

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, ECARB 2012-001542

Assessment Roll Number: 8953770

Municipal Address: 9853 33 AVENUE NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

CVG for 316772 Alberta Ltd.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Hatem Naboulsi, Presiding Officer
George Zaharia, Board Member
Howard Worrell, Board Member

Preliminary Matters

[1] There were no preliminary matters. Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file.

[2] Evidence and arguments are carried forward, where relevant, to this file from roll number 8634750.

Background

[3] The subject property is a multi-tenant office/warehouse complex consisting of two buildings built in 1998 and 2005 and is located at 9853 33 Avenue NW in the Parsons Industrial neighbourhood. The two buildings have a total of 11,200 square feet of space, including 5,172 square feet of finished mezzanine space. The buildings are situated on an interior lot zoned IM 81,762 square feet in size (1.9 acres) for a site coverage of 14%. It is not on a major roadway.

[4] The subject was assessed using the direct sales approach resulting in a 2012 assessment of \$3,110,000 (\$277.68 per square foot).

Issue(s)

[5] Is the subject property assessed in excess of its market value when compared to sales of similar properties?

Legislation

[6] The Municipal Government Act reads:

Municipal Government Act, RSA 2000, c M-26

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.

Position of the Complainant

[7] The Complainant submitted into evidence a 20-page brief identified as C-1, arguing that the current assessment of \$3,110,000 is excessive compared to sales of similar properties. In support of this position, the Complainant submitted seven sales comparables of similar properties. The sales occurred between May 2009 and September 2010, the properties selling for time-adjusted sales prices ranging from \$91.36 to \$132.63 per square foot (Exhibit C-1, page 1).

[8] Based upon his sales comparables, the Complainant placed most weight on sales #'s 4, 5, 6 and 7 that were considered to have the most similar physical characteristics to the subject property (Exhibit C-1, page 2).

[9] The Complainant included in his brief, a Composite Assessment Review Board (CARB) decision regarding the 2010 assessment where the decision of the CARB was to reduce the 2010 assessment of the subject from \$2,440,500 to \$1,568,000 (Exhibit C-1, pages 11 – 13). The Complainant went on to use the reduced 2010 assessment of \$140 per square foot and applied the City's time adjustments to the \$140 to arrive at base value of \$135.45 per square foot for the current year (Exhibit C-1, page 1).

[10] In conclusion, based on a value of \$130.00 per square foot, The Complainant requested the Board to reduce the 2012 assessment of the subject property from the original \$3,110,000 to \$1,450,000.

Position of the Respondent

[11] The Respondent submitted into evidence a 39-page brief identified as R-1, arguing that the current assessment of \$3,110,000 is fair and equitable when compared to sales of similar properties. He also submitted a 44-page law and legislation brief.

[12] In support of this position, the Respondent submitted a total of four sales comparables that occurred between January 11, 2008 and November 18, 2010 for time-adjusted sales prices ranging from \$231.80 to \$363.93 per square foot (Exhibit R-1, page 28). All of the comparables were one-building properties while the subject had two buildings. Three of the four comparables are located in the southeast quadrant of the city as is the subject, while the fourth one is in the northwest. The Respondent argued that multiple building properties sell for more than single building properties.

[13] The Respondent provided a critique of the Complainant's sales, showing some different building sizes from those obtained from third party reports of the sales of the comparables (Exhibit R-1, page 23). Following are his observations:

- i. The Respondent changed the building sizes of sales #'s 1 to 4 from those shown by the Complainant since the City does its own measurements of all properties.
- ii. Sales #'s 5 and 6 were considered "not-at-arms-length" (NAL) sales and therefore should not be used as comparables.
- iii. Sale # 7 has one direct sales building and two cost buildings. It was the position of the Respondent that only the direct sales building that is 8,793 square feet in size should be considered, resulting in a time-adjusted sale price of \$232.70 per square foot. In terms of site coverage, when the square footage of the direct sales building is added to the two cost buildings resulting in a total of 21,193 square feet, the site coverage is 21%.

[14] The Respondent advised the Board of factors that were found to affect value in the warehouse inventory, those being: location, lot size, age and condition of the building, size of the main floor, the amount of finished area on the main floor, as well as developed upper area (Exhibit R-1, page 8). Upper unfinished mezzanine space was not assessed.

[15] The Respondent brought to the Board's attention that the Municipal Government Board has ruled on a number of occasions that "market value" encompasses a range and the issue is whether the assessment falls within the range of value (Exhibit R-1, page 33). Section 10 of the Matters Relating to Assessment and Taxation Regulation sets out the range in the quality standard as being +/- 5%.

[16] In summary, the Respondent suggested that the Complainant had failed to meet onus - to prove that the assessment was incorrect.

[17] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at \$3,110,000.

Decision

[18] The decision of the Board is to confirm the 2012 assessment of the subject property at \$3,110,000.

Reasons for the Decision

[19] The Board accepted the Respondent's argument that the Complainant had not met onus. In arriving at its decision, the Board considered that:

- i. The age of the comparables varied significantly from the subject's in five of the seven comparables. The two buildings of the subject were built in 1998 and 2005 while the five comparables with the most different ages ranged from 1971 to 1980.
- ii. The site coverage of the comparables provided by the Complainant was significantly higher than the subject ranging from 24% to 55% compared to the site coverage of the subject at 14%.
- iii. By including the size of the cost buildings in the building size of sales comparable # 7, this greatly understated the time-adjusted sale price at \$132.63 per square foot compared to the revised value of \$232.70 per square foot.

[20] In absence of any compelling evidence provided by the Complainant to support a reduction in the assessment, the Board cannot alter the assessment.

[21] With regards to the 2010 CARB decision, this Board is not bound by a previous Board decision.

[22] The Board was persuaded that the 2012 assessment of the subject property at \$3,110,000 is fair and equitable.

Dissenting Opinion

[23] There was no dissenting opinion.

Heard commencing September 19, 2012.

Dated this 10th day of October, 2012, at the City of Edmonton, Alberta.

Hatem Naboulsi, Presiding Officer

Appearances:

Peter Smith, CVG
for the Complainant

Joel Schmaus, Assessor
for the Respondent