

Edmonton Composite Assessment Review Board

Citation: John C. Manning v The City of Edmonton, 2013 ECARB 01744

Assessment Roll Number: 10083185

Municipal Address: 3804 53 AVENUE 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
Harold Williams, Presiding Officer
James Wall, Board Member
Randy Townsend, Board Member

Procedural Matters

[1] Parties before the Board indicated no objection to the composition of the Board and Board members stated that they had no bias in regard to this complaint. There were no other procedural matters.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject property under complaint is classified by the City as industrial warehousing and is located at 3804 – 53 Avenue within the Pylypow Industrial subdivision. The subject property contains one warehouse building built in 2007 with 71,974 square feet. The subject property was valued by the City using the Direct Sales Comparison approach resulting in a 2013 assessment of \$10,014,500.

Issue(s)

[4] Is the 2013 assessment of the subject property fair and equitable when considering the sales of comparable properties?

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 provided the Board with an evidentiary document (Exhibit C-1) containing information on the sales of properties that the Complainant stated were similar to the subject property and containing a previous 2012 Edmonton Composite Review Board (ECARB 2012 - 001793) decision (Exhibit C-1, page 27 – 31) showing a reduction in assessment for the subject property.

[7] Exhibit C- 1, page 1 showed a listing of nine properties that sold between May 2010 and November 2012. The number of buildings on these properties ranged from one to four in comparison to one building on the subject property, and total building square footage ranged from 40,000 square feet to 115,318 square feet. Site coverage for the nine properties ranged from 28% to 52% in comparison to the subject property at 31%. Time adjusted sale prices ranged from \$80.05 per square foot to \$120.75 per square foot and the listing showed 2013 assessments ranging from \$79.36 per square foot to \$156.24 per square foot, in comparison to the subject property at \$139.14 per square foot. The Complainant used the City’s time adjustment chart to adjust sales comparisons to current value. (Exhibit C-1, page 26).

[8] The Complainant informed the Board that the most weight was placed on the Complainant’s comparison sales #2 and #3 and that the 2012 ECARB had previously placed weight on the Complainant’s sales #5, #6 and #7 which lead to a reduction in the 2012 assessment for the subject property.

[9] The Complainant also provided a rebuttal document (Exhibit C-2) that listed the sales comparable properties provided by the Respondent along with 2013 assessments for those properties. The Complainant argued that the differences shown in adjusted sale prices versus the assessments listed, which were lower in value, indicated a problem with equity in terms of market value assessments.

[10] In summation, the Complainant critiqued the Respondent’s sales comparables pointing out that significant adjustments to the comparables would be required to bring them closer in

similarity to the subject property. Adjustments pointed out were particularly for building size and the Complainant also questioned lease back arrangements for the Respondent's sale #1.

[11] Finally the Complainant argued that the property sales information and the previous 2012 ECARB decision provided by the Complainant showed that a reduction in the assessment of the subject is warranted and asked that the 2013 assessment for the subject property be reduced to \$7,557,000.

[12] The Complainant requested that all information be carried forward from the complaint regarding roll # 10083184 except information specific to the subject property. The Board carried forward the information as requested by the Complainant and that is reflected in paragraphs 6 to 11 of this decision.

Position of the Respondent

[13] The Respondent provided the Board with an evidentiary document (Exhibit R-1) containing information on Mass Appraisal, Factors Affecting Value, The City's assessment process, Fee Simple Estate concepts, Assessment Sales Ratios, Property Characteristics and Law and Legislation governing assessment in Alberta. The document also provided information on assessments and sales of properties the Respondent stated were similar to the subject property.

[14] Exhibit R-1, page 22 showed a listing of four properties that sold between February 2008 and November 2009. Total building square footage ranged from 30,078 square feet to 118,800 square feet. Site coverage for the four properties ranged from 29% to 39% , in comparison to the subject property at 31%. Time adjusted sale prices ranged from \$140.09 per square foot to \$158.18 per square foot, in comparison to the subject property at \$139.14 per square foot.

[15] Exhibit R-1, page 27 (Equity Comparables) showed the 2013 assessments of five properties which the Respondent argued, were very close in similarity to the subject property and showed that the subject property received an equitable assessment.

