

Edmonton Composite Assessment Review Board

Citation: John C. Manning v The City of Edmonton, 2013 ECARB 01713

Assessment Roll Number: 8636334

Municipal Address: 5810 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

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] There were no preliminary issues before the Board.

Background

[3] The subject property comprises of a single-tenant office/warehouse with a total main floor area of 23,580 square feet with 5,400 sq ft of finished office space on the main floor and 5,400 square feet of finished basement office space assessed as upper mezzanine space. The subject property located at 5810 – 99 Street NW in the Coronet Industrial neighbourhood. Built in 1978, the building is in average condition. The 2013 assessment of the subject property, based on income approach, is \$3,635,500, and is under appeal.

Issue(s)

[4] Is the 2013 assessment of \$3,635,500 for the subject property in excess of market value?

Legislation

[5] 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

[6] The Complainant's position was that the assessment of \$3,635,500 was in excess of market value. In support of this position, the Complainant presented a 15 page assessment brief, Exhibit C-1 ("C-1"), testimonial evidence and argument.

[7] The Complainant provided a chart of six sale comparables.

#	Address	Year Built	Site Cover (%)	Total Area	Sale Date	TASP/Sq.ft
1	8210 McIntyre Rd	1974	28	42,000	Jan-11	\$118.60
2	803/19 - 77 Ave	82/'94	29	24,485	Mar-11	\$104.46
3	7709 - 16 St	1979	32	11,520	Apr-11	\$128.51
4	7308 - 76 Ave	1971	37	14,850	Apr-11	\$131.37
5	7716 - 67 St	1978	43	13,788	May-11	\$114.13
6	9515 - 51 Ave	1980	24	29,492	May-11	\$124.50
Subject	5810 - 99 St	1968	27	28,980		\$125.45

[8] As evident from the above chart, these comparables were built between 1971 and 1994, and range in site coverage from 24% to 43%. Building sizes ranged from 11,520 square feet to 42,000 square feet and the time adjusted sale prices ranged between \$104.46 per square foot and \$131.37 per square foot (C-1, p.1). The subject property assessment is shown at the bottom of the table of the Complainant's six sale comparables.

[9] The Complainant requested that the Board place more weight on sales comparables #1 and #2, as these showed more similarity with the subject property (C-1, p. 2).

[10] In summation the Complainant stated that comparables #3, #4 and #5, although smaller in building size than the subject property, supported the requested assessment value of \$115 per square foot.

[11] The Complainant requested the Board to reduce the 2013 assessment to \$115.00 per square foot, for an assessment of \$3,332,500 (C-1, p. 2).

Position of the Respondent

[12] The Respondent presented a 44 page document, Exhibit R-1("R-1"), that included a Law & Legislation brief and an assessment brief that included a chart of seven sales comparables in support of the subject assessment.

#	Address	Ndhhd Grp.	Year Built	Site Cover %	Main Flr	Main Floor Office	Upper Finish	Total Area	Cond.	Sale Date	TASP / sq ft
1	9515 - 51 Ave	12	1978	23	29,200	6,160	1,120	30,320	Avg	Jun-12	\$160
2	4004 - 99 St	12	1974	45	38,859	2,583	0	38,859	Avg	Jan-09	\$123
3	9335 - 45 Ave	18	1982	28	22,013	3,119	3,119	25,132	Avg	Jul-08	\$141
4	9333 - 37 Ave	18	1977	30	16,598	4,844	3,305	19,093	Avg	Aug-08	\$153
5	8210 McIntyre	18	1974	28	41,991	13,165	0	41,991	Avg	Jan-11	\$119
6	4810 - 93 St	18	1974	25	27,750	17,648	0	27,750	Avg	Feb-11	\$155
7	6803 - 72 Ave	18	1978	30	26,499	4,059	0	26,499	Avg	Sep-11	\$123
Sub	5810 - 99 St	12	1978	27	23,580	5,400	5,400	28,980	Avg		\$125

[13] The Respondent's sales comparables were similar to the subject property in age and condition. Sales comparables #1 and #2 were similar in location to the subject property, while the other five were from an lower ranking industrial group. The site coverage ranged from 23% to 45%, building sizes ranged from 16,598 square feet to 41,991 square feet and the Time Adjusted Sale Price (TASP) ranged from \$119 per square foot to and \$160 per square foot (R-1, p. 13).

