

Edmonton Composite Assessment Review Board

Citation: AEC International v The City of Edmonton, 2013 ECARB 01707

Assessment Roll Number: 9960589
Municipal Address: 9520 51 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 the failure on the City's part 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 *s.9(2) of the Matters Relating to Assessment Complaints Regulation (MRAC)*, 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 three buildings built between 1988 and 2001. It is located at 9520 – 51 Avenue NW in the Coronet Industrial neighborhood. The property is 2.736 acres and site coverage 14%.

[5] The Complainant has filed an objection to the 2013 assessment of \$4,505,500, on the grounds that this valuation is inequitable and in excess of the market value of the property. (C-1, p. 3).

Issue(s)

[6] Is the 2013 assessment of \$4,505,500 for the subject property correct?

Legislation

[7] 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.

[8] 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

[9] The Complainant filed this complaint on the basis that the subject property's assessment of \$4,505,500 for 2013 was in excess of the market value. In support of this position, the Complainant presented a 20 page assessment brief (Exhibit C-1 ("C-1")).

[10] To support the position that the assessment was not fair, the Complainant provided a table of seven sales comparables (C-1, p.13) and proceeded with an analysis summarized as follows:

- a. The sales comparables, built between 1995 and 2006, were shown to have median site coverage of 28%, median 2013 assessment of \$178 per square foot and median Time Adjusted Sale Price (TASP) of \$163 per square foot.
- b. The subject property has three buildings: a main warehouse measuring 14,602 square feet; an auto service building measuring 1,760 square feet; and, an outbuilding (shed) measuring 2,520 square feet (C-1, p. 3).
- c. The Complainant stated that the outbuilding should be assessed at a nominal value of \$10 per square foot; leaving an assessment value of \$4,480,300 ($= (\$4,505,500 - (2520 \text{ square feet} \times \$10))$) for the remaining two buildings and land (C-1, p. 3).
- d. There is an auto service facility located at 5333 – 75 Street NW measuring approximately 4,000 square feet, according to City of Edmonton documentation (C-1, pp. 3, 11-12). The Complainant's review indicated an actual size of about 2,500 square feet on 1.26 acre of land. This property has a 2013 assessment of \$1,368,500.
- e. The Complainant argued that a similar sized area of land, inclusive of the auto service building in the subject property, should be deemed to be equal in value to the assessment value of \$1,368,500 placed on the property above, located at 5333 – 75 Street.

- f. Subtracting this value, \$1,368,500, from the remainder of the assessment amount of \$4,480,300, provided a value of \$3,111,800 for the two buildings measuring a total of 16,362 square feet and a land portion of 1.474 acres (= 2.726 – 1.262).
- g. The net value of \$3,111,800 resulted in a per square foot assessment of \$213, for the 14,602 square foot main warehouse building on a 1.474 acre site and a 22.7% site coverage (C-1, p. 3).

[11] The Complainant argued that the \$213 per square foot assessment for the warehouse building was excessive in comparison with the median per square foot sale price or the median per square foot assessed value for the seven comparable properties (C-1, p. 13).

[12] Responding to a question from the Respondent, the Complainant stated that the building sizes of the subject property used in the analysis above were not the City measurements but rather actual measurements taken by the Complainant.

[13] In summation, the Complainant stated that the subject property had mixed use buildings on site and if the auto-service centre and the outbuilding improvement were separated from the total assessment, the 2013 assessment for the warehouse building at \$213 per square foot was excessive and needed to be reduced. The Complainant requested a value of \$3,774,000 for the subject property. (C-1, p. 3).

Position of the Respondent

[14] 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 comparables (C-1, p. 13) for which there was no supporting documentation.
- b. The Complainant identified the sources to be *Commercial Edge*, a third-party industry source, and the City of Edmonton websites. However, no supporting documentation was available.
- c. There were no means provided for the Board to ascertain the accuracy of the information presented at the hearing.
- d. The Complainant had relied on the third-party, *Commercial Edge*, as the source of information but was not able to confirm if any specific verification had been done in respect of the seven sales comparables presented.
- e. Details of finished office space on the main or the upper floors were not included in the Complainant's information package.

- f. The Respondent questioned the Complainant's statement that the second floor office space measurements were not provided as it had negligible value; and countered the same by adding that the second floor finished space was very valuable as it provided more space without encumbering the land i.e. more space with the same Floor Area Ratio (FAR).
- g. The Complainant was unable to provide any information as to the sale dates for the sales comparables or whether or not any additions or changes had been made to the properties in the table of comparables (C-1, p. 13).
- h. The Complainant was not aware if any industrial adjustments had been applied to the sales comparable properties. (C-1, page 13).

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

- a. The subject property, with multiple buildings on site could not be compared with single building properties.
- b. 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 placed before the Board.
- c. Without the sales verification information, it was not possible to establish if the sales were non-arms length sales or not; full or partial interest sales; or, if any additions or improvements had been made subsequent to the sale date.

[16] The Respondent argued that the detailed assessment reports were available on the City of Edmonton websites and additional information could be obtained under s.299 of the *MGA*; and neither had been done to substantiate or support the basis for the Complaint.

[17] The Respondent requested the Board to confirm the 2013 assessment of the subject property at \$4,505,500.

Decision

[18] The decision of the Board is to confirm the 2013 assessment at \$4,505,500.

Reasons for the Decision

[19] 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.

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

[21] The Board notes that the \$213 per square foot adjusted value for a portion of the subject property, presented by the Complainant (C-1, p. 20), was determined by:

- a. Subtracting the assessed value of a comparatively similar component, an auto service centre property, from the subject property's 2013 assessment; and, the value of the 2,520 square foot outbuilding on the subject property on a \$10 per square foot the cost approach.
- b. The Board understands that the Complainant excluded the 2,520 square foot outbuilding from the analysis to arrive at the value of \$213 per square foot; however, the Board was not provided with sufficient verifiable information to accept the Complainant's exclusion of this building from the assessed building areas.
- c. The building size used by the Complainant to arrive at the value of \$213 per square foot was 14,602 square feet (C-1, p. 3), based on the Complainant's information. However, based on the subtracting of the auto service building and the outbuilding, given by the Respondent, from the total gross area given on the 2013 assessment detail map of the subject property, the Board finds the total area of the main building to be 16,946.5 square feet. Further, the Board was not provided with any other information to ascertain the correctness of these measurements.

[22] In the absence of sufficient supporting documentation, the Board is unable to place great weight on these sales comparables nor to establish the correctness of the sales comparables' information, the validity of these sales or the comparability of these sales to the subject property, relied upon by the Complainant to determine the requested value of \$163 per square foot.

[23] The Board finds from its review of the photographs of the Complainants sales comparables that, all are single building properties, and at least four appear to have second floor office.

[24] Regardless of the methodology used by the Complainant to determine values for components of the subject property, the Board notes the Complainant's requested value for the main building is based on 14,602 square feet. However, the Board finds the remaining area of 16,946.5 square feet (for the main building) from para. 21(c) results in a value of \$2,762,279. Adding in the value of the remaining two components, as determined by the Complainant, totals to a value of \$4,155,980 or \$195.80 per square foot.

[25] If the median assessed value per square foot value of \$178, given by the Complainant, is substituted in the calculation above, the Board finds the resulting value for the subject property is \$4,410,177 or \$207.77 per square foot.

[26] Therefore the Board finds, based on the sale comparables provided by the Complainant and the component valuation put forward by the Complainant using total gross areas in

accordance with the assessment for the subject property, the Board concludes the subject to be equitably assessed.


[28] 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 \$4,505,500 for the subject property.

Dissenting Opinion

[29] 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.