

Edmonton Composite Assessment Review Board

Citation: John C. Manning v The City of Edmonton, 2013 ECARB 01861

Assessment Roll Number: 9533175

Municipal Address: 5904 51 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

John Noonan, Presiding Officer

Darryl Menzak, Board Member

Mary Sheldon, Board Member

Procedural Matters

[1] There was no objection to the composition of the panel, and no bias or conflict of interest reported by the members. The complaint was filed by John C. Manning, an Edmonton property owner, represented by Canadian Valuation Group. The property owner of record is Kerry Developments Ltd.

Background

[2] The subject property is a rectangular lot stretching from 53 Avenue to 51 Avenue comprising 8.337 acres or 363,165 square feet. The lot is improved with an office warehouse building fronting 51 Avenue, a cold storage warehouse (Quonset), and another warehouse structure. The balance of the usable part of the property is used for heavy equipment storage. Whitemud Creek meanders through the western part of the property, limiting the usable area to 3.7 acres according to the Complainant. The Respondent has reverse numbers, advising that the parkland area is 3.7 acres and the industrial area measures 4.637 acres. However, the Respondent concedes it would require the services of a surveyor to properly determine an accurate split; the Complainant advises that his number (3.69 acres) has been previously used in discussions between the parties over the last several years. The 2013 assessment was prepared by the cost approach in the amount of \$2,653,500. The improvement value of \$566,246 is not at issue.

Issue(s)

[3] As identified by the Complainant, the issues are

1. Is the subject equitably assessed in comparison to other properties with the same effective zoning?
2. Has the land value been overstated considering market sales of vacant parcels?

Legislation

[4] **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

[5] The actual zoning of the subject is “A – Metropolitan Recreation District” but the Assessment Branch utilizes an effective zoning of “AGI – Industrial Reserve District”. As such, if the property were to be redeveloped, a rezoning application would have to be filed. The current development is a legal, non-conforming use. Access to the property is from both 53 and 51 Avenues, but 51 Avenue is rural in nature and consequently there is no sanitary sewer service to the office warehouse development at the south end of the parcel.

[6] In the past, the City has assessed the undevelopable 4.65 acres at the parkland rate of \$20,032 per acre and applied the full industrial rate to the balance of 3.69 acres. Deducting the parkland value of \$93,149 from the total land assessment of \$2,087,487 implies a usable site value of \$1,994,338 or \$540,471 per acre. However, two assessment equity comparables indicated the land value was overstated. A property located west of the subject at 7210 51 Ave carries a 2013 assessment of \$1.53 million or \$384,133 per acre despite its superior IM zoning. Another AGI-zoned property in the developing northwest (10460 180 Street), a superior location, is assessed at \$1,701,500 or \$426,441 per acre.

[7] Five time-adjusted sales comparables were presented, with emphasis placed on three, parcels of 13.1, 7.82 and 6.97 acres. These sold for approximately \$402,000; \$359,000 and \$572,000 per acre. Considering the subject’s inferior land use classification, together with the equity comparables, it was submitted that \$400,000 per acre was a reasonable estimate for the

developable portion of the land. Adding the parkland value of \$93,149 and the building value of \$566,246 resulted in the requested assessment of \$2,135,000.

Position of the Respondent

[8] The Respondent had no difficulty with the parkland value ascribed by the Complainant and accepted the fact that the irregular shape of the balance of the property would impact its market value. However, the inadequacies of the property had been fully addressed in the assessment: a 20% allowance had been granted for topography of the subject, and then a 40% market adjustment applied to the balance. The end result was a 52% reduction from the regular industrial land rate for a parcel of this size and location.

[9] Five vacant industrial land sales were introduced, from 7 to 13 acres in size with an average of 8.97 acres versus the subject's 8.337 acres. The parcels carried IB, IM or IL zoning and showed an average time-adjusted sale price per acre of \$526,494 per acre or \$12.08 per square foot. Applying the allowances for topography and market adjustment would produce a value of almost \$5.80 per square foot. The subject had been assessed at \$5.748 per square foot or \$250,388 per acre.

[10] Services are available to the subject property line at 53 Avenue; consequently, the property is considered fully serviced. The equity comparable noted by the Complainant at 7210 51 Ave is unserviced. The Complainant's sales comparables exhibited a wide range of sizes, but the fifth comparable at 6.97 acres and a value of \$571,696 per acre supported the assessment. The Respondent requested the assessment be confirmed.

Decision

[11] The Board reduces the assessment to \$2,135,000.

Reasons for the Decision

[12] The parties agreed that the subject is a unique property. Whether Whitemud Creek and its associated riparian vegetation consumes just under or just over half the property, the Board noted photos in the Respondent's presentation that showed gravel distributed to the top of the bank in at least part of the subject's area. Some portion of a property's value involves future considerations, especially if vacant or only partially developed. Here, the Board sees the probability that future development constraints would impact the subject's market value.

[13] The Board is persuaded that the Respondent's current allowance for this unique topography does not adequately reflect the constraints on the subject's market value. The usable area of the subject is more likely to shrink than grow, and development setback requirements from features such as top of bank are trending upwards, which could further decrease the usable land.

[14] The Board preferred the estimate of value presented by the Complainant, ascribing an estimated parkland value to 4.65 acres and an estimate derived from equity comparables for the balance. The Respondent's method of applying a 20% allowance for topography and then a 40% market adjustment to the subject's entire acreage runs up to the limits allowed by the assessment model, as the Board understands it. However, those limits may fail to adequately reflect a particular, unique property's limitations. The Board finds that the subject property has significant

limitations, is not convinced that that the Respondent's 52% combined allowance adequately reflects those attributes, and so decides to vary the assessment.

Heard August 26, 2013.

Dated this 4th day of September 2013, at the City of Edmonton, Alberta.

A handwritten signature in black ink, appearing to read 'JPN Noonan', is written over a horizontal line.

John Noonan, Presiding Officer

Appearances:

Peter Smith, CVG
for the Complainant

Aaron Steblyk, Assessor, City of Edmonton
Blair Rustulka, Assessor, City of Edmonton
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.