[14] The Respondent stated that its sales comparable #1 was also presented by the Complainant's as its sales comparable #6. However, the sale of the same property presented by the Respondent, as it was more recent and should be given more weight, supported the assessment of the subject property.

[15] The Respondent's sales comparable #2 was similar to the subject property in terms of location, age, lot size and was a third larger in building size. Its time adjusted sale price of \$123 per square foot supported the assessment of the subject property, even without the upward adjustment for its higher site coverage of 45%, compared to 27% for the subject property.

[16] The Respondent stated that both of the Complainant's preferred sales comparables, #1 and #2, were located in inferior locations, with one being in a partially serviced neighbourhood, and should not be relied upon to establish the value for the subject property.

[17] In summation, the Respondent stated that:

- a. Five of the six sales comparables presented by the Complainant were from inferior locations; with two from partially serviced neighbourhoods.
- b. The Complainant's sales comparable #6 was a below market sale, as evident from a more recent sale of the same property. This later sale supported the subject property's assessment.

[18] The Respondent concluded by saying that the subject property was located on a major roadway, a clearly superior location compared to the Complainant's sales comparables. In the Respondent's opinion, the Complainant had not met the onus and requested the Board to confirm the 2013 assessment of the subject property at \$3,635,500.

Decision

[19] The decision of the Board is to confirm the 2013 assessment at \$3,635,500.

Reasons for the Decision

[20] The Board notes the *Factors Affecting Value* in the warehouse inventory for assessment purposes (R-1, p. 8), which are: total main floor area, site coverage, effective age, condition, location of the property, main floor finished area, and upper finished area.

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

[22] The Board also accepts that location, for mass appraisal purposes, places industrial properties in groupings for comparability based on neighbourhood boundaries, major roadways or level of servicing. The Board finds three groupings included in the parties' sales comparables are: Industrial Group 12, the second highest in desirability; Industrial Group 18, the fourth highest in desirability; and, partially serviced Industrial Group 20, the fifth out of nine. The Board notes that the subject property is located in Industrial Group 12.

[23] The Board reviewed the sales comparables presented by the Complainant (C-1, p. 1) and notes that the Complainant had requested the Board to place more weight on the sales comparables, #1 and #2, with the most similar physical condition to the subject property. The Board considered these sales comparables, and notes the following:

- a. The Board finds sales comparable #1 was from an inferior location and the building foot print was 78% larger than the subject property. Due to these significant differences, the Board places little weight on this sales comparable to establish if the assessment of the subject property was incorrect.
- b. The Board finds sales comparable #2 to be similar to the subject property in terms of condition, site coverage, building size, superior in age; but was a multi-building property located in a partially serviced area of the city. That makes it significantly

different from the subject property, a single building property located in the second most desirable industrial group in the city.

[24] The Board notes that the Complainant's sales comparable #6, cited in support of a reduction to the subject assessment, was an older sale; and, a more recent sale of the same property, less a portion of the land, supports the assessed value of the subject property.

[25] The Board reviewed the sales comparables presented by the Respondent (R-1, p. 13) and notes that these sales comparables better support the assessment of the subject property, even without any adjustments indicated in the Respondent's sales chart.

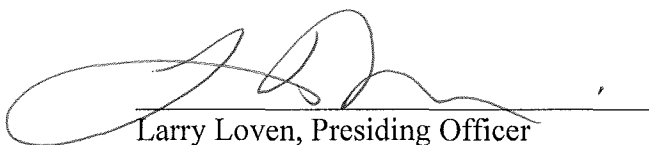
[26] Jurisprudence has established that the burden of proof of demonstrating an assessment is incorrect rests with the Complainant. Based on its consideration of the argument and evidence presented, the Board concludes that the Complainant's evidence, testimony and argument did not provide sufficient and compelling reasons for the Board to reduce the assessment. Accordingly, the Board finds the subject 2013 assessment of \$3,635,500 is correct, fair and equitable.

Dissenting Opinion

[27] There was no dissenting opinion.

Heard commencing October 17, 2013.

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



Larry Loven, Presiding Officer

Appearances:

Tom Janzen
for the Complainant

Jason Baldwin
Scott Hyde
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.