Assmt	107.49

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

[13] The Complainant questioned the City's assessment practice of valuing each of the three buildings separately and adding the individual valuations for the total 2013 assessment, ignoring the differences. The Complainant also argued that any buyer of such a property would take into account the total building area and not treat each building as a separate entity. As such, the City's assessment practice does not account for market realities.

[14] The Complainant stressed that building #2 was located at the rear and could only be accessed from within the property, which reduced the development potential and utility of the site. This, in the Complainant's view, puts into question the validity of the site coverage of 36%.

[15] The Complainant argued that sale comparable #1 (C-1, pages 1 and 3) had exposure to the same freeway as the subject and its time-adjusted sale price of \$90.47 supported the reduction of the subject's 2013 assessment.

[16] In summation, the Complainant stated that two of the Complainant's sale comparables (#3 and #4; C-1, page 1), which were also in the Respondent's sales analysis (#1 & #3; R-1, page 24), supported a reduction in the assessment. The Complainant stressed that the Respondent's only two multi-building sales comparables (R-1, page 24) were much smaller in size than the subject's total size, and supported a lower assessment for the subject property. The Complainant requested that the Board reduce the 2013 assessment to \$95/ sq ft or a total of \$16,550,000 (C-1, page 2).

Position of the Respondent

[17] The Respondent presented a 52 page document (Exhibit R-1) that included an assessment brief and a Law & Legislation brief.

[18] Commenting on the Complainant's sales comparables, the Respondent highlighted the significant valuation factors that needed adjustments, upward or downward, to provide a credible comparison (R-1, page 33).

[19] The Respondent raised the following concerns with the sale comparables presented by the Complainant.

- a. Most of the comparables were single-building properties whereas the subject property had three buildings.
- b. No adjustments had been made to account for the differences in ages, which differed by as much as 35 years.
- c. No adjustment had been made for differences in site coverage, which in one case was 50% higher than the subject property.
- d. Some of the sales comparables (#1, #3 and #5) were shown to have below market leases at the time of sale and this could translate to lower than market sale prices.
- e. The Network data sheet in respect of the sale comparable #5 (C-1, page 7) indicated a number of issues including roof work and the sale being a part of a multi-property transaction.

[20] The Respondent argued that the only comparable in the Complainant's chart that required little adjustment overall was comparable #2 (R-1, page 33). However, the correct time-adjusted sale price of \$113/ sq ft supported the subject property's 2013 assessment at \$107/ sq ft.

[21] The Respondent presented a table of eight sale comparables in support of the 2013 assessment at \$107/ sq ft. The first four were older properties and more comparable with the subject's buildings #1 and #2, while the latter four, with effective years built ranging from 1995 to 2008, were in support of the assessment of the subject's building #3 with an effective age of 2003.

	Address	Loc. Grp.	Year Built	Cover %	Total Main Flr	Main Office	Upper Finish	Total Area	Cond.	Sale Date	TASF \$/ sq
1	4115 - 101 St	18	1969	40	44,887	7,535	0	44,887	Avg	Dec-10	95
2	8210 McIntyre Rd	18	1974	28	41,991	13,165	0	41,991	Avg	Jan-11	119
3	4704 - 97 St	18	1979	44	59,655	25,930	0	59,655	Avg	Aug-11	101
4	9503 - 42 Ave	18	1978	36	63,093	24,638	0	63,093	Avg	Apr-12	113
5	17404 -111 Ave	17	2005	39	65,241	25,399	9,560	74,801	Avg	Jun-08	152
6	7612 - 17 St	18	1995	39	132,720	4,600	0	132,720	Avg	Jul-10	127
7	5605 - 70 St	18	2008	34	118,438	23,200	23,200	141,638	Avg	May-11	213
8	12959 - 156 St	17	2008	42	98,358	5,621	1,660	100,018	Avg	Jul-11	134
Sub	4104 - 78 Ave	18	1969	36					Avg	Assmt	107
	Building #1	18	1987	36	67,645	6,821	0	67,645	Avg		107
	Building #2	18	1977	36	39,170	5,967	0	39,170	Avg		107
	Building #3	18	2003	36	63,997	5,399	3,374	67,372	Avg		107

[22] The Respondent stated that for multiple building properties such as the subject, each building is analyzed for its contributory value to the property and a single assessment produced that represents the aggregate market value of each building. The reasons for doing so are founded

in both appraisal theory and market analysis. The Respondent drew the Board's attention to the relevant parts of the City's assessment policy included in the assessment brief (R-1, page 8).

