

## **Edmonton Composite Assessment Review Board**

**Citation: Gateway Real Estate Equities Inc as represented by Robert Gagne, AEC  
Property Tax Solutions v The City of Edmonton, 2014 ECARB 00560**

**Assessment Roll Number:** 10087852  
**Municipal Address:** 9704 12 Avenue SW  
**Assessment Year:** 2014  
**Assessment Type:** Annual New  
**Assessment Amount:** \$38,300,500

Between:

**Gateway Real Estate Equities Inc as represented by Robert Gagne, AEC Property Tax  
Solutions**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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### **DECISION OF**

**Willard Hughes, Presiding Officer  
Jasbeer Singh, Board Member  
Mary Sheldon, Board Member**

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### **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.

[2] At the start of the hearing for roll number 10136494, the counsel for the Respondent requested that all witnesses be sworn in. There were no objections to such request, and all witnesses were sworn in. Sworn status was carried through for this hearing from roll number 10136494.

[3] Evidence, arguments and submissions are carried forward, where applicable, from roll number 10136494 to this file.

### **Background**

[4] The subject property is an industrial site at 9704 – 12 Avenue SW, located within the Ellerslie Industrial Neighborhood. The site is occupied by two industrial buildings of 110,047 square foot (sq ft) and 215,642 sq ft with a combined total area of 325,689 sq ft, classified in average condition. The effective year built is 2007 and the site coverage is 39%. The 18.98 acre parcel is zoned EIB (Ellerslie Industrial Business), located in Industrial Grouping 18, Core South. The property was valued by the City using the Direct Sales Comparison approach resulting in a 2014 assessment of \$38,300,500 (\$118 per sq ft).

## **Issue**

[5] The parties identified two issues to be decided at the merit hearing:

- (a) What is the correct market value of the subject?
- (b) Is the subject assessed equitably with similar properties?

## **Position of the Complainant**

[6] In support of the position that the current assessment of the subject is excessive, the Complainant provided an assessment brief.

[7] At the outset, the Complainant stated it was difficult to find good comparables of large sized buildings, those in excess of 200,000 sq ft. Nonetheless, the Complainant noted that, in selecting properties similar to the subject, he looked for similar attributes in the top drivers of value in industrial inventory, those attributes being main floor area, site coverage and building age.

[8] A chart of details of the sales of five properties was provided, which in the opinion of the Complainant, were comparable to the subject. Also included in the chart was a single column showing the assessment per sq. ft. of the five properties.

[9] Of the five sales presented, the Complainant admitted that sale #1 (5219-47 St) was a non-arm's length transaction, and that no weight should be given to this sale. This left four sales to be considered.

[10] Of the remaining four sales, the time adjusted sale prices per square foot (TASP) range between \$100 to \$144, representing the market value for those properties. The assessments per sq. ft. range from \$88 to \$102, these values being lower than the TASPs.

[11] The Complainant identified comparable #3 (12810 – 170 St), as the best comparable, in that it is similar in building size (399,767 sq. ft.) when compared to the subject at 325,689 sq ft. Site coverage is also similar (46%) when compared to the subject at 39%. Both buildings have an effective year built of 2007. Comparable three is also the most comparable in lot size: 23.36 ac compared to 18.98 ac for the subject. Both properties have two buildings on site. The TASP of comparable three is \$100, and the assessment per sq. ft. is \$97. The Complainant requested that most weight be placed on this sale. In questioning, it was noted that at the time of sale, comparable three had one building, and the second building was constructed later.

[12] The Complainant argued that the subject assessment is not supported by sales evidence, and the subject is over assessed and inequitably assessed.

[13] The Complainant concluded by stating the best indication of value is the median TASP of the comparables. This request is for a revised assessment of \$33,220,278 based on the square footage of the subject multiplied by \$102, the median TASP.

[14] During questioning, the Complainant acknowledged that comparables #3 (12810 170 St) and #5 (16304 117 Ave) were in Industrial Grouping 17, Northwest, a location inferior to the subject. The Complainant also acknowledged that comparable #5, built in 1977, was inferior to

the subject (2007), and of limited comparability. Further, the Complainant acknowledged that comparable #2 (4103 84 Ave) had a higher site coverage (54%), was older (1998), and had less value relative to the subject, which is newer and has a site coverage of 39%. Also, the Respondent raised the issue of a 15% below market lease in effect on comparable #2, which could negatively affect value. It was also confirmed that comparable #1 was a not an arm's length sale, and should be given no weight. The Complainant acknowledged that comparable #3 was slightly larger (lower value per sq. ft.), had a higher site coverage (lower value), and was in an inferior industrial grouping location. In response to questioning, no evidence was provided by the Complainant that his best comparable (#3) was superior in any way to the subject.

### **Position of the Respondent**

[15] In support of the position that the current assessment of the subject is correct and equitable, the Respondent provided an assessment brief.