[16] The Respondent in answering to a question posed by the Complainant about the validity of the Respondent's sales comparison #1 stated that they had checked with the parties to the sale and argued that they felt the sale was valid in spite of some lease back arrangements.

[17] In response to the Complainant's rebuttal concerning assessment equity the Respondent asked if the Complainant was making an Assessment to Sales Ratio (ASR) argument to which the Complainant replied no but that the Complainant was questioning an indication of inequity in the assessments. The Respondent further explained that sales to assessment equity is determined by the City through large samplings of many properties and using typical fee simple, time adjusted sales and is not determined by a small specific sample of a low number of sales.

[18] In summation, the Respondent critiqued the sales comparison information provided by the Complainant arguing that many adjustments to these comparisons would be needed to make them similar to the subject property. Some of the adjustments suggested were for location, building age and size and site coverage. The Respondent pointed particularly to the Complainant's sale #2 as being a 50% interest sale, sale #3 having structural and renovation issues, sale # 5 showing below market lease rates and sale #9 being a post facto sale to the 2013 valuation date of July 2012.

[19] Finally, the Respondent argued that the sales comparison's provided by them and the assessment equity examples provided showed that the 2013 assessment for the subject property is fair and equitable and asked that the assessment be confirmed.

[20] The Respondent requested that all information be carried forward from the complaint regarding roll # 10083184 except information specific to the subject property. The Board carried forward the information as requested by the Complainant and that is reflected in paragraphs 12 to 19 of this decision.

Decision

[21] The decision of the Board is to confirm the 2013 assessment of the subject property at \$10,014,500.

Reasons for the Decision

[22] The Board reviewed the sales comparison information provided by both parties and the assessment equity information provided by the Respondent. The Board also considered the argument from both parties concerning sales and assessment comparisons. Relating to this matter, the Board is guided by Alberta Regulation 220/2004, *Matters Relating to Assessment and Taxation Regulation* Sec (2) which directs that:

“An assessment of property based on market value (a) must be prepared using mass appraisal, (b) must be an estimate of the value of the fee simple estate in the property, and (c) must reflect typical market conditions for properties similar to that property.”

[23] In accordance with this guidance, the Board finds that the method used by the Respondent in relating property sales to assessments is supported by the Regulation.

[24] The Board was not able to find convincing information from the Complainant's sales comparables to indicate a need to adjust the assessment for the subject property. Many of the comparables were in a different location in the City. The significant adjustments for age, site coverage, and size would be enough so as to question overall comparability of the properties. The Board also could not rely on the Complainant's sales #2, #3, #5, and #9 for the reasons pointed out by the Respondent in paragraph 18 of this decision.

[25] The Board found that the Respondent's sales comparisons would also need significant adjustment for size, age and some location adjustment to bring them closer to the subject property in comparability. The Board was of the opinion that the Respondent's sale # 3 needed the least adjustment of all sales to be comparable to the subject although there was still a concern because of location. The Board found that this sale appeared on the high end of comparability at a time adjusted price of \$151.57 per square foot as compared to the subject value of \$139.14, but that the sale tended to support the assessed value.

[26] The Board reviewed the Assessment Equity comparables (Exhibit R-1, page 26) and found that some of the comparables would require adjustment to be very similar to the subject property. However, overall the comparables did support the assessment for the subject property.

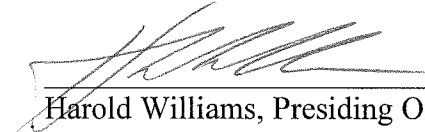
[27] Finally, the Board reviewed the 2012 ECARB decision but notes that the Board is not bound by any previous Board decisions. The Board therefore concentrated on the current information before it regarding the 2013 assessment for the subject property.

Dissenting Opinion

[28] There was no dissenting opinion.

Heard commencing October 24, 2013.

Dated this 7th day of NOVEMBER, 2013, at the City of Edmonton, Alberta.


Harold Williams, Presiding Officer

Appearances:

Tom Janzen
for the Complainant

Marty Carpentier, Assessor
Tanya Smith, Legal Counsel
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.