

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, 2013 ECARB 01761

Assessment Roll Number: 1113133

Municipal Address: 16930 129 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 is a 15,021 square foot warehouse located at 16930-129th Avenue NW. It was constructed in 1971. The site coverage is 7% and the 2013 assessment is for \$2,993,500.

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 \$2,993,500 exceeds the best estimate of market value. In support of this position, the Complainant presented the Board with a 15 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 7 sale comparables to the Board. The year of construction of the comparables ranged from 1958 to 1967/85. The site coverage ranged from 12.0% to 28.0% and the time-adjusted sale price per square foot of total building area ranged from \$80.66 to \$130.25. The size of the comparables ranged from 6,546 to 31,429 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 15].

[9] The Complainant advised the Board that his best sales comparables were number's 2, 3, 4 and 5. The Complainant stated that \$140 per square foot is a reasonable value for the subject property. At this rate, the 2013 assessment would be \$2,102,500 [Exhibit C-1 pages 1-2].

[10] During questioning, the Complainant advised the Board that sale comparable #3 at 14511-156th Street was the best [Exhibit C-1 page 1].

[11] During questioning, the Complainant also stated that comparable #5 at 14640-115th Avenue was assessed as a condo [Exhibit R-1 page 33].

[12] The Complainant acknowledged that comparable #6 at 16807 114th Avenue was more than twice the size of the subject [Exhibit C-1 page 1].

[13] During argument and summation, the Complainant stated that one of the Respondent's comparables was in a different quadrant of the City. In addition, two of the Respondent's comparables were much newer than the subject property.

[14] The Complainant advised the Board that the Complainant's sale comparables were closer in age to the subject property than the Respondent's, but had higher site coverages.

[15] With the Complainant having the last word, the Complainant advised the Board that the subject property was difficult to value due to its age, size and site coverage. However, the

Complainant stated there is no support for the \$199.00 per square foot used in the 2013 assessment of the subject property.

[16] The Complainant requested that the Board reduce the 2013 assessment of \$2,993,500 to \$2,102,500.

Position of the Respondent

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

[18] 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].

[19] 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].

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

[21] In support of the City of Edmonton’s assessment, the Respondent presented 4 sale comparables to the Board. The comparables ranged in year built from 1976 to 2005, and in site coverage from 5 to 9%. The total building area ranged from 10,220 to 16,799 square feet and the time-adjusted sale price per square foot of total building square footage ranged from \$222.96 to \$425.20 [Exhibit R-1 page 21].

[22] 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 47].
- 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 48].
- 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 50].
- 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 52].

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

- a. sale comparables #1 at 14440-123rd Avenue and #6 at 11570-154th Street are both much larger than the subject property.
- b. sale comparable #3 at 14511-156th Street is a non-arms length sale and should not be used as a sale comparable [Exhibit R-1 pages 28-32].
- c. sale comparable #5 at 14640-115th Avenue is assessed as a condo and therefore should not be used as a comparable. A condo unit is assessed under different circumstances than the subject property [Exhibit R-1 page 33].
- d. sale comparable #2 at 16735/16804-114th Avenue is a special purpose building (cement plant) and was acquired as part of a multi-parcel sale. A special purpose building is assessed under different assessment methodologies than the subject property [Exhibit R-1 pages 26-27].

[24] During questioning of the Respondent, the Respondent advised the Board of the following:

- a. the Respondent’s #1 sale comparable at 6928-51st Avenue is in southeast Edmonton and may be superior to the subject property, but is not on a major arterial roadway.
- b. the Respondent’s comparables #2 at 16718-121st Avenue and #4 at 22303-112th Avenue are both much newer than the subject property.

[25] During summary and argument, the Respondent stated the Respondent’s sales comparables are better.

[26] In addition, the Respondent reiterated the Complainant’s comparables had problems. One was a special purpose building and another was a condo. A further sale was found to be non-arm’s length and two had much higher site coverages.

[27] The Respondent requested that the Board confirm the 2013 assessment of \$2,993,500.

Decision

[28] The decision of the Board is to confirm the 2013 assessment of \$2,993,500.

Reasons for the Decision

[29] The Board was not persuaded by the Complainant’s sale comparables. A condo unit and a special purpose building are valued under different assessment methodologies than the subject property, and are therefore not truly comparable.

[30] Two of the Complainant's sale comparables were more than twice the size of the subject property.

[31] One of the Complainant's comparables was a non-arm's length sale.

[32] All of the Complainant's sale comparables had higher site coverages. Two even had site coverages that were 3 to 4 times greater than the subject property.

[33] The Board was somewhat persuaded by the Respondent's sale comparables. The sales had a tight range for site coverage and total building size.

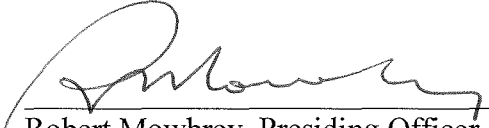
[34] Jurisprudence has established the onus of showing the incorrectness of an assessment rests with the Complainant. The Board is not satisfied that the Complainant provided sufficient and compelling evidence to enable the Board to conclude the assessment was incorrect.

Dissenting Opinion

[35] There was no dissenting opinion.

Heard commencing October 7, 2013.

Dated this 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.