[23] 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 and 13).

[24] The Respondent stated that because building #2 did not have street exposure, a negative adjustment of 10% had been applied to its 2013 assessment (R-1, page 21).

[25] The Respondent requested that the Board confirm the 2013 assessment of \$18,724,000.

Decision

[26] The Board confirms the 2013 assessment at \$18,724,000.

Reasons for the Decision

[27] The Board was persuaded by the Respondent's reasoning and the methodology of preparing separate assessments for each building and aggregating the results to arrive at the total assessment for the entire property.

[28] The Board considered the most significant factors affecting value, in the order of importance were (R-1, page 8-10):

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

[29] The Board noted that main floor area is based on the exterior measurements of the building, and also noted that economies of scale dictate that larger buildings trade for a lower unit of comparison than smaller buildings.

[30] The Board reviewed the comparable sales presented by the Complainant (C-1, page 1) and noted that the Complainant had requested the Board to place more weight on the sales with the most similar physical characteristics, i.e. sales #1, #2, #5, and #6.

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

- a. Sale #1. Similar location, one large building that is comparable in total size but much larger than any of the three buildings on the subject property. Similar in condition, comparable in age and main floor finished office space with 50% higher site coverage.
- b. Sale #2. More desirable location, one large building that is 50% larger than the largest building on the subject property, effective age is comparable with the oldest of the three buildings on the subject property, 20% higher site coverage. Extent of main floor finished office space was not known. The Respondent indicated that this property was not included in the City's warehouse inventory and when the relevant retail time-adjustment factors were applied, the time adjusted sale price of \$113/ sq ft supported the subject assessment of \$107/sq ft.

- c. Sale #3. Similar location, one building that is comparable in size with the smallest building on the subject property. Comparable in condition and its effective age of 1969 makes it eight years older than the oldest of the three buildings in the subject.
- d. Sale #4. Similar location, one building that is comparable in size with one of the larger buildings on the subject property. Site coverage 22% higher than the subject, comparable in condition and its effective age of 1979 makes it comparable with the oldest of the three buildings in the subject.
- e. Sale #5. Similar location and condition but the building size is more than 400% larger than the largest building on the subject. Built in 1978, is as old as the oldest building on the subject with 25% higher site coverage.
- f. Sale #6. Significantly less desirable location, comparable in condition with 14% higher site coverage. Comparable in age with the newest of the three properties on the subject but its building size is 373% of the largest building on the subject and has less than 50% of the main floor finished office space.

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

- a. Only four of the Respondent's sales comparables (#2, #3, #4 and #6) were in the comparable age bracket with the three properties in the subject.
- b. Analysis of these four comparables provided the following information.
 - i. All four comparables are located in the same industrial group (18).
 - ii. Two of these comparables (#3 and #4) were also multiple-building properties.
 - iii. The average of the effective year built of the four comparables is 1982 and a median of 1978/79, compared with subject's average effective year built of 1989 and arithmetic median of 1987.
 - iv. Average site coverage of 37% and median of 40%, compared with the subject at 36%.
 - v. Building size average of 74,365 sq ft and median of 61,374 sq ft compared with the subject's average of 56,934 sq ft and median of 63,997 sq ft.
 - vi. Main floor finished office space average of 17,083 sq ft and a median of 18,901 sq ft compared with the subject's total of 18,187 sq ft.
 - vii. Time-adjusted sale price showed an average of \$115/ sq ft with a median value of \$116/ sq ft, compared with the subject property's 2013 assessment of \$107/ sq ft.

[33] After excluding the comparables that differed significantly from the subject property in terms of age and location, the Board found a strong correlation with the subject property emerged from the above analysis of the Respondent's comparables' sub-set.

[34] 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.

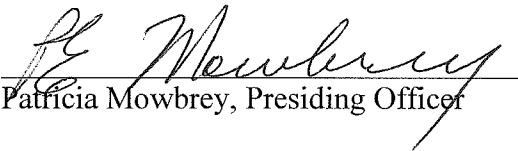
[35] The Board finds the subject 2013 assessment of \$18,724,000 is correct, fair and equitable.

Dissenting Opinion

[36] 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.