

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2014 ECARB 00639

Assessment Roll Number: 1533207

Municipal Address: 15830 111 AVENUE NW

Assessment Year: 2014

Assessment Type: Annual New

Assessment Amount: \$1,968,500

Between:

Emeric Holdings Inc represented by Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Petra Hagemann, Presiding Officer

Brian Frost, Board Member

Darryl Menzak, 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.

Background

[2] The subject property is a medium warehouse located at 15830/34-111 Avenue in the Sheffield Industrial subdivision in NW Edmonton. The lot size of the property is 35,306 square feet (sq ft) and building size is 13,066 sq ft with an upper finished area of 900 sq ft. The building was built in 1969 and is in average condition.

Issues

[3] Is the assessment of the subject property too high when compared to the time adjusted sale price (TASP)?

Position of the Complainant

[4] The Complainant took the position that the subject property sold on October 30, 2012 for \$1,730,000. The Complainant provided a transfer document and an affidavit regarding the value

of the property. Using the City of Edmonton time adjustment factors for industrial properties the assessment should be reduced to the TASP of \$1,868,500.

[5] In support, the Complainant brought forward *697604 Alberta Ltd v Calgary (City)* [2005] A.B.Q.B. No.512 in which Madam Justice Acton referred to *Re Regional Assessment Commissioner, Region No. 11 and Nesse Holdings Ltd. et al.* 1984 CanLII 1857 (ON SC) which states:

"I think that generally speaking the recent sales price, if available..... is in law and, in common sense, the most realistic and most reliable method of establishing market value".

[6] The Complainant submitted that the sale was a cash sale, at arm's length and that it sold 10 months prior to the valuation date. The Complainant did not have further details with respect to the sale.

[7] The Complainant took the position that the owner has the right to the lower of fairness or equity and referred the Board to the *Bramalea Ltd. V. British Columbia (Assessor for Area 9 (Vancouver)) (B.C.C.A)* [1990] B.C.J. No. 2730 case which states:

"..It is my view that the principles mentioned give the taxpayer two distinct rights: (i(a right to an assessment which is not in excess of that which can be regarded as equitable; and 9ii) a right not to be assessed in excess of actual value..."

[8] The Complainant further pointed the Board to the *Mountain View (County) v. Alberta (Municipal Government Board)*, 2000 ABQB 594 case which states:

....I am of the opinion that the action of the Board in setting aside and reducing the original assessment should stand, even though the revised assessment was not obtained by use of mass appraisal methods. I base this view on the fact that the mass appraisal as used did not produce a result that complied with the market value requirement."....

[9] The Complainant concluded that the burden of proof has been met and that the sale of the property is the best indicator of market value.

Position of the Respondent

[10] The Respondent advised the Board that the assessment of the subject property was prepared by mass appraisal using the direct sales comparison approach.

[11] The seven most significant variables which affect value in the industrial warehouse category in order of significance are, main floor area, site coverage, effective age, industrial group location, condition, main floor finished area, and upper finished area.

[12] The Respondent also stated that market value encompasses a range of values and that numerous sales are used to derive at an assessment for all properties.

[13] The Respondent provided 7 sales comparables with 3 comparables being in the same Industrial Group as the subject. The sales varied in effective year built from 1963 to 1987. The lot sizes varied from 27,556 to 47,039 sq ft and the site coverage ranged from 24 to 41%. The

main floor areas ranged from 11,172 to 16,668 sq ft while the finished main floor offices ranged from 1,504 to 6,383 sq ft. The newest comparable had an upper area of 3,225 sq ft. The TASP for total area ranged from \$134 to \$203 per sq ft. The subject is one of the comparables and is assessed at the low end of the scale at \$134 per sq ft.

[14] The Respondent noted that while some adjustments would be required to make the comparables similar to the subject, they still support the assessment of the subject property.

[15] The Respondent noted that the difference between the assessment and the sale price of the subject property is slightly more than 5%.

[16] The Respondent also provided 4 equity comparables which were similar to the subject property with respect to neighborhood group, size, age, site coverage and size. Comparable # 4 was in fair condition as compared to the subject and remaining comparables. With adjustment for this inferior condition, the Respondent maintained that their comparables prove that the assessment of the subject is fair and equitable.

[17] The Respondent respectfully requested the Board confirm the 2014 assessment at \$1,968,500.

Decision

[18] The decision of the Board is to confirm the assessment at \$1,968,500.

Reasons for the Decision

[19] The Board recognizes the sale of the subject property and is satisfied that it was a valid sale. However no additional evidence was presented to assist the Board in determining whether the sale was in fact at market. Market value is defined in the Municipal Government Act as an amount that 'might be expected to realize'. Market transactions result in sales and ultimately 'sales prices'. In other words a sale price is historical while market value as defined in the legislation is an anticipated value.

[20] In response to the Complainant's reference to the court decisions, the Board finds that they are legal and binding but the Board is also cognizant that for the premise used in a judgment to be followed in subsequent decisions, the circumstances must also be similar. The Board is not aware of all the circumstances in the three cited decisions and must therefore exercise caution before accepting the decisions verbatim and applying the argument to this decision.

[21] The Board reviewed the Respondent's seven sales comparables, although requiring some adjustment to make them comparable to the subject property they lend support to the assessment.

[22] The Board was further persuaded by the Respondent's equity comparables #1, 2 and 3 which provided support that the assessment of the subject is equitable.

[23] The Board recognizes that the sale of the subject brings into question the correctness of the assessment, however this evidence was not sufficiently convincing in itself for the Board to reduce the assessment.

Dissenting Opinion

[24] There was no dissenting opinion.

Heard June 23, 2014.

Dated this 7th day of July, 2014, at the City of Edmonton, Alberta.



Petra Hagemann, Presiding Officer

Appearances:

Adam Greenough, Altus Group
for the Complainant

Marty Carpentier, Assessor
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 (45 pages)

R-1 – Respondent’s Brief (49 pages)