

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01755

Assessment Roll Number: 10005451
Municipal Address: 11313 170 Street NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Robert Mowbrey, Presiding Officer
Howard Worrell, Board Member
Judy Shewchuk, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board members indicated no bias on this file.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject is a four building property constructed in 1985/1999/1999/1993 and located at 11313-170th Street NW in the West Sheffield Industrial neighborhood. The site coverage is 21% and the 2013 assessment is for \$9,021,500. The two office/warehouses forming the subject of this appeal have a total area of 58,077 square feet. The 2013 assessment equates to \$155.34 per square foot. The assessment is based on the direct sales methodology for the two office/warehouses and the cost assessment methodology for the two smaller buildings.

Issue

[4] What is the market value of the subject property?

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 filed this complaint on the basis that the subject property’s assessment of \$9,021,500 exceeds the best estimate of market value. In support of this position, the Complainant presented the Board with a 27 page evidence package marked as Exhibit C-1.

[7] The Complainant presented the Board with maps, photographs and assessment details detailing the subject property [Exhibit C-1 pages 3-7].

[8] The Complainant presented 9 sale comparables to the Board. The comparables ranged in year of construction from 1958/90 to 1989/06, four of which are two-building properties. The site coverage ranged from 28.0% to 47.0% and the time-adjusted sale price per square foot of total building area ranged from \$63.64 to \$103.04. The size of the comparables ranged from 39,679 to 84,854 square feet. The Complainant utilized the time-adjustment factors produced by the City of Edmonton, so the sale price of a comparable could be adjusted from the date of sale to the valuation date [Exhibit C-1 pages 1 and 18].

[9] The Complainant advised the Board that his best sales comparables were numbers 1, 3, 4, and 5. The Complainant also advised the Board that \$110.00 per square foot was a reasonable value for the subject property and that the 2013 assessment should be \$6,388,000 [Exhibit C-1 pages 1-2].

[10] The Complainant advised the Board that two previous CARBs had reduced the assessment on the subject property. For 2011 the assessment was reduced to \$6,957,500 and the assessment for 2012 was reduced to \$7,300,000 [Exhibit C-1 page 2].

[11] During argument and summation, the Complainant advised the Board that 5 of the Respondent’s sale comparables were in southeast Edmonton and therefore were superior to the subject property.

[12] The Complainant stated that the Respondent’s sale comparables 1 and 7 at 17404-111 Avenue and 5015-76 Avenue have significant office space, thus skewing the TASP per square foot of total building space.

[13] The Complainant stated that the Respondent's sale comparable #2 is in the Winterburn area and therefore is less desirable in terms of location when compared to the subject. This comparable would require an upward adjustment.

[14] The Complainant stated that the two previous CARB decisions on the subject property should be looked at.

[15] During argument and summation, the Respondent stated that the Complainant was most interested in locating sale comparable properties that had two buildings. As such, the Complainant put more emphasis on sale comparables 1, 3, 4, and 5. The 4 comparables gave a base year market value of \$110.00 per square foot. With some adjustments, the Complainant requested that the Board reduce the 2013 assessment of \$9,021,500 to \$6,388,000.

Position of the Respondent

[16] The Respondent defended the 2013 assessment by providing the Board with a 52 page disclosure package marked as Exhibit R-1.

[17] The Respondent explained that the assessment and similar assessments were prepared using the direct sales comparison methodology. The Respondent advised the Board that "there is ample data from which to derive reliable estimates and only a portion of the inventory is traded based on its ability to generate income. A large percentage of industrial property in Edmonton is owner-occupied, and as such has no income attributable to it" [Exhibit R-1 page 6].

[18] The Respondent advised the Board that sales occurring from January 2008 through June 2012 were used in the model development and testing. Factors found to affect value in the warehouse inventory are as follows: total main floor area (per building), site coverage, effective age (per building), condition (per building), location of the property, main floor finished area, as well as finished area (per building). The most common unit of comparison for industrial properties is value per square foot of building area [Exhibit R-1 pages 7- 11].

[19] The Respondent provided the Board with maps, photographs and assessment details of the subject property [Exhibit R-1 pages 12-18].

