

Edmonton Composite Assessment Review Board

Citation: AEC International v The City of Edmonton, 2013 ECARB 01704

Assessment Roll Number: 9514928

Municipal Address: 7350 68 Avenue NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

AEC International

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Larry Loven, Presiding Officer

Darryl Menzak, Board Member

Jasbeer Singh, 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.

Preliminary Matters

[2] At the outset of the hearing, the Complainant advised the Board that the Respondent's disclosure had not been received within the stipulated time frame. The Respondent acknowledged its failure to have the disclosure package delivered to the Complainant and did not cite any exceptional circumstances that resulted in this lapse. The Complainant objected to the inclusion of the Respondent's evidentiary package or any new evidence at the hearing.

[3] Pursuant to the provisions contained in *Matters Relating to Assessment Complaints Regulation (MRAC) s 9.2*, the Board disallowed any new evidence from the Respondent to be disclosed at the hearing.

Background

[4] The subject property is a medium warehouse property comprised of a single 23,079 sq ft building built in 2002. It is located at 7350 – 68 Avenue NW in the Davies Industrial East neighborhood. The subject property is 2.20 acres and the site coverage is 21%.

Issue(s)

[5] Is the 2013 assessment of \$3,865,000 for the subject property fair and equitable?

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.

[7] The *Matters Relating to Assessment Complaints Regulation, Alta Reg 310/2009*, reads:

s 8(1) In this section, “complainant” includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(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;

(b) the respondent must, at least 14 days before the hearing date,

(i) disclose to the complainant 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 respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

(ii) provide to the complainant and the composite assessment review board an estimate of the amount of time necessary to present the respondent’s evidence;

(c) the complainant must, at least 7 days before the hearing date, 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 rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

s 9(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

s 10(3) A time specified in section 8(2)(a), (b) or (c) for disclosing evidence or other documents may be abridged with the written consent of the persons entitled to the evidence or other documents.

Position of the Complainant

[8] The Complainant filed this complaint on the basis that the subject property's assessment of \$3,865,000 for 2013 was inequitable and in excess of the market value. In support of this position, the Complainant presented a 14 page assessment brief, Exhibit C-1("C-1").

[9] To support the position that the assessment was not fair, the Complainant provided a table of seven sales comparables (C-1, p. 8) and proceeded with a comparative analysis summarized as follows:

- a. The building area of the sales comparables ranged from 15,000 square feet to 28,690 square feet, compared to the building area of the subject property at 23,079 square feet.
- b. The effective age of the sales comparables ranged from 1992 to 2008, compared to subject property's effective age of 2002.
- c. The lot sizes for the sales comparables ranged from 1.35 acres to 4.33 acre, compared to the subject property's lot size of 2.20 acres.
- d. The subject property had site coverage of 21% with the sales comparables' site coverage ranging from 9% to 27%.
- e. The time adjusted sale prices (TASPs) for the sales comparables ranged from \$133 per square foot to and \$163 per square foot with median of \$140 per square foot. This was, in the opinion of the Complainant, a clear indication of the subject property being over assessed at \$167 per square foot.

[10] The Complainant stated that its sales comparable #1 (C-1, p. 8) was closest to the subject property in terms of age, lot size and site coverage. The Complainant acknowledged that this sales comparable was located in a different market area but was, nevertheless, a good comparable. It was understood from the Complainant, the time adjusted sale price of \$133 per square foot for this sales comparable property strongly supported the request for \$140 square foot value for the subject property.

[11] In summation, the Complainant stated that the site coverage and the building sizes were the most important valuation factors; and the assessment of the subject property at \$167 per square foot was outside the range shown for the seven comparables. The Complainant requested the Board to reduce the 2013 assessment to \$140 per square foot for a value of \$3,231,000 (C-1 p. 3).

