

Edmonton Composite Assessment Review Board

Citation: Weir Canada Inc. v The City of Edmonton, 2014 ECARB 00170

Assessment Roll Number: 8481988
Municipal Address: 4737 97 Street NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: \$8,815,000

Between:

Weir Canada Inc.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Peter Irwin, Presiding Officer
Judy Shewchuk, Board Member
Mary Sheldon, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer the parties indicated they did not object to the Board's composition. In addition, the Board members stated they had no bias with respect to this file.

Preliminary Matters

[2] The Respondent raised a concern that no Agent Authorization document had been submitted. Upon questioning, the Complainant stated that he was receiving no fees for appearing on behalf of the property owner. The Board finds that the requirement for a signed Agent Authorization is only applicable where there are fees involved, according to s. 51 and the definition of agent in Schedule 4 (the Authorization Form) of the *Matters Relating to Assessment Complaints Regulation*, Alta Reg 310/2009 (MRAC). Therefore, the absence of the form was not an obstacle for the hearing to proceed.

[3] The Respondent advised the Board that the Complainant had not filed and served disclosure upon the Respondent and the Board, as required by s. 8(2)(a) of MRAC. The Respondent submitted that, since the Complainant had no evidence to present, the Respondent would not be presenting its disclosure package. The Respondent requested that the Board dismiss the complaint.

[4] The Board decided to accept the complaint form as evidence (Exhibit C-1) and to proceed with the merit hearing.

Background

[5] The subject property is a 6.8 acre parcel with two buildings on it (65,126 SF and 3,600 SF) located in the Papaschase Industrial subdivision in southeast Edmonton. It was assessed by the direct sales approach to valuation.

Issues

[6] Is the current assessment of the subject property excessive when considering the previous year's assessment?

Position of the Complainant

[7] The Complainant stated that the current assessment on the subject property is approximately 10% higher this year compared to last year's assessment and that it is not fair, when according to the Respondent's website, assessments are only up 6.3%.

[8] On the complaint form the Complainant requested that the current assessment be reduced to \$8,331,500.

[9] In summary, the Complainant noted that there have been no improvements to the subject property in the past year and that the increase was too high.

Position of the Respondent

[10] The Respondent referred the Board to the Law and Legislation section of its submission (Exhibit R-1) and submitted that the Complainant had not met the burden of proof, or onus, requirement (R-1, page 43) to make its case for a reduced assessment, since no disclosure documents had been provided.

[11] The Respondent also referred the Board to the section on Year by Year Percentage Increases (R-1, page 47) and noted that the case law cited confirmed that each year's assessment is independent of the previous year's assessment (*Maguire v. The City of Edmonton*, October 31, 2007 – unpublished).

[12] The Respondent submitted that the information presented by the Complainant was not sufficient to allow the Board to conclude that assessment on the subject property should be reduced and therefore requested the Board to confirm the current assessment at \$8,815,000.

Decision

[13] The Board confirms the current assessment of the subject property at \$8,815,000.

Reasons for the Decision

[14] The Board finds that the Complainant provided only a statement that the assessment increased by 10% from the previous year's assessment, without documentation.

[15] In the opinion of the Board, this is insufficient evidence to allow the Board to doubt the correctness of the assessment. The assessment is based on market value on the valuation date, not on a previous assessment value.

[16] Therefore, the Board concludes that the Complainant did not discharge the responsibility of demonstrating that the current assessment is incorrect.

Dissenting Opinion

[17] There was no dissenting opinion.

Heard May 14, 2014.

Dated this 4th day of JUNE, 2014, at the City of Edmonton, Alberta.



Peter Irwin, Presiding Officer

Appearances:

Don Mueller
for the Complainant

Melissa Zayac
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.

Appendix

Legislation

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.

The *Matters Relating to Assessment Complaints Regulation*, Alta Reg 310/2009, reads:

s 8(1) In this section, “complainant” includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 42 days before the hearing date,

(i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the composite assessment review board an estimate of the amount of time necessary to present the complainant’s evidence;

s 9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

Exhibits

C-1 – Complaint Form – 3 pages

R-1 – Respondent’s Brief – 50 pages