

Edmonton Composite Assessment Review Board

**Citation: Robert Gagne, AEC Property Tax Solutions v The City of Edmonton, 2014
ECARB 00521**

Assessment Roll Number: 10065105
Municipal Address: 5607 67 Avenue NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: \$31,067,000

Between:

Robert Gagne, AEC Property Tax Solutions

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Harold Williams, 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] At the outset of the hearing for roll # 9538000, council for the Respondent requested that all witnesses be sworn in. There were no objections to this request and witnesses for both parties were sworn by Board member Sheldon. Sworn status for witnesses for this hearing stood from roll # 9538000.

Background

[3] The subject property under complaint is classified by the City as industrial warehousing and is located at 5603 67 Avenue NW within the Roper Industrial subdivision. The subject property contains two buildings all built in 2011. The main floor areas for the buildings are 89,600 square feet and 78,400 square feet respectively. The subject property was valued by the City using the Direct Sales Comparison approach resulting in a 2014 assessment of \$31,067,000.

Issues

[4] Is the 2014 assessment of the subject property equitable when considering the relationship between the assessments and sales prices of comparable properties?

Position of the Complainant

[5] The Complainant provided the Board with evidentiary documents. Exhibit C-1 is the Complainant's Submission of Evidence. Exhibit C-1, Sub A consists of copies of Edmonton Composite Review Board (ECARB decision 2013 ECARB 00734, ECARB decision 2012 ECARB 000254, and Queen's Bench decision Mountain View (County) v. Alberta (Municipal Government Board), 2000 ABQB 594. The Complainant also provided a rebuttal document (Exhibit C-2).

[6] Exhibit C-1 page 12 showed a listing of five properties that the Complainant considered similar to the subject property. The listing was carried forward from roll # 9538000. These properties sold between November 2009 and October 2012 showing time adjusted sale prices per square foot ranging from \$153.11 to \$253.79 in comparison to the subject property's assessment showing a price per square foot of \$147.29. The Complainant indicated that the sale price per square foot amounts of the comparables did support the assessed price per square foot of the subject property.

[7] Exhibit C-1 page 12 also showed the percentage relationship between the assessment value per square foot of the comparable properties and the time adjusted sale prices per square foot of the comparable properties. The percentage relationships were listed as ASR (Assessment to Sales Ratio) amounts. The ASRs ranged from 0.51 to 0.94 with a median of 0.72. Comparable #1 for example showed an assessment value per square foot of \$114.46 and a time adjusted sale price of \$159.55 per square foot resulting in an ASR of 0.72.

[8] The Complainant argued (carried forward from roll # 9538000) that the ASRs for the five comparables, in the majority, were so low as to indicate a possible problem with the assessments of the comparables. The Complainant indicated that there was no information on why these ASRs were so low. The Complainant's position is that these low ASRs illustrate that the assessment amounts per square foot for the comparables are low and that the subject property is much higher in assessment amount per square foot by comparison.

[9] The Complainant further argued (carried forward from roll # 9538000) that the assessment for the subject property should be reduced to better compare with assessment amounts per square foot of the comparables in order to maintain equity between similar properties. The Complainant's position is that the reduction should take place in order to achieve assessment equity even though the time adjusted sale prices of the comparables support the assessment amount per square foot of the subject property.

[10] The Complainant (carrying forward from roll # 9538000) drew the Board's attention to highlighted passages from Exhibit C-1, Sub A on pages 9, 10, 15, 16, 22, and 30. The complainant argued (carried forward from roll # 9538000) that these passages indicated where other Tribunals, in their decisions, supported the consideration that although sales of comparable properties may support the assessed amount of a particular property, none the less that property must still be valued equitably with similar properties even if that means a reduction in the assessment of the property.

[11] In response to questioning by the Respondent (carried forward from roll # 9538000) regarding the possible sale price per square foot of the subject property the Complainant argued that the subject property would likely sell in consideration of the total square footage of all the buildings on the property and not in consideration of the size of each individual building. The complainant argued that economies of scale, where smaller buildings sell for a higher price per square foot than do larger buildings, would have little effect for this property. In other words there would likely be no effect on a possible sale of the subject property regardless of number of buildings making up total building square footage. Therefore the Complainant argued (carried forward from roll # 9538000), there was no indication that a possible sale price for the subject property might be higher than indicated by the assessed amount per square foot resulting in an ASR that might be as low as those shown for the five comparisons.