[16] The Respondent commenced his presentation by commenting on the mass appraisal approaches and the assessment parameters. The Respondent emphasized the factors which affect value in the industrial inventory. In descending order of significance, these factors are: main floor area, site coverage, effective age, industrial group location, condition, main floor finished area and upper finished area.

[17] In particular, the Respondent highlighted the approach when dealing with multiple buildings in excess of 50,000 square feet, like the subject. In these cases, each building is analyzed for its contributory value to the property. A single assessment results from the aggregate market value for each building.

[18] The Respondent also commented on various adjustments which may be applied to properties on a site-specific basis to recognize various influences, including rear building adjustment, industrial group location adjustment, lot shape adjustment, limited access adjustment, contamination adjustment, easements and caveats adjustment.

[19] Particular emphasis was placed on qualitative adjustments as opposed to quantitative adjustments. The Respondent indicated that specific adjustments for different factors are not quantifiable and that a qualitative analysis is preferred. This analysis ranks comparables from best to worst, and places the subject within that ranking to determine an upper and lower limit.

[20] The Respondent also commented on the use of averages in determining a value per square foot of building area for industrial properties. In the opinion of the Respondent, averages are useful where differences are minor. However, no two industrial properties are identical and averages can become misleading.

[21] The Respondent concluded the general information portion of his presentation by commenting on the components of a valid assessment to sale ratio analysis and indicating that the models and processes used by the municipality in determining property values are submitted annually for audit in order to determine the accuracy of the model and predictions.

[22] The Respondent then presented a chart of five sales of properties which, in the opinion of the Respondent, are similar to the subject. The range of time adjusted sale prices per square foot for total area is \$100 to \$160. The Respondent argued that this evidence supported the assessment per square foot at \$118 for total area. The Respondent acknowledged that three of the comparable properties are superior in main floor area and site coverage, and others are

inferior in main floor area, site coverage, and age. However, the Respondent argued that the assessment per square foot of the subject is at the middle of this grouping and that this balances the negatives and positives of the grouping. The Respondent stated that this evidence showed that the assessment of the subject is in line with market value.

[23] The Respondent also provided a re-charting of the Complainant's five comparable sales. Two of these sales were also used by the Respondent. Evidence was provided to show that the Complainant's comparable #1 (5219 – 47 St) was a non-arm's length transaction and noted that this had been agreed to by the Complainant. Similarly, Complainant sale #4 (7612 – 17 St) was agreed to be given no weight as it contained cost buildings. This re-charting of the Complainant's remaining three comparable properties showed that two were inferior in age to the subject, two were inferior in industrial grouping, and two were inferior in site coverage. Overall, the Respondent stated that the comparable properties presented by the Complainant are inferior to the subject, and therefore of little assistance in establishing value for the subject.

[24] To demonstrate that the subject had been equitably assessed, the Respondent provided a chart of the assessments of five properties which, in the opinion of the Respondent are similar to the subject. The assessments per square foot of total area of those properties ranged from \$110 to \$147. The Respondent stated that three of the comparable properties are slightly superior to the subject and one is slightly inferior. The assessment per square foot of the subject at \$118 per square foot is in the low to middle of the range and, in the opinion of the Respondent, this demonstrates that the subject is equitably assessed.

[25] The Respondent also provided a re-charting of the five assessment properties which had been provided by the Complainant. Complainant assessment #4 (7612 – 17 St) was agreed to be given no weight as it contained cost buildings. Overall, the Respondent stated that the comparable assessment properties presented by the Complainant are all considered inferior to the subject, and therefore of little assistance in establishing value for the subject.

[26] The Respondent argued that of the comparable properties presented by the Complainant, the three remaining properties (after #1 and #3 are removed) in the chart in Exhibit C-1 and the six properties in the composite chart in Exhibit C-2, are inferior to the subject. The application of a median time adjusted sale price per square foot of those inferior properties does not assist in arriving at a market value for the subject. With respect to equity and the question of treating similar properties in a similar manner, the Respondent stated the Complainant's method of taking the top value of a range of inferior properties in order to find an equitable value for the subject does not show that similar properties have been treated differently.

[27] The Respondent concluded by requesting confirmation of the subject assessment.

### **Complainant's Rebuttal**

[28] Subsequent to the presentation of the Respondent's evidence, the Complainant presented a Rebuttal document.

[29] In this document, the Complainant presented a composite chart of a total of six sales of properties selected from the comparable sales presented by both parties. Two of the sales were from both parties - #1 (4103 – 84 Ave); #2 (12810 – 170 St). One sale, #3 (16304 – 117 Ave) was from the Complainant's chart. The remaining three sales were from the Respondent's comparables - #4 (12959 – 156 St); #5 (18507 – 104 Ave); and #6 (12908 – 170 St). In this chart, the range of TASP per square foot was from \$100 to \$160, and the assessments per square foot

of these comparables ranged from \$88 to \$146. The Complainant also inserted a new column of ASR (Assessment Sales Ratios) numbers for each of the six comparables ranging from 0.72 to 0.97.

