

Edmonton Composite Assessment Review Board

Citation: Finning International Inc. as Represented by AEC Property Tax Solutions v The City of Edmonton, 2014 ECARB 00527

Assessment Roll Number: 1008317
Municipal Address: 10235 180 Street NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: \$4,613,500

Between:

Finning International Inc. as Represented by AEC Property Tax Solutions
Complainant
and

The City of Edmonton, Assessment and Taxation Branch
Respondent

DECISION OF
Robert Mowbrey, Presiding Officer
Jack Jones, Board Member
Joseph Ruggiero, 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] There were no preliminary matters.

Background

[3] The subject property is a medium warehouse of 32,807 square feet and was constructed in 1988, located in the Morin industrial neighborhood. The subject property is zoned IM and is assessed using the direct sales approach.

Issues

[4] Is the assessed value of the subject property greater than the market value?

Position of the Complainant

[5] The Complainant filed this complaint on the basis that the assessment of \$4,613,500 is in excess of market value. The Complainant presented a disclosure package marked as Exhibit C-1. In addition, the Complainant also presented a rebuttal marked as Exhibit C-2 and two Composite Assessment Review Board decisions marked as Exhibit C-3.

[6] The Complainant presented the Board with assessment details, maps and photographs of the subject property.

[7] In support of this position, the Complainant presented five sale comparables that were time adjusted to the valuation date of July 1st, 2013. The sale comparables ranged in total building area from 29,490 square feet to 40,831 square feet, site coverage from 28 to 34% and year of construction from 1977 to 1991. The time adjusted selling price (TASP) ranged from \$89 to \$189 per square foot of total building area and the median was \$145 per square foot. The five sale comparable properties ranged in assessed values from \$111 to \$179 per square foot of total building area.

[8] During argument and summation, the Complainant advised the Board that the assessment at 10439-176 street was 5.3% lower than the TASP per square foot of the property.

[9] During argument and summation, the Complainant presented two previous CARB decisions and two Queen's Bench decisions. The Complainant discussed *AEC International v. The City of Edmonton*, 2013 ECARB 00734, in which the CARB found the subject property to be over assessed in comparison to the sales comparisons provided. At para 43, the CARB stated that:

Based on its consideration of the above reasons, the Board finds the subject properties to be over assessed in comparison to the sales comparables provided. Furthermore, the Board finds guidance in the case of *British Columbia (Assessor for Area 9 - Vancouver) v. Bramalea Ltd., 1990 (B.C.C.A.)*, as applied to the assessments of the subject properties, where the range of actual values of the subject properties overlap the assessed values, but the equitable values of the sales comparables do not overlap the corresponding actual values. Following along with *Bramalea*, where preference is given to the lower equitable value of a property, the Board finds that the lower equitable value of the subject properties to be the equitable value of the sales comparables or in the range of 18% to 22% below the assessed value.

[10] The Complainant also referred to *AEC International Inc. v. The City of Edmonton*, ECARB 2012-000254 (ECARB 2012-000254). In that decision the Board stated "that the assessments, on average, were 17% lower than market value. Therefore, there was doubt that the assessment of the subject was equitable with other similar properties. The Complainant brought forward in his rebuttal, various court and Board decisions with respect to equity and mass appraisal and that the onus of proof has shifted to the Respondent" (at para 25).

[11] The Board in ECARB 2012-000254 also found that:

...all of the Respondent's sales comparables have sold at higher rates than their 2012 assessment indicating they be under assessed. The Respondent stated that the assessments were equitable but also admitted that that they were "under assessing". The Board concluded that, based on the Respondent's sales comparables, the subject is assessed at

fair market value. However, the Board also concluded that the subject was not assessed equitably with the sales comparables brought forth by the Respondent and the Complainant. The Board felt that when compared to similar properties the subject was not assessed equitably and should therefore receive a reduction to the assessment (at para 31).

[12] With the Complainant having the last word, the Complainant requested the Board to reduce the 2014 assessment from \$4,613,500 to \$3,649,705.

Position of the Respondent

[13] The Respondent defended the 2014 assessment by providing the Board with a 51 page disclosure package marked as Exhibit R-1.

[14] The Respondent explained that the assessment and similar assessments were prepared using the direct sales comparison methodology. The Respondent advised the Board that “there is ample data from which to derive reliable estimates and only a portion of the inventory is traded based on its ability to generate income. A large percentage of industrial property in Edmonton is owner-occupied, and as such has no income attributable to it” (Exhibit R-1 page 26).

