

Edmonton Composite Assessment Review Board

Citation: Christl Bergstrom v The City of Edmonton, 2014 ECARB 00293

Assessment Roll Number: 8223059
Municipal Address: 9621 82 AVENUE NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: \$221,000.

Between:

Christl Bergstrom

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
John Noonan, Presiding Officer
Martha Miller, Board Member
Taras Luciw, Board Member

Background

[1] The subject property at 9621 82 Ave is an 1170 square foot (sq.ft.) single storey retail store on the south side of Whyte Avenue near Mill Creek Ravine. The building has an effective year built of 1960 and sits on a lot 20 feet wide. The 2014 assessment was prepared by the capitalized income approach, using a lease rate of \$16.50 per sq.ft., allowances for vacancy and structural repair, and a 7.5% capitalization rate.

Issues

[2] The Board heard evidence and argument on a single issue:

Does the \$16.50 attributed lease rate over-estimate the revenue potential of the subject?

Position of the Complainant

[3] The Complainant's case was presented orally by the owner, Chrystl Bergstrom, and her husband, David Murray. They alternately discussed this subject property and another holding across the avenue which was the subject of the following complaint hearing, roll 82272209. Some of the evidence was common to both complaints, especially information regarding lease rates in the immediate neighbourhood.

[4] Ms. Bergstrom purchased the property for \$90,000 in 2001 and uses the property as an artist's studio/gallery, referring to the building as the Red Gallery. To the east of the Red Gallery is a former theatre building now occupied by a church. As it remains empty most of the week, it

contributes nothing to the commercial appeal of the street. To the west is a massage business, again a less than appealing neighbor. The sidewalk in front of the subject is in poor condition and despite numerous complaints the City has not repaired it. Where there were once trees in the avenue's centre median, they have been removed and again this detracts from the area's appeal.

[5] Mr. Murray is active in the area's commercial revitalization efforts and canvassed a number of nearby property owners to ascertain their assessed lease rates and what their properties actually achieved. He found a disparate range of assessed lease rates, from \$13.50 to \$21.50 per sq.ft., yet was unable to find any buildings generating greater than \$15 per sq.ft. A common theme was that property owners felt compelled to keep their rental rates low in order to keep their space occupied. In contrast, the City was employing in the mass assessment process aggressive estimates of what properties in the area near Mill Creek Ravine could achieve. Ms. Bergstrom expressed frustration with this process, urging that the City should employ more assessors to allow greater appreciation of neighbourhood realities like the subject's.

[6] An attachment to the complaint form outlined the requested change to the assessment, employing a lease rate for the subject of \$12 per sq.ft. rather than \$16.50.

Position of the Respondent

[7] The Respondent's evidence package contained the City's Mass Appraisal Brief which amongst other things described how similar properties are grouped together and assessed with parameters typical of the group. For the 2014 assessment, all retail properties had been valued using the income approach. The assessment department had determined that the typical rental area of retail properties was 95% of the main floor area, and so applied that calculation in finding the leasable area, the difference attributed to parts of a building that would not be expected to generate revenue, for instance, utility rooms. In the subject case, the 1170 sq.ft. building was estimated to contain 1111 sq.ft. of leasable area. Market area maps placed the subject property in its broader commercial market area, and it's more particular study area number 183, Whyte Avenue between 70 and 97 Streets.

[8] A table of comparable rents was presented, drawn from three separate buildings on the south side of Whyte Avenue east of the Mill Creek Ravine. The leases were all for main floor areas in either the 1001-3000 or 3001-5000 sq. ft. categories, and showed rental rates from \$9-\$21 per sq.ft., with an average of \$16.60 and median of \$18 per sq.ft. Another table showed four other main floor leased areas in the 1000-3000 sq.ft. range, of similar age as the subject, were all assessed at the same \$16.50 per sq.ft. lease rate, demonstrating equitable assessment. The Respondent observed that had the subject been less than 1000 sq.ft. in size, a higher rate would have been applied, \$17.75, as smaller spaces typically rented for a higher per sq.ft value. Similarly, had the subject been located closer to 104 Street, a much more desirable location, the assessment would have employed a 6 ½% capitalization rate rather than the subject's 7 ½%. This higher cap rate recognized the limitations of the immediate neighbourhood.

Decision

[9] The Board confirms the 2014 assessment of \$221,000.

Reasons for the Decision

[10] The subject building is owner occupied and consequently no rental income or lease information exists. Obviously, such lack of data hampers the ability of any complainant to show the Board that an assessment is incorrect. In the course of the hearing, reference was made to the assessed rates, actual lease rates, or both regarding a number of properties in the immediate neighbourhood including Earth's General Store, Mill Creek Picture Framing, Scona Cycle, GB Building and Certified Radio. Missing from the Complainant's presentation was information that would have been helpful to the Board such as lease dates, the areas under lease, and some form of verification from these property owners that the information was accurate. From the range of properties presented, it appeared to the Board that the most comparable to the subject in terms of size and age was Mill Creek Picture Framing and its lease rate was said to be \$12 per sq.ft. On the other hand, the Respondent has leasing information from a number of properties to the east of the subject that, though dated, support the assessed lease rate. Quite simply, the Complainant's evidence did not outweigh that of the Respondent.

[11] The Board understands the Complainant's position that the assessment department has applied aggressive or unrealistic lease rates in the assessments of all the retail properties on Whyte Avenue just west of Mill Creek Ravine. Meanwhile, the Respondent is mandated to find and apply typical rates for similar groups of property. The Board does not promise that with greater effort and evidence the Complainant's argument will succeed in future assessment complaints, but neither will it fall on deaf ears.

Heard May 29, 2014.

Dated this 23rd day of June, 2014, at the City of Edmonton, Alberta.



John Noonan, Presiding Officer

Appearances:

Christl Bergstrom
David Murray
for the Complainant

Chris Rumsey
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.

Exhibits

Complaint form and attachment

R-1 Respondent’s submission – 52 pages