[12] In rebuttal (carried forward from roll # 9538000) the Complainant referred the Board to Exhibit C-2 page 3, Quality standards, an excerpt from Alberta Regulation (AR 220/2004) Matters Relating to Assessment and Taxation where the assessor is directed to achieve a standard of a median assessment ratio of 0.950 to 1.050. The Complainant's position was that this standard was not met in the case of the five comparable properties presented by the Complainant.

[13] The Complainant further made argument (carried forward from roll # 9538000) that three of the six sales comparisons provided to the Board by the Respondent in Exhibit R-1 were not valid comparisons because they required to many adjustments to bring them in line with subject property. The Complainant, in Exhibit C-2 page 5, pointed particularly to the City's sales comparison #1 on Roper Road and argued that it was a completely non comparable property because of location, number of buildings, property use and expected lease rates.

[14] In terms of the remaining three City sales comparisons it was noted that they were in common with three of the Complainant's sales comparisons. The Complainant provided a chart Exhibit C-2 page 21 showing the ASRs calculated for the City's six sales comparisons. The median ASR was shown as 0.86 which the Complainant argued (carried forward from roll # 9538000) demonstrated that the ASR's for the City's sales comparison properties are low and not to standard and further backed up the Complainants contention that these properties are assessed to low and that the subject property should be reduced in assessment to be equitable with the low assessments on these properties.

[15] The Complainant, in Exhibit C-2 pages A-2 to A-10, also provided information excerpts from a document entitled Equitable Property Assessment which was compiled for the Continuing Legal Education Society of British Columbia. The excerpts point out that market value exists within a range of values and suggests "an approximate range of plus or minus 5% of assessed value as being within an acceptable range of actual value".

[16] Finally the Complainant made argument (carried forward from roll # 9538000) that all the sales comparables provided by the Complainant and the Respondent indicated that the subject property is over assessed by 28%. (Exhibit C-2, page 5, paragraph 16).

[17] The Complainant asked that the Board reduce the assessment of the Subject property from \$31,067,000 to \$22,368,240.

Position of the Respondent

[18] The Respondent provided the Board with evidentiary documents (Exhibit R-1) and (Exhibit R-2). Exhibit R-1 pages 4 to 13 provided information on the City's methodology for

conducting assessments including Mass Appraisal, Factors Affecting Value, Adjustments, General Practices, and Provincial Quality Standards. Exhibit R-1 also contained a copy of an Edmonton Composite Assessment Review Board decision, 2012 ECARB 635, that dealt with the 2012 assessment of the subject property.

[19] Exhibit R-1, page 30 showed a listing of six properties (carried forward from roll # 9538000) that the Respondent considered similar to the subject property. These properties sold between November 2009 and February 2013 and showed time adjusted sale prices per square foot ranging from \$121.81 to \$177.30 in comparison to the subject property's assessment per square foot of \$147.29. The Respondent indicated that the time adjusted sales price per square foot of the six sales comparables supported the assessment per square foot of the subject property.

[20] The Respondent provided a chart of nine properties (carried forward from roll # 9538000) as assessment equity comparables (Exhibit R-1, page 37) that showed a range of assessments per square foot of \$129.48 to \$184.92 in comparison to the subject property assessment per square foot of \$147.29.

[21] The Respondent re-charted the five sales comparisons provided by the Complainant (Exhibit R-1, page 38) showing that sale #1 may be influenced by lease back arrangements (Exhibit R-1, page 36), sale #3 contains additional small buildings valued on cost approach (Exhibit R-1, page 39), and sale #4 has long term Federal Government lease (Exhibit R-1, page 40). The Respondent argued (carried forward from roll # 9538000) that these circumstances may influence the sale price of the properties upward and therefore show a lower ASR when set against the assessments of these properties.

[22] In terms of using ASRs to determine assessment equity the Respondent made argument (carried forward from roll # 9538000) that in a mass appraisal approach all the ASRs from all similar properties that have sold must be considered and not a small sampling of similar properties (Exhibit R-1, page 41), (Exhibit R-2). The Respondent argued (carried forward from roll # 9538000) that (AR 220/2004) Matters Relating to Assessment and Taxation directs the assessor to achieve a standard of a median assessment ratio of 0.950 to 1.050 across all similar properties rather than within a small sample of similar properties.