[20] In support of the City of Edmonton's assessment, the Respondent presented 7 sale comparables to the Board. The comparables ranged in effective year built from 1976 to 2007, and ranged in site coverage from 13 to 39%. The total building area ranged from 27,800 to 74,801 square feet and the time-adjusted sale price per square foot of total building square footage ranged from \$151.57 to \$195.13 [Exhibit R-1 page 21].

[21] The Respondent advised the Board regarding law and legislation issues as follows:

- a. Market value within a range. "The MGB has ruled on a number of occasions that market value encompasses a range of values and the issue is whether the assessment falls within that range of values" [Exhibit R-1 page 34].
- b. The 5% Range. "Both the ARB and MGB have ruled on numerous occasions that it would not alter an assessment, if the requested change to the assessment, or if the evidence indicates a change to the assessment within 5%" [Exhibit R-1 page 35].

- c. Burden of Proof or Onus of the Parties. "The onus rests with the Complainant to provide sufficiently convincing evidence on which a change to the assessment can be based. The Complainant's evidence needs to be sufficiently compelling to allow the Board to alter the assessment" [Exhibit R-1 page 37].
- d. Post-Facto Sales. "It is important to note that the use of a post facto, a sale which occurs after July 1st of the assessment year, is restricted. The Board may consider such post facto evidence to confirm market trends, however, post facto evidence cannot be used in setting value" [Exhibit R-1 page 39].

[22] The Respondent made the following comments regarding the Complainant's sale comparables:

- a. Sales 2,3,4,7 and 8 are all older and have inferior site coverage.
- b. Sale #1 at 15404-121A Avenue is a non-arm's length sale and should not be used for comparison purposes [Exhibit R-1 page 29].
- c. Sale #5 at 12603-123rd Street is a non-arm's length sale. In addition, the sale comparable is assessed on the cost approach and therefore should not be used for comparison purposes [Exhibit R-1 pages 31-32].
- d. Sale #8 at 14320-121 A Avenue has special financing, which could skew the value of the sale comparable [Exhibit R-1 page 33].

[23] During argument and summation, the Respondent advised the Board that office finish per square foot was not all that important.

[24] In addition, the Respondent stated that each CARB is independent and should judge each decision on the evidence presented.

[25] The Respondent further stated that the Complainant's sales all have high site coverages and are inferior to the subject property.

[26] The TASP for total square footage range for the Respondent's sales comparables is \$151.57 to \$203.22; therefore the subject property at \$155.34 is reasonable.

[27] The Respondent requested that the Board confirm the 2013 assessment of \$9,021,500.

Decision

[28] The decision of the Board is to confirm the 2013 assessment of \$9,021,500.

Reasons for the Decision

[29] The Board was not persuaded by the Complainant's sale comparables. There were a number of issues with the sales. Two were non-arm's length sales, one included special financing, and one was a *post facto* sale. Therefore, these comparables did not meet the Board's standard of comparability.

[30] The sales comparables of the Complainant are generally all older than the subject property.

[31] In addition, the sales comparables of the Complainant all have higher site coverages than the subject property.

[32] Generally, the sales of the Complainant are in less desirable locations than the subject property.

[33] The Board would have preferred sales comparables of the Respondent to be located within the same neighborhood grouping of the City as the subject property. Only one of the Respondent's sales comparables are in the same neighborhood grouping as the subject property.

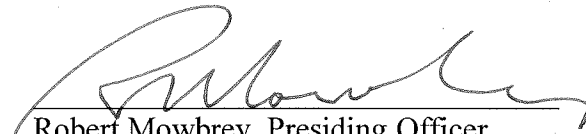
[34] However, jurisprudence has established the onus of showing the incorrectness of an assessment rests with the Complainant. The Board is not satisfied that the Complainant provided sufficient and compelling evidence to enable the Board to conclude the assessment was incorrect.

Dissenting Opinion

[35] There was no dissenting opinion.

Heard commencing October 7, 2013.

Dated this 5th day of NOVEMBER 2013, at the City of Edmonton, Alberta.


Robert Mowbrey, Presiding Officer

Appearances:

Tom Janzen
for the Complainant

Cherie Skolney
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.