

Edmonton Composite Assessment Review Board

Citation: Lifestyle Holdings Ltd. v The City of Edmonton, 2014 ECARB 00307

Assessment Roll Number: 10126375

Municipal Address: 342 Ambleside Link SW

Assessment Year: 2014

Assessment Type: Annual New

Assessment Amount: \$12,172,000

Between:

Lifestyle Holdings Ltd.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Jerry Krysa, Presiding Officer

Brian Frost, Board Member

Darryl Menzak, Board Member

Procedural Matters

[1] The parties did not object to the composition of the Board, nor raise any preliminary issues in the matter before the Board.

[2] During the course of the hearing, the Respondent objected to the last three pages of the Complainant's four page rebuttal submission for the reason that the documents were not disclosed to the Respondent prior to the hearing. The Complainant conceded that the documents were not disclosed to the Respondent prior to the hearing.

[3] The Board finds that the last three pages of the Complainant's rebuttal submission are inadmissible as they were not properly disclosed to the Respondent pursuant to s. 8(2)(c) of the *Matters Relating to Assessment Complaints Regulation*, Alta. Reg. 310/2009.

Background

[4] The subject property is a 12.063 acre (525,482 square foot) parcel of vacant land located in the neighbourhood of Ambleside. The parcel has services available at the property boundary; however, the interior services have not been developed by the property owner. Bylaw 14772, passed January 14, 2008, designates the parcel DC1, Direct Development Control Provision with the stated general purpose: *To accommodate the development of residential uses in a variety of low to high density housing forms and to provide the opportunity for a mix of institutional facilities including extended care treatment, medical treatment and related commercial and personal service uses, in a location with a prominent entry to the Ambleside neighbourhood and situated adjacent to a transit centre.*

Issue

[5] Is the assessment of the subject property equitable in relation to the assessments of similar properties?

Position of the Complainant

[6] The Complainant submits that the subject property is a vacant parcel of un-serviced land, being prepared for development to a seniors housing and assisted living facility.

[7] The Complainant argues that the subject's 46% increase in assessment from 2013 is inequitable in relation to the assessment increases of other residential properties in proximity of the subject. In support of the argument, the Complainant provided copies of the Respondent's "2013 – 2014 Total Assessment Percentage Change By Neighbourhood" on-line maps for single family and condominium properties to demonstrate that these property types experienced year over year increases from 3% to 8% in the Windermere area.

[8] The Complainant further submits that the assessment is inequitable in relation to the assessments of other vacant land parcels located nearby. In support of this position the Complainant provided the assessments of three properties illustrating unit rates of assessment ranging from \$800,366 to \$895,196 per acre, in contrast to the subject's assessed unit rate of \$1,009,036 per acre, as follows:

Account #	Address	Assessment	Lot Size (Acres)	Assessment / Ac.
10385239	340 Windermere Road	\$3,059,000	3.822	\$800,366
10143159	1104 Windermere Way	\$3,055,000	3.425	\$891,971
10385238	350 Windermere Road	\$4,975,500	5.558	\$895,196

[9] The Complainant maintains that the above three properties are superior to the subject as they are fully serviced properties, located across from parks and on quieter roadways than the subject property which has direct exposure to Windermere Boulevard, Ambleside Link, and 170 Street /Terwillegar Drive, a future freeway designated with an "extreme traffic" attribute by the Respondent.

[10] The Complainant also submits that the subject property is inferior to the three comparable properties in respect of economy of scale due to parcel size and should therefore further reflect a lower assessed unit rate. In support of this position, the Complainant provided the assessments of two adjacent non-residential properties to demonstrate that the larger property is valued at a unit rate approximately 15% lower than that of the smaller property, as follows:

Account #	Address	Assessment	Lot Size (Acres)	Assessment / Ac.
10395409	3880 Allan Drive SW	\$8,012,000	9.922	\$807,498
10395446	3881 Allan Drive SW	\$1,958,000	2.100	\$932,381

[11] Accordingly, the Complainant argues that the subject assessment should be increased by no more than 8% from the 2013 assessment of \$8,335,500, to a value of \$9,000,000.