[30] The Complainant argued that this evidence demonstrated that there was no comparison between the market values of the comparable sales as demonstrated by the TASP per square foot and the assessments per square foot of those same comparables. With the new column of ASRs, or variances, with a median ASR of 0.88, the Complainant argued that this evidence showed that all assessments were below their market value.

[31] The Complainant argued that the assessment of the subject at \$118 per square foot is not supported by either sales or equity evidence.

[32] The Complainant argued further that the subject should be entitled to the same degree of lowered assessments as the comparable properties enjoy. Further, those properties are assessed much lower than their market value, and the subject should have the same benefit, or an inequity is created.

[33] Based on the median ASR of 0.88, the Complainant requested a downward revision by 12%, for a value of \$33,704,440, or \$103.49 per sq ft.

[34] During questioning, it was confirmed that Complainant comparable #4 of C-1 (7612 – 17 St) contains cost buildings and should be given no weight, and was not carried through to the C-2 chart. In addition, the Complainant acknowledged limitations in the remaining sales comparables, and indicated that the best comparable at 12810 – 170 St had no single attribute that was superior to the subject. However, the Complainant confirmed that 12810 – 170 St remains the best comparable to the subject given similarities to the big value drivers of building size, site coverage and age. The Complainant restated the position, based on their ASR values, that the subject is over assessed and that a 12% assessment reduction should result.

## **Decision**

[35] The Board confirms the 2014 assessment of the subject at \$38,300,500.

## **Reasons for the Decision**

[36] The Board notes that it is the responsibility of the Complainant to provide sufficient convincing evidence to cast doubt on the accuracy of the subject assessment.

[37] The Board acknowledges the lack of comparables in the industrial inventory for large industrial buildings in excess of 200,000 sq. ft. of main floor area, recognizing the subject has a total of approximately 325,000 sq. ft. (between two buildings). This lack of comparable industrial inventory makes market value determination more challenging.

[38] Nonetheless, the Board was more persuaded by the sales comparables of the Respondent as they are more similar to the subject, especially in terms of the big drivers of industrial value: main floor area, site coverage and age.

[39] The Board accepts the position of the Respondent that all sales comparables of the Complainant were inferior to the subject, when considering the attributes determining industrial value. All being determined as inferior, the Board finds the Complainant's comparables of little value in determining market value for the subject.

[40] In particular, it is noted that the Complainant's best comparable, 12810 – 170 St, was closest to the subject in terms of total main floor area, site coverage and age. Both properties were the same age. However, although both have large floor areas, the subject has a smaller area (325,000 sq. ft. total in two buildings) relative to the comparable (at approximately 399,000 sq. ft.). The subject will have a greater value per sq ft, acknowledging economies of scale with smaller industrial buildings. In addition, the subject has a lower site coverage at 39%, and resultant higher value (comparable is at 46%), and the subject is located in a higher value industrial grouping area. No evidence was presented by the Complainant of the 'best' comparable being superior in any way. It was therefore of limited utility in establishing market value for the subject.

[41] Similarly, the assessment comparables provided by the Complainant were all considered to be inferior, whereas the Respondent provided similar comparables that were considered to be above and below the subject. This supported the Respondent's argument that the subject is equitably assessed.

[42] The argument used by the Complainant that using the midpoint of the range of sales comparables, when all are considered to be inferior, cannot be supported. Also, the Complainant's proposal to reduce the assessment based on the midpoint of lower ASRs of the assessment comparables, cannot be supported when all comparables are considered to be inferior.

[43] In addition, the Complainant's use of a limited number of ASR properties does not represent a fair and equitable outcome, relative to the ASR process envisioned in the legislation where a full spectrum of industrial inventory should be used.

[44] The Board notes the Complainant's submission that similar properties should be treated in a similar fashion. However, the properties submitted as similar to the subject are, in fact, considered to be inferior based on the evidence presented in this hearing.

[45] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. The Board is satisfied that the Complainant did not provide sufficient compelling evidence for the Board to conclude the assessment is incorrect.

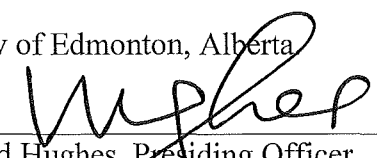
[46] Accordingly, the Board confirms the 2014 assessment of \$38,300,500.

### **Dissenting Opinion**

[47] There was no dissenting opinion.

Heard August 19, 2014.

Dated this 8<sup>th</sup> day of September, 2014, at the City of Edmonton, Alberta

  
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Willard Hughes, Presiding Officer

**Appearances:**

John Smiley  
for the Complainant

Cam Ashmore  
Jason Baldwin  
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 (32 pages)

C-2 – Rebuttal (13 pages)

R-1 – Respondent’s Brief (66 pages)