[23] The Respondent argued (carried forward from roll # 9538000) that the City has passed a Provincial Assessment Audit based on this standard and that the chart in Exhibit R-2 shows a median ASR for all similar properties to the subject of 0.97. In questioning by the Complainant (carried forward from roll # 9538000) the Respondent agreed that a sampling of three to five similar properties that have sold may give a good indication of market value but that a statistical measure of ASRs requires a full sampling of all similar properties that have sold for the measure to be meaningful.

[24] In terms of the number of buildings within the subject property the Respondent argued (carried forward from roll # 9538000) that there may be an influence on a possible sale price of the subject because economies of scale are normally a factor in the sale of a property. The Respondent's position is that there is possibly better utility in the make up of the subject property encasing three buildings rather than one large building making up the total building square footage. The Respondent's position is that building count on the property may have an influence upward on a possible sale and therefore show a lower ASR when set against the assessment of the subject property.

[25] Finally the Respondent argued (carried forward from roll # 9538000) that the subject property had been assessed using the same information and methodology as all other similar properties and that this approach demonstrates equitable treatment for all similar properties.

[26] The Respondent asked that the Board confirm the assessment of the subject property at \$31,067,000.

Decision

[27] The Decision of the Board is to confirm the 2014 assessment of the Subject property at \$31,067,000.

Reasons for the Decision

[28] The Board reviewed the sales comparison evidence provided by both parties. Both parties agreed that all the sales comparison information tended to support the 2014 assessment per square foot of the subject property.

[29] The Board reviewed the assessment equity information provided by both parties with particular attention to the issue of Assessment Sales Ratios (ASR) and whether those ratios indicated inequitable treatment in terms of the assessment for the subject property. The Board referred to Exhibit C-2, page 3 and the excerpt from AR 220/2004 Quality Standards. In this regulation the assessor is directed to achieve a standard of a median assessment ratio of 0.950 to 1.050. Subsection (3) of the excerpt directs the assessor to achieve the standard for "any stratum of property type".

[30] It was argued by the Respondent (carried forward from roll # 9538000) that the word stratum implies a full sampling of all similar properties and not a small chosen sample of similar properties. The Board agrees with the Respondent and notes the Merriam Webster Dictionary defines Stratum as (4) "one of a series of layers, levels, or gradations in an ordered system", (5) "a statistical subpopulation". The Board finds that such definition implies that stratum in this case refers to a population of properties and not to a few chosen properties.

[31] In terms of the issue of assessment equity for a property regardless of its market indicated value the Board reviewed information from Exhibit C-1, Sub A page 29 for roll # 9538000. On that page an excerpt from the judgment of Bramalea Ltd. V. British Columbia (Assessor for Area 9 (Vancouver)) (B.C.C.A) [1990] B.C.J. No. 2730 states:

"It seems to me that the assessment authority has the duty of deciding, so far as possible, in respect of each class of property an approach most likely to arrive at "actual value" as defined in law, and thereafter to apply available data to each in such a way as to ensure that all within the class are valued, so far as possible, on the same basis."

[32] The Board is guided by the statement for this hearing and finds that the City has followed the intent of the statement in producing the assessment for the subject property and for all similar properties.

[33] In terms of the number of buildings on a property and the influence that would have on a possible sale price, there was no information provided by either party to support or refute such influence. In the opinion of the Board it is likely that a possible purchaser would review a property for number of buildings, size of buildings, quality, utility, site coverage among other

property attributes. It is unlikely that a possible purchaser would simply review total building square footage only. The board finds the City's approach of assessing each building on a property individually and then adding together the assessments of the buildings to achieve a total assessment for the property is a reasonable approach.

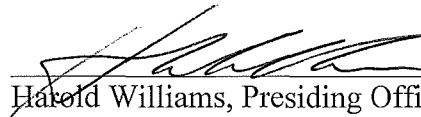
[34] The Board also notes that decisions of the Assessment Review Board are independent year by year.

Dissenting Opinion

[35] There were none.

Heard June 9, 2014.

Dated this 2nd day of July, 2014, at the City of Edmonton, Alberta.


Harold Williams, Presiding Officer

Appearances:

John Smiley
for the Complainant

Cameron Ashmore

Marty Carpentier
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

Complainant: C-1 38 pages
C-1A 37 pages
C-2 40 pages

Respondent: R-1 57 pages
R-2 4 pages