

## **Edmonton Composite Assessment Review Board**

**Citation: CVG v The City of Edmonton, ECARB 2012-002141**

**Assessment Roll Number:** 1037910

**Municipal Address:** 9651 25 AVENUE NW

**Assessment Year:** 2012

**Assessment Type:** Annual New

Between:

**CVG for CU (6) GP Inc.**

Complainant

and

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

Respondent

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

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### **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 1037928.

### **Background**

[3] The subject is a single-tenant office/warehouse building built in 1998 and is located at 9651 25 Avenue NW in the Parsons Industrial area of Edmonton. The building contains a total of 18,875 square feet, of which 10,047 square feet is office space on the main floor, and it has no finished mezzanine space. It is situated on an interior lot zoned IB, 88,049 square feet in size (2.02 acres) for a site coverage of 21%. The property has exposure to 23<sup>rd</sup> Avenue but does not have direct access to 23<sup>rd</sup> Avenue, and must rely upon the adjacent property (owned by the same owner) for access to the road.

[4] The subject was assessed using the direct sales approach resulting in a 2012 assessment of \$3,443,000 (\$182.41 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 21-page brief identified as C-1, arguing that the current assessment of \$3,443,000 is excessive compared to sales of similar properties. In support of this position, the Complainant submitted eight 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 \$126.26 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, 7 and 8 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 2011 assessment where the decision of the CARB was to reduce the 2011 assessment of the subject from \$3,129,500 to \$2,655,000 (Exhibit C-1, pages 12 – 14).

[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 \$3,443,000 to \$2,450,000.

## **Position of the Respondent**

[11] The Respondent submitted into evidence a 34-page brief identified as R-1, arguing that the current assessment of \$3,443,000 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 three sales comparables that occurred between July 19, 2008 and April 28, 2010 for time-adjusted sales prices ranging from \$165.50 to \$199.45 per square foot (Exhibit R-1, page 24). Two of three comparables are located in the west end of the city, with the third located in the southeast as is the subject. The

Respondent argued that properties in the southeast quadrant of the City sell for more than properties in the west end.

[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 21). 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. Sales #'s 7 and 8 were not addressed.
- iv. The Respondent stated that a 10% industrial downward adjustment had been applied to the subject property since it relied upon the adjacent property for road access.

[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 28). 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:

- i. Addressed the Complainant's sales comparables #'s 7 and 8, commenting that the site coverage at 28% and 26% respectively would require an upward adjustment in the sales price.
- ii. 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 \$3,443,000.

### **Decision**

[18] The decision of the Board is to reduce the 2012 assessment of the subject property from \$3,443,000 to \$2,803,000.

### **Reasons for the Decision**

[19] The Board was not persuaded by the Respondent's argument that the Complainant had not met onus. In arriving at its decision, the Board relied on some of the Complainant's sales comparables.

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

[21] The Board placed weight on the Complainant's sales comparable # 8. The age and total building size of the comparable was similar to the subject, and although the site coverage at 26% was higher than the subject's 21%, it was considered a reasonable comparison. The Board noted that comparable # 8 had 5,036 square feet of office space on the main floor, and 5,036 square feet of finished upper mezzanine space. The total of office and finished mezzanine space of 10,072 square feet closely reflected the subject's 10,047 square feet of office space on the main floor.

[22] The Board placed weight on the Respondent's sales #'s 1 and 3 since age and site coverage were very similar. The building size of these two comparables was less than the subject, suggesting that there would have to be downward adjustment to the sale price. Both of these comparables had office space on the main floor as does the subject, and had finished mezzanine space as the Complainant's comparable # 8.

[23] By taking into consideration the Complainant's sales comparables # 8, and the Respondent's sales comparables #'s 1 and 3, without applying any adjustments, the resulting average was \$163.11 per square foot. Applying a value of \$165.00 per square foot to the subject results in an assessment of \$3,114,375. As per the Respondent's position that a 10% downward adjustment had been applied to the subject due to lack of road access, the Board applied the same 10% adjustment to the \$3,114,375 arriving at a reduced assessment in the amount of \$2,803,000.

[24] The Board was persuaded that the reduced 2012 assessment in the amount of \$2,803,000 is fair and equitable.

### **Dissenting Opinion**

[25] There was no dissenting opinion.

Heard commencing September 19, 2012.

Dated this 12<sup>th</sup> day of October, 2012, at the City of Edmonton, Alberta.

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Hatem Naboulsi, Presiding Officer

### **Appearances:**

Peter Smith, CVG  
for the Complainant

Joel Schmaus, Assessor  
for the Respondent