

Edmonton Composite Assessment Review Board

**Citation: MNP LLP for London Life Insurance Company v The City of Edmonton, 2014
ECARB 00720**

Assessment Roll Number: 9974451
Municipal Address: 3404 78 Avenue NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: \$19,282,000

Between:

MNP LLP for London Life Insurance Company

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Tom Eapen, Presiding Officer
Brian Carbol, Board Member
Randy Townsend, 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 parcel, located at 34th Street and 78th Avenue is 9.313 ac in size, located in the Weir Industrial Park and is zoned IB. There are five buildings on site with a total floor area of 143,990 sq ft. Four of the buildings were built in 1982 (87% of total floor space) and one built in 1999. Site coverage is 35%. All buildings are considered to be in average condition.

Issues

[4] Is the subject property assessed in a fair and equitable manner to similar industrial parcels?

Position of the Complainant

[5] The Complainant provided the Board with a list of five time adjusted sale price (TASP) comparables ranging from \$96.40 to \$139.23. The subject is assessed at \$133.91 per sq ft. The sales sheet data for the comparables were also provided. Four of the five sales are in industrial group 17 (northwest), while only one is in the same group as the subject in industrial group 18 (southeast). The comparables were built between 1974 and 1979, as compared to the subject where four of the buildings were built in 1982. The Complainant is asking the Board to reduce the assessment per sq ft to \$105 for the subject, to be in line with the comparables.

[6] As further proof that the subject is being over assessed the Complainant provided the Board with six equity comparables. The assessments, obtained from information provided by the City of Edmonton, range from \$101.20 to \$113.67, based on total floor area of the comparables. Floor area of the comparables range from 89,037 sq ft to 224,935 sq ft. The subject is 143,990 sq ft in total square footage. There is a range of construction years from 1967 to 1985 for the buildings of these comparables. Details on the comparables were provided for the Board's information. Based on the equity comparables, it is the opinion of the Complainant that a fair value would be \$110.00 per sq for the subject.

[7] The Complainant provided a relevant legislation brief, which includes definitions from the *Municipal Government Act* (MGA) as well as assessment and appraisal definitions. Excerpts of relevant judicial decisions were also included.

[8] In response to questions from the Respondent, the Complainant provided the following information; To determine the age of the subject a weighted average was used, since 87% of the floor space was constructed in 1992 and 13% in 1999. Weighted averages were not used for the comparables.

[9] The Respondent did not know how much office finish the subject had but confirmed there was no upper office finish.

[10] No adjustments were made to sales comparable #2 for a \$90,000 capital upgrade made after the sale, nor were adjustments made for lower than typical rents for several other comparables.

[11] Rear building adjustments are not shown on the chart but were considered. This was because most of the comparables had a rear building adjustment.

Position of the Respondent

[12] The Board was referred to the City of Edmonton Industrial Warehouse Assessment Brief, which noted that the City uses the Direct Comparison method for valuing industrial warehouses. The Factors Affecting Value employed by the City in determining assessed values were listed in order of significance. The Board was asked to note finished area within these large warehouses as is at a premium in relation to the warehouse space. The Respondent also reviewed rear building adjustments.

[13] The Respondent provided the Board with four sale comparables, two of which (#3 and #4) are identical to the Complainant's sales comparables (#2 and #3). The range of TASP for the comparables range from \$107 to \$177. The comparable at \$177 is considered by the Respondent to be superior to the subject in several areas, such as being much newer and having lower site

coverage. The other three are considered somewhat inferior to the subject. The Respondent considers all of the Complainant's sale comparables to be inferior to the subject.

[14] The Respondent provided the Board with a chart of six equity comparables, some inferior and some superior to the subject, to show that the assessment of the subject is equitable. The range of assessed values for the comparables ranges from \$118 to \$150 per sq ft with the subject in the middle of this range at \$134. The most comparable properties, #3, #4 and #5, are assessed at \$143, \$127 and \$120 respectively. These three comparables are in the same industrial group as the subject.

[15] In response to questions from the Complainant the Respondent indicated that it had included an equity comparable from group 2 even though the subject was group 18 as the City of Edmonton analysis did not show much difference between these groupings.

[16] The Respondent did not provide a breakdown for retail/lab space in the comparables.

[17] In summation, the Respondent stated that they had presented five sales comparables and six equity comparables to indicate to the Board that the subject is assessed in a fair and equitable manner. The Respondent admitted to the Board that all of the comparables presented by both parties are less than desirable but those are the sales available. The Respondent stated that the onus is clearly on the Complainant to prove that the assessment is incorrect. With very limited sales comparables available to either party and both parties having some of the same sales, the Complainant has failed to shift the burden of proof. Therefore, the Complainant's case must fail.

Rebuttal

[18] The Complainant provided rebuttal to the Board. Before the Complainant began his presentation the Respondent objected to the inclusion of pages 4 – 7, which the Respondent claimed is new evidence that was not disclosed earlier. The Complainant did not readily object. The Board reviewed the pages and agreed with the Respondent that pages 4 to 7 are not to be included in exhibit C-2.

[19] The Complainant objected to the inclusion of sale comparable #1 from the Respondent on the basis that it is not comparable to the subject since it contains banks, restaurants, a lab etc, which the subject does not include. Also, sale comparable #1 is significantly newer and is located on a major roadway.

[20] Calgary CARB Decision 1112/2012-P was included, which states that portfolio sales should not be included for comparison purposes.

[21] The Respondent did not present any surrebuttal.

Decision

[22] The assessment is confirmed at \$19,282,000.

Reasons for the Decision

[23] The Board determined that the Complainant did not provide sufficient nor compelling evidence to cause the Board to reduce the assessment.

[24] After analyzing the sales comparisons from both parties it was the conclusion of the Board that sales comparable's #2, #3 and #4 from the Respondent and sales comparable's #2, #3 and #5 from the Complainant (#3 and #4 from the Respondent and #2 and #3 from the Complainant, are identical) best reflect similarity to the subject property. The TASP of these properties is between \$105 and \$132 per sq ft. The subject is at \$134 per sq ft. The Board acknowledges that these comparables have some differences, both plus and minus, to the subject but overall, appear to be the properties with the least amount of adjustment required.

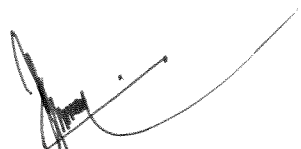
[25] The Board also reviewed the Equity charts provided by both parties. None of the comparables were without at least two adjustments, either superior or inferior, to the subject. The comparables presented by the Respondent, overall, require fewer adjustments to those provided by the Complainant. However, considering all of the comparables, the Board finds a range of assessments ranging from \$101 to \$150 per sq ft. The subject is assessed at \$134 per sq ft, which is within this band of values. In the Board's opinion the subject property is considered better than most of the comparables but of lesser quality than the best comparables. Therefore, the Board finds no reason to alter the assessment of the subject based on equity comparables.

Dissenting Opinion

[26] There was no dissenting opinion.

Heard July 21, 2014.

Dated this 8th day of August, 2014, at the City of Edmonton, Alberta.



Tom Eapen, Presiding Officer

Appearances:

Walid Welhem
for the Complainant

Cam Ashmore
Jason Baldwin, 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 Submission
- C-2 Complainant Rebuttal
- I-1 Not Admissible Complainant’s Rebuttal
- R-1 Respondent’s Submission