

Edmonton Composite Assessment Review Board

Citation: CVG v The City of Edmonton, ECARB 2012-001751

Assessment Roll Number: 10060758
Municipal Address: 4403 97 STREET NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

CVG for ING Industrial Fund I Inc

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 is a multi-tenant office/warehouse building built in 2004 and is located at 4403 97 Street NW in the Papaschase Industrial area of Edmonton. The building contains a total of 56,998 square feet, of which 11,280 square feet is office space on the main floor, and it has no finished mezzanine space. It is situated on a corner lot zoned IB, 140,603 square feet in size (3.2 acres) for a site coverage of 41%. The property has exposure to Whitemud Drive but does not have direct access to it.

[4] The subject was assessed using the direct sales approach resulting in a 2012 assessment of \$6,736,500 (\$118.19 per square foot).

Issue(s)

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

[6] Is the subject property assessed equitably when compared to similar properties?

Legislation

[7] 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

[8] The Complainant submitted into evidence a 24-page brief identified as C-1, arguing that the current assessment of \$6,736,500 is excessive compared to sales and equity of similar properties.

[9] In support of this position, the Complainant submitted eight sales/equity comparables of similar properties. The sales occurred between February 2010 and August 2011, the properties selling for sales prices ranging from \$82.62 to \$113.02 per square foot. The 2012 assessments of these sales comparables ranged from \$76.67 to \$147.10 per square foot (Exhibit C-1, page 1).

[10] The Complainant advised that the subject property is not on a major roadway whereas sales #'s 3 and 4 are located in superior locations on main roadways. As well, the Complainant added that the subject has a higher site coverage at 41% compared to sales #'s 6 and 7 with site coverage of 25% and 28% respectively, and therefore these comparables would need a downward adjustment (Exhibit C-1, page 2).

[11] Based upon his sales comparables, the Complainant placed most weight on sales #'s 3, 4, 5, and 8 that were considered to have the most similar physical characteristics to the subject property (Exhibit C-1, page 2).

[12] In summary, the Complainant:

- i. Argued that, contrary to the position of the Respondent, there were numerous sales of similar properties for comparison.
- ii. Is of the opinion that both his sales and equity comparables support a \$95.00 per square foot assessment.
- iii. Argued that his sale # 8 that was sold in August, 2011 was not post facto since the condition date of assessed properties is December 31 of the year,

[13] In conclusion, based on a value of \$95.00 per square foot, The Complainant requested the Board to reduce the 2012 assessment of the subject property from the original \$6,736,500 to \$5,386,500.

Position of the Respondent

[14] The Respondent submitted into evidence a 35-page brief identified as R-1, arguing that the current assessment of \$6,736,500 is fair and equitable when compared to sales and equities of similar properties. He also submitted a 44-page law and legislation brief.

[15] In support of this position, the Respondent submitted a total of four sales comparables that occurred between June 16, 2008 and March 10, 2010 for time-adjusted sales prices ranging from \$93.49 to \$139.31 per square foot (Exhibit R-1, page 23). Two of the comparables were located in the west end while two were located in the southeast quadrant of the city as is the subject. The Respondent pointed out that all the comparables had finished mezzanine space while the subject did not.

[16] To further support his position, the Respondent also submitted five equity comparables with assessments that ranged from \$114.79 to \$132.18 per square foot with the assessment of the subject at \$118.19 per square foot falling within this range. Four of the five comparables were very similar in building size to the subject, and did not have finished upper floor mezzanine space, the same as the subject (Exhibit R-1, page 28).

[17] The Respondent provided a critique of the Complainant's sales/equities (Exhibit R-1, page 26):

- i. Comparable # 2 included some buildings that were assessed on the cost approach.
- ii. Comparable # 3 was a retail plaza compared to a warehouse/office.
- iii. Comparable # 4 had extensive structural issues.
- iv. Comparable # 8 was a post facto sale.

[18] 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.

[19] 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 29). Section 10 of the *Matters Relating to Assessment and Taxation Regulation* sets out the range in the quality standard as being +/- 5%.

[20] In summary, the Respondent:

- i. Stated that the Complainant's sales were "encumbered" sales that resulted in low sales prices.
- ii. Suggested that the Complainant had failed to meet onus - to prove that the assessment was incorrect.

[21] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at \$6,736,500.

Decision

[22] The decision of the Board is to confirm the 2012 assessment of the subject property at \$6,736,500.

Reasons for the Decision

[23] The Board was not persuaded by the Respondent's argument that the Complainant had not met onus. Although the Board did not feel the Complainant's position justified a reduction in the assessment, the Board does acknowledge that the Complainant provided eight sales/equity comparables that had to be analyzed in order to arrive at its decision.

[24] The Board placed less weight on the Complainant's sales/equity comparables since there were significant variations in some of the ages and building size compared to the subject. As well, other than commenting on the post facto sale, the Complainant did not provide any rebuttal to the Respondent's descriptions of some of the properties as not being comparable to the subject. Regarding the post facto sale, the Board was swayed by previous MGB decisions that take the position that post facto sales can be considered to confirm market trends; not to set value.

[25] The Board placed more weight on the Respondent's sales and equity comparables.

- i. Although the sales comparables were not ideal in terms of building size and site coverage, the unadjusted average time-adjusted sales price of \$123.52 per square foot supported the assessment of the subject property at \$118.19 per square foot.
- ii. The equity comparables submitted by the Respondent were strong comparables in terms of age, building size and site coverage. With assessments ranging from \$114.79 to

\$132.18 per square foot, this supported the assessment of the subject property at \$118.19 per square foot.

[26] The Board was persuaded that the 2012 assessment of the subject property at \$6,736,500 is fair and equitable.

Dissenting Opinion

[27] There was no dissenting opinion.

Heard commencing September 19, 2012.

Dated this 12th day of October, 2012, at the City of Edmonton, Alberta.

Hatem Naboulsi, Presiding Officer

Appearances:

CVG

for the Complainant

Joel Schmaus

for the Respondent