Position of the Respondent

[12] The Respondent's documentary evidence, had not been received by the Complainant within the stipulated time frame, and was disallowed by the Board. The Respondent was not allowed to present any new evidence at the hearing. However, during cross examination of the Complainant's evidence and argument, the Respondent highlighted the following:

- a. The Complainant had relied on a table of seven sales comparables (C-1, p. 8) for which there was no supporting documentation.
- b. The Complainant identified the sources to be *Commercial Edge*, a third-party industry source, and City of Edmonton websites. However, no supporting documentation was included. Thus, there were no means provided for the Board to verify the sales comparables information presented.
- c. The Complainant was not able to confirm if the third-party information in respect of the sales comparables presented had been independently verified.
- d. Details of finished office space on the main or the upper floors were not included in the Complainant's evidentiary documentation package.
- e. The Respondent questioned the Complainant's statement that the second floor office space (not shown) had negligible value and countered that second floor finished space was very valuable, as it provided more usable space without encumbering the land, that is provided more office space with the same Floor Area Ratio("FAR").
- f. The Respondent pointed out that the ASR (Assessment to Sale Ratio) values like 0.54 and 1.45, shown in the Complainant's table (C-1, p. 8) were clearly outside the reasonable or acceptable range and needed to be investigated for correctness. However, no supporting information was included in the Complainant's package to ascertain the correctness of these.
- g. Calculating the site coverage percentages with the building size and the lot size information provided in the Complainant's table (C-1, p. 8) produced different results than shown on the table. This could likely be attributed to second floor finished areas, for which no information had been placed before the Board.
- h. Three of the seven comparables in the Complainant's table (C-1, p. 8) were multiple building properties, whereas the subject property had a single building. The Board had not been informed if any of the sales comparables included any 'cost' buildings. The subject property had no cost buildings.
- i. Four of the seven comparables provided by the Complainant were in inferior locations. One sales comparable was located in NE industrial quadrant of the City and the Complainant acknowledged that properties in this location sold for less, but was not able to quantify the difference. Sales comparable #3 was located in a partially serviced area; #6 was in an un-serviced area; and, #5 was located in a part of the city that had unserviced areas.

- j. The Complainant's sale comparable #5 was identified as having been a judicial sale.
- k. The Complainant was not aware if any industrial adjustments had been applied to the sales comparable properties (C-1, p. 20).

[13] In summation, the Respondent stated that the sales comparables presented by the Complainant were not comparable to the subject property because:

- a. Property with site coverage of 9% could not be easily compared with another property with 21% site coverage.
- b. The subject property, with a single building on site could not be compared with multiple-building properties, and the Complainant had failed to provide the necessary information to the Board.
- c. Factors like finished areas on the main and upper floors and condition of the buildings can have significant influence on per square foot value of the properties; and this information was not before the Board.
- d. Without the sales verification information, it was not possible to establish if the comparable sales were non-arms length or not; full or partial interest sales; or, if any additions or improvements had been made subsequent to the sale date.

[14] The Respondent emphasized that the Complainant's documentary submission did not meet the appropriate standard of evidence, and requested the Board to confirm the 2013 assessment at \$3,865,000.

Decision

[15] The decision of the Board is to confirm the 2013 assessment at \$3,865,000.

Reasons for the Decision

[16] The Board accepts the Complainant's premise that it is not always possible to find sales comparables that are identical to the subject property and certain degrees of adjustments are necessary to establish correlation or comparability. However, in order achieve an understanding of the degree of comparability, all relevant and verifiable details, with supporting documentation should be provided. In this case, the Board finds the lack of any verifiable information placed serious limitations on the Board's ability to determine if the subject property's assessment was incorrect.

[17] The Board accepts the Respondent's argument that it is necessary to establish correlation and comparability in more dimensions than just the building size, year of construction, the site coverage and the time adjusted sales price; and, the necessary information to be able to do the same was not placed before the Board.

[18] The Board notes that the stated median assessed value of \$160 per square foot of the seven sales comparables (C-1, p. 8), provides support for the assessed value of the subject property at \$167 per square foot. However, the Board was unable to place much weight on these

sales comparables as presented, as there were discrepancies in the individual assessment unit rates shown in the table and not sufficient supporting information to reconcile the differences.

[19] The Board notes the Complainant's acknowledgement that the industrial properties in the north-east quadrant sold for less; however, in the absence of reliable quantification of the difference in values, the Board is not able to place much weight on the Complainant's most preferred sales comparable, #1, as it was located in the north-east quadrant, accepted to be sufficiently dissimilar in location to the subject property.

[20] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. The Board is satisfied that the Complainant did not provide sufficient and compelling evidence for the Board to form an opinion as to the incorrectness of the assessment. Accordingly, the Board confirms the 2013 assessment at \$3,865,000 for the subject property.

Dissenting Opinion

[21] There was no dissenting opinion.

Heard commencing October 16, 2013.

Dated this 15th day of November, 2013, at the City of Edmonton, Alberta.



Larry Loven, Presiding Officer

Appearances:

John Smiley
for the Complainant

Joel Schmaus
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.