

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01760

Assessment Roll Number: 1106129
Municipal Address: 12719 156 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 two-building warehouse property located at 12719 156 St in the Mistatim Industrial neighbourhood. Building one, which is in average condition, was constructed in 1968 and has 6,156 square feet of main floor space, including 817 square feet of main floor office. Building two is a 91 square foot cost building, which is in average condition and was constructed in 2013. The site coverage is 18% and the 2013 assessment is for \$1,012,500.

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 \$1,012,500 exceeds the best estimate of market value. In support of this position, the Complainant presented the Board with a 19 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 3-10]

[8] The Complainant presented 5 sale comparables to the Board. The 5 comparables ranged in year of construction from 1958 to 1999. The site coverage ranged from 12.0% to 32.0% and the time-adjusted sale price per square foot of total building area ranged from \$69.98 to \$143.00. 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 19].

[9] The Complainant advised the Board that the subject property was sold in 2009, along with 2 adjacent lots for a total of \$1,600,000 and an adjusted value of \$1,700,000, which includes \$30,000 to \$40,000 spent on repairs [Exhibit C-1 pages 2, 16 and 17].

[10] The corresponding assessments for the 3 lots for the 2013 assessment year are \$532,000, \$629,000 and \$1,012,500 for the subject property [Exhibit C-1 page 2].

[11] The Complainant calculated the sale to assessment ratio [SAR] to be 78.2% and therefore determined the market value for the subject property should be \$791,775 or \$128.62 per square foot [Exhibit C-1 page 2].

[12] The Complainant stated that sale #1 at 14511-156 Street was the best comparable and that it uses similar systems to the subject property for its sewer and water. Therefore, with most weight placed on sale #1, a total value of \$800,280 appears reasonable.

[13] During argument and summation, the Complainant advised the Board that the most weight should be placed on the subject property.

[14] With the Complainant having the last word, the Complainant advised the Board that the property sold for \$1,600,000 and photographs taken in 2009 and 2013 indicated there was no change to the subject property.

[15] The Complainant requested that the Board reduce the 2013 assessment from \$1,012,500 to \$800,000.

Position of the Respondent

[16] The Respondent defended the 2013 assessment by providing the Board with a 53 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] In support of the City of Edmonton’s assessment, the Respondent presented 3 sale comparables to the Board. The effective age of the comparables ranged from 1972 to 1986, and ranged in site coverage from 14 to 21%. The total building size ranged from 5,344 to 8,396 square feet. The time-adjusted sale price per square foot of total building square footage ranged from \$138.95 to \$156.74 [Exhibit R-1 page 22]. The Respondent also made a correction to the size of the subject property [R-1 page 22].

[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 35].
- 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 36].
- 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 38].
- 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 40].

[21] The Respondent made the following comments regarding the Complainant’s sale comparables:

- a. sale #1 at 14511-156th Street is considered non-arms length and should not be used [Exhibit R-1 pages 26-30].
- b. sale #2 at 11615 147th Street has a very high site coverage (32%) and does not meet the standard of comparability [Exhibit R-1 page 22].
- c. sales #3 and 5 at 11761-156th Street and 11757-156th Street are condo units and as such, trade on a different basis [Exhibit R-1 pages 32 and 34].
- d. sale #4 at 14120-140th Street is valued on the cost approach and therefore does not meet the standard of comparability [Exhibit R-1 page 33].

[22] During argument and summation, the Respondent advised the Board not to put weight on the sale of the subject property, but instead, to put more weight on the market evidence.

Decision

[23] The decision of the Board is to reduce the 2013 assessment of \$1,012,500 to \$800,000.

Reasons for the Decision

[24] The Board believes the sale of the subject property is a valid sale and meets the definition of "market."

[25] Therefore, the Board is persuaded by the sale of the subject property. The Board believes the best indicator of market value is the sale of the subject property itself. Furthermore, the Complainant utilized the time-adjustment factors produced by the City to value the assessment of the subject property from the date of sale to the valuation date.

[26] The Board finds that the principles respecting the recent sale of the subject property outlined in *697604 Alberta Ltd. v Calgary City*, 2005 ABQB 512 (697604) apply in this case. In 697604, the Court found the MGB erred when it failed to rely on evidence of value provided by the recent sale of the subject property. The Court in 697604 relied upon *Re Regional Assessment Commissioner, Region No. 11 v. Nesse Holdings Ltd. et al.* (1984), 47 O.R. (2d) 766 (Ont. H.C.J. Div. Ct.) at p. 767:

...the price paid in a recent free sale of the subject property itself, where, as in this case, there are neither changes in market nor to the property in the interval, must be powerful evidence indeed as to what the market value of the property is. It is for that reason that the recent free sale of a subject property is generally accepted as the best means of establishing the market value of that property.

...

...I think that generally speaking the recent sale price, if available as was the case, is in law and, in common sense, the most realistic and the most reliable method of establishing market value.

[27] The Board was not persuaded by the Respondent's sales comparables. Comparable #1 at 16903-129th Avenue was assessed in fair condition, as opposed to the subject property which is in average condition. Comparable #1 is also in a better neighborhood group than the subject property. In addition, comparables #2 at 21350-107 Avenue and #3 at 15324-116 Avenue are 13

to 18 years newer than the subject property. Thus the Board considered the Respondent's sales comparables did not meet the standard of comparability.

[28] The Board was cautious in its consideration of the sale of the subject property, which occurred more than two years ago. However, without any evidence to the contrary, the Board considers it appropriate to accept the time-adjustment factors provided by the City from the date of sale to the valuation date.

Dissenting Opinion

[29] There was no dissenting opinion.

Heard October 7, 2013.

Dated this 29th 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.