Position of the Respondent

[12] The Respondent argues that the subject property's increase in assessment from 2013 is immaterial as the legislation requires that an assessment be prepared annually for each property, reflecting the market conditions as of the legislated valuation date. The Respondent further argues that the Complainant's evidence demonstrating assessment increases of 3% to 8% for improved condominium and single family properties is irrelevant as those properties are subject to different market forces and therefore dissimilar to the subject property.

[13] In support of the argument, the Respondent provided a reference to *Globexx Properties Inc v Edmonton (City)*, 2012 ABQB 651, and several excerpts from Assessment Review Board and Municipal Government Board decisions wherein the Boards have held that an assessment is independent of prior assessments of the same property.

[14] The Respondent submits that the subject is unique in the municipality, in that the DC1 provision in Bylaw 14772 allows for a mixed density development of low rise and high rise residential facilities equivalent to those zoned RA7, RA8 and RA9. The Respondent argues that in contrast, the Complainant's three equity comparables are exclusively zoned RA7 and are therefore significantly inferior to the subject, and should be assessed at a lower unit rate.

[15] The Respondent maintains that the current assessment reflects the market value of the subject property as of the legislated July 1, 2013 valuation date.

[16] In support of the assessment, the Respondent provided a summary detailing the assessment and sale particulars of six properties located in southwest Edmonton (Market Area 7), as well as the assessment and 2009 sale particulars of the subject property.

ADDRESS	ZONE	SALE DATE	LOT SIZE S.F.	SALE PRICE	**TASP	TASP / S.F.	2014 ASMT	2014 ASMT / S.F.	*** ASR
Subject	DC1	2009-10	525,482	\$11,352,500	\$12,359,467	\$23.52	\$12,172,000	\$23.16	0.98
*340 Windermere Rd	RA7	2013-01	166,485	\$3,447,000	\$3,552,134	\$21.34	\$3,059,000	\$18.37	0.86
*350 Windermere Rd	RA7	2013-01	242,100	\$5,004,000	\$5,156,622	\$21.30	\$4,975,500	\$20.55	0.96
104 Allard Link	RA7	2012-07	184,748	\$3,825,000	\$4,061,385	\$21.98	\$3,901,000	\$21.12	0.96
5836 Mullen Place	DC2	2012-02	145,156	\$2,750,963	\$2,994,973	\$20.63	\$3,196,500	\$22.02	1.07
Whitelaw Lane	RA7	2013-06	139,074	\$3,014,000	\$3,029,070	\$21.78	\$3,080,000	\$22.15	1.02
1023 173 St	RA7	2013-06	196,020	\$4,500,000	\$4,522,500	\$23.07	\$4,141,000	\$21.12	0.92

* Also Complainant's Comparables

**TASP – Time Adjusted Sale Price

***Assessment : Sale Ratio

[17] The Respondent argues that the sales exhibit time adjusted land unit rates of approximately \$21.00 to \$23.00 per square foot, notwithstanding that all of the comparable properties are inferior to the subject property due to their RA7 zoning, or effective RA7 zoning in the instance of 5836 Mullen Place.

[18] With respect to the Complainant's economy of scale argument, the Respondent concedes that the comparable sales are smaller than the subject property; however, the Respondent argues that three acres is considered a large parcel for typical multi-family residential developments,

and further, that the time adjusted sale prices do not demonstrate lower unit rates for the larger parcels. The Respondent further submits that although the property owner has not completed interior servicing, the subject parcel has access to all municipal services at the property line.

[19] In further support of the assessed value, the Respondent provided a surrebuttal valuation estimate employing RA9 and RA7 land unit rates for each of the permitted development density areas set out in Bylaw 14772 to demonstrate an estimate of value greater than the subject's 2014 assessment of \$12,172,000, and greater than the subject's time adjusted sale price of \$12,359,467, as set out below:

Area in Zoning	Size M2	Size %	Size Sq Ft	\$/Sq Ft	\$
C+D (High Rise)	30,000	61%	322,917	\$26	\$8,395,850
A+B (Low Rise)	18,818	39%	202,555	\$20	\$4,051,105
Total	48,818	100%	525,473		\$12,446,955

[20] In support of the RA9 land unit rate of \$26.00 per square foot, the Respondent provided sale data sheets for two RA9 Ambleside Drive land sales transactions. The parcels, each 3.09 acres in area transferred in October 2011 and July 2012 at unit rates of \$24.67 and \$25.14 per square foot; time adjusted by the Respondent to \$26.86 and \$26.69 per square foot, respectively. The Respondent submits that it did not employ RA8 land unit rates in the calculation due to an absence of RA8 land sales in the municipality; however, the Respondent maintains that RA8 land should command a unit rate between the land rates exhibited by RA7 and RA9 sales.