[15] The Respondent advised the Board that “Sales occurring from January 2008 through June 2013 were used in the model development and testing”. Factors found to affect value in the warehouse inventory are as follows: total main floor area (per building), site coverage, effective age (per building), condition (per building), location of the property, main floor finished area, as well as finished area (per building). The most common unit of comparison for industrial properties is value per square foot of building area (Exhibit R-1 pages 27, 28, 29 and 30).

[16] The Respondent provided the Board with maps, photographs and assessment details of the subject property.

[17] In support of the City of Edmonton’s assessment, the Respondent presented five sale comparables. The comparables ranged in year built from 1974 to 1992, and ranged in site coverage from 19 to 50%. The total building size ranged from 18,137 to 41,999 square feet and the unit TASP ranged from \$142.00 to \$201.00.

[18] The Respondent presented three equity assessment comparables to the Board. The equity comparables ranged in effective age from 1992 to 1998 and site coverage ranged from 21 to 26%. The total building size ranged from 26,044 to 55,832 square feet. The assessment per square foot of total building area ranged from \$139.00 to \$150.00.

[19] During argument and summation, the Respondent argued that the Complainant’s #1 sale comparison (17808 116 Ave) should not be used, because the leases in place were well below market. The sale comparable was sold as leased fee interest at below fee simple interest. In addition, the sale comparable did not meet the definition of market value. The sale comparable was not exposed to the open market.

[20] During argument and summation, the Respondent advised the Board that both the Complainant and Respondent shared a common sale comparable at 8210 McIntyre Road. The TASP of this common sale is \$142.00 per square foot, which, in the Respondent’s view, supports the assessment.

[21] During cross-examination of the Respondent by the Complainant, the Respondent was asked if these were the best equity comparables that the Respondent could find. The Respondent advised the Board that the equity comparables were similar to the subject property.

[22] The Respondent advised the Board that the issue is market value for the subject property and therefore requests the Board to confirm the 2014 assessment of \$4,613,500.

Decision

[23] The decision of the Board is to confirm the 2014 assessment of \$4,613,500.

Reasons for the Decision

[24] The Board was persuaded by the common comparable of the Complainant and the Respondent. Obviously, both parties selected this common sale to defend their position. However, the common sale has a TASP per square foot of total building area of \$142.00, which supports the assessment.

[25] The Board was advised that all sale transactions were vetted and verified by the City's valuation group, and that they did not rely on third party reports, but utilized the third party reports as back up to the City's analysis. The Board was persuaded by the Respondent's sales analysis, showing the average TASP per square foot of total building area was \$165.00, which supports the assessment, along with the median of \$149.00 TASP per square foot of total building area.

[26] The Board notes that when you discount the Complainant's #1 sale comparable at 17808 116 Avenue NW, due to not meeting the definition of market, the remaining four sales comparables average \$149.50 TASP per square foot of building area, which supports the assessment.

[27] The Board was also persuaded by the Respondent's equity analysis. The three equity comparables were similar in terms of location, year of construction, site coverage and total building area. The equity comparable assessments support the subject properties assessment.

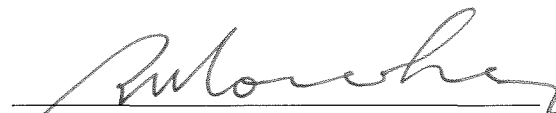
[28] The Board concluded that the Complainant did not provide sufficient nor compelling evidence to convince the Board that the assessment of the subject property was incorrect.

Dissenting Opinion

[29] There was no dissenting opinion.

Heard June 16, 2014.

Dated this 20th day of June, 2014, at the City of Edmonton, Alberta.


Robert Mowbrey, Presiding Officer

Appearances:

John Smiley, Senior Consultant, AEC Property Tax Solutions

Maciej Kudrycki, AEC Property Tax Solutions

for the Complainant

Luis Delgado, Assessor, City of Edmonton

Melissa Zayac, Assessor, City of Edmonton

Steve Lutes, Legal Counsel, 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.

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

C-1 – Complainant’s Brief (27 pages)

C-2 – Complainant’s Rebuttal (15 pages)

C-3 – Case Law (37 pages)

R-1 – Respondent’s Brief (51 pages)