

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01756

Assessment Roll Number: 1128339

Municipal Address: 20104 107 Avenue 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 property was constructed in 1998. The site coverage is 9% and the 2013 assessment is for \$1,342,500. The subject property is a 7,000 square foot warehouse located at 20104-107th Avenue NW. In addition, there are 2 re-locatable office buildings of 1,886 and 396 square feet, built in 1979 and 1998 respectively. The 2013 assessment equates to \$191.79 per square foot for a total assessment of \$1,342,500, based on the main building area.

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 \$1,342,500 exceeds the best estimate of market value. In support of this position, the Complainant presented the Board with a 12 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 4 sale comparables to the Board. The comparables ranged in year of construction from 1976 to 2008. The site coverage ranged from 7.0% to 23.0% and the time-adjusted sale price per square foot of total building ranged from \$135 to \$175. The building size of the comparables ranged from 5,505 to 10,000 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 12].

[9] The Complainant advised the Board that his best sales comparables were numbers 1, 2, and 3. The Complainant also advised the Board that \$165.00 per square foot was a reasonable value for the subject property and that the 2013 assessment should be \$1,155,000 [Exhibit C-1 pages 1-2].

[10] During questioning of the Complainant, the Complainant stated that comparable #2 at 21350-107th Avenue might have been vacant at the time of sale.

[11] During summary and argument, the Complainant stated that his sale comparable #1 at 21115-109th Avenue might be assessed under the cost approach, but that it is still a valid sale. The subject property also has cost buildings and therefore the Complainant's sale #1 is a good comparable.

[12] The Complainant stated that the Respondent's sale #3 is a new building and therefore should be given less weight.

[13] The Complainant advised the Board that the Complainant's comparables 1, 2, and 3 were most like the subject. In addition, the Board should not disregard the Complainant's #1 sale comparable.

[14] The Complainant requested that the Board reduce the 2013 assessment of \$1,342,500 to \$1,155,000.

Position of the Respondent

[15] The Respondent defended the 2013 assessment by providing the Board with a 47 page disclosure package marked as Exhibit R-1.

[16] 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].

[17] 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].

[18] The Respondent provided the Board with maps, photographs and assessment details of the subject property [Exhibit R-1 pages 12-17].

[19] In support of the City of Edmonton’s assessment, the Respondent presented 3 sale comparables to the Board. The comparables ranged in year built from 1980 to 2011, and ranged in site coverage from 12 to 14%. The total building area ranged from 5,400 to 6,600 square feet and the time-adjusted sale price per square foot of total building square footage ranged from \$204.91 to \$226.98 [Exhibit R-1 page 21].

[20] 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 42].
- 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 43].
- 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 45].
- 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 47].

[21] The Respondent was not able to explain why the Complainant’s #1 sale comparable at 21115-109th Avenue was assessed on the cost approach.

[22] During argument and summation, the Respondent noted that the subject was assessed on the income approach on the main building and on the cost approach on the other two buildings.

[23] The Respondent advised the Board that the issue is the market value of the subject property and requested that the Board confirm the 2013 assessment of \$1,342,500.

Decision

[24] The decision is to confirm the 2013 assessment of \$1,342,500.

Reasons for the Decision

[25] The Board was not persuaded by the sales comparables of the Complainant. One of the comparables was valued on the cost approach, which has different assessment methodologies.

[26] One sale comparable of the Complainant has twice the site coverage of the subject property. In addition, the total building area for sales comparables #2 and #3 is substantially larger than the subject property.

[27] The Board was somewhat persuaded by the Respondent's sale comparables. The comparables were similar in terms of condition, location, site coverage and total building area.

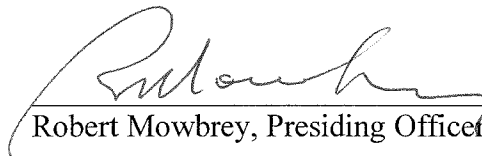
[28] Jurisprudence has established the onus of showing the incorrectness of an assessment rests with the Complainant. The Board is not satisfied that the Complainant provided sufficient and compelling evidence to enable the Board to conclude the assessment was incorrect.

Dissenting Opinion

[29] There was no dissenting opinion.

Heard commencing October 7, 2013.

Dated this 30th day of OCTOBER, 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.