[21] In response to the Complainant's three equity comparables, the Respondent concedes that the Complainant's comparable properties may have some superior attributes compared to the subject property; however, the Respondent maintains that any of those superior attributes are more than offset by the subject's prominent location along three major roadways which could provide multiple access points in the future, the adjacent transit centre, and the subject's superior permitted development density.

[22] In closing the Respondent argues that the Complainant's \$9,000,000 request is unreasonable as the subject property sold in 2009 for \$11,352,500, and the time adjustment factors employed by the Respondent indicate that the market has not declined between the subject's sale date and the legislated valuation date.

Legislation

[23] *Matters Relating to Assessment Complaints Regulation, AR310/2009*

8 (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:

(c) the complainant must, at least 7 days before the hearing date, 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 rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

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

[24] *Municipal Government Act*, RSA 2000, C. M-26

285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298.

[25] *Matters Relating to Assessment and Taxation Regulation*, AR220/2004

3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

Decision

[26] The Board finds that there is insufficient evidence to demonstrate that the assessment of the subject property is not equitable in relation to the assessments of similar properties. The assessment is confirmed at \$12,172,000.

Reasons for the Decision

[27] The Board applies little weight to the Complainant's argument that the subject property is inequitably assessed as a result of its 46% increase over the 2013 assessment, in contrast to the 3% to 8% assessment increases evident in improved condominium and single family properties. The Board finds that there was no market evidence to demonstrate that the subject property experienced a change in market value equivalent to that of improved condominium and single family properties between the July 1, 2012 valuation date of the 2013 assessment, and the July 1, 2013 valuation date of the current assessment.

[28] Further, the Board is not persuaded that an assessment inequity can be demonstrated by referencing changes in market value amongst dissimilar property types with different valuation dates. The Board notes that the legislation requires that an assessment must be prepared annually for each property in a municipality; and sets out a specific valuation date for each assessment.

[29] The Board also applies little weight to the Complainant's three equity comparables exhibiting assessed unit rates of \$800,366 to \$895,196 per acre. The Board finds that these properties are significantly dissimilar to the subject property as a result of the provisions set out in Bylaw 14772, allowing high-rise development on a portion of the subject property. The Board notes that as a result of those provisions, the subject enjoys a significantly higher permitted development density than that of the Complainant's RA7 properties, which reasonably supports a somewhat higher market unit rate for the subject property.

[30] The Board finds the Respondent's RA7 and RA9 land sales to be compelling evidence of the \$20.00 and \$26.00 per square foot land unit rates supporting the total assessment.

[31] Although both parties debated whether the adjacent transit centre and the subject's location with exposure to three major roadways were positive or negative attributes for the subject property, there was no market evidence from either party to allow the Board to arrive at any valuation conclusions in respect of these attributes. The Board notes that the subject's DC1

zoning provisions specifically reference the adjacent transit centre in the stated general purpose for the development as an apparent positive attribute.

[32] In respect of access to the property, the Board rejects the Respondent's position that the subject could enjoy multiple access points from the adjacent major roadways, as there was no evidence that additional access points from the major roadways would be permitted by the municipality in the vicinity of a future freeway intersection. Notwithstanding the potential for additional access points to the subject property, assessments are to reflect the physical characteristics of the property as of December 31, and the evidence from both parties indicates that on December 31, 2013 the property had only a single access point. The Board notes that assessment of property is an annual function, and if additional access points are constructed in the future that characteristic may become a factor for the assessment at that time.

Heard May 29, 2014.

Dated this 18th day of June, 2014, at the City of Edmonton, Alberta.



Jerry Krysa, Presiding Officer

Appearances:

Sheldon Wolanski

Representative for the Complainant

Andy Lok; Keivan Navidikasmaei.

Representatives for the Respondent

Exhibits

C-1 – Complainant's Evidence – 14 pages

R-1 – Respondent's Evidence – 66 pages

C-2 – Complainant's Rebuttal – 1 page

R-2 – Respondent's Law and Legislation – 52 pages

R-3 – Respondent's Surrebuttal – 9 pages

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.