

Edmonton Composite Assessment Review Board

Citation: John C. Manning v The City of Edmonton, ECARB 2012-002300

Assessment Roll Number: 8635948

Municipal Address: 5210 99 STREET NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

John C. Manning, CVG for 99 Street Enterprises 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 three buildings, two built in 1975, and the third built in 1969 and is located at 5210 99 Street NW in the Coronet Industrial neighbourhood. The two buildings constructed in 1975 have a total of 20,986 square feet of space, and has no finished mezzanine space. The third building is a shed constructed in 1969 and is 960 square feet in size. The buildings are situated on an interior lot zoned IB with effective zoning of IM 68,781 square feet (1.58 acres) in size for a site coverage of 32%. It is on a major roadway.

[4] The subject was assessed using the manual approach resulting in a 2012 assessment of \$2,885,500 (\$136.04 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 an 18-page brief identified as C-1, arguing that the current assessment of \$2,885,500 is excessive compared to sales of similar properties. In support of this position, the Complainant submitted six 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 \$121.94 per square foot (Exhibit C-1, page 1).

[8] The Complainant stated that the two buildings constructed in 1975 comprise a total of 20,986 square feet, with the 2012 assessment equating to \$137.50 per square foot. The third building is a shed built in 1969, is 960 square feet in size, and has a nominal value (Exhibit C-1, page 1).

[9] Based upon his sales comparables, the Complainant placed most weight on sales #'s 1, 3 and 6 that were considered to have the most similar physical characteristics to the subject property (Exhibit C-1, page 2).

[10] 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 \$2,880,500 to \$2,308,000 (Exhibit C-1, pages 9 – 11).

[11] In summary, the Complainant argued that the 32% site coverage is understated in that a portion of the lot is required for the purposes of accessing the rear building, and that a rear building adjustment should be applied to the rear building.

[12] In conclusion, based on a value of \$110.00 per square foot, the Complainant requested the Board to reduce the 2012 assessment of the subject property from the original \$2,885,500 to \$2,300,000.

Position of the Respondent

[13] The Respondent submitted into evidence a 38-page brief identified as R-1, arguing that the current assessment of \$2,885,500 is fair and equitable when compared to sales of similar properties. He also submitted a 44-page law and legislation brief.

[14] In support of this position, the Respondent submitted a total of six sales comparables that occurred between September 1, 2009 and March 10, 2010 for time-adjusted sales prices ranging from \$133.40 to \$174.62 per square foot (Exhibit R-1, page 25). Five of the six comparables were one-building properties while the subject had two buildings plus a shed, and are located in the southeast quadrant of the city as is the subject. The Respondent argued that multiple building properties sell for more than single building properties.

[15] The second building which is at the rear of the first building has been discounted 10%. The third building which is a shed is valued at \$1,000.

[16] 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 22). Following are his observations:

- i. The Respondent changed the building sizes of sales #'s 1 and 3 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.

[17] 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 7).

[18] 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%.

[19] In summary, the Respondent:

- i. Suggested that the Complainant had failed to meet onus - to prove that the assessment was incorrect.

[20] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at \$2,885,500.

Decision

[21] The decision of the Board is to reduce the 2012 assessment from \$2,885,500 to \$2,536,500.

Reasons for the Decision

[22] 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.

[23] The Board is not bound by a previous Board decision.

[24] The Board placed some weight on the Complainant's sales comparables #'s 1 to 4. The ages of the comparables were quite similar to the subject, and the building sizes, although all smaller were those that the same group of purchasers would consider buying. As well, there would have to be adjustments to sales #'s 2 and 4 to account for the higher site coverage of 55% and 44% compared to the subject's 32%.

[25] The Board placed considerable weight on the Respondent's sale # 4 since age, building size, and site coverage were similar.

[26] By taking into consideration the Complainant's sales comparables #'s 1 to 4, and the Respondent's sales comparable # 4, without applying any adjustments, the resulting average was \$124.69 per square foot. The Board applied \$125 per square foot to building # 1, \$112.50 to building # 2 and a total value of \$1,000 to the shed.

[27] The Board was persuaded that the reduced 2012 assessment in the amount of \$2,536,500 is fair and equitable.

Dissenting Opinion

[28] There was no dissenting opinion.

Heard commencing September 18, 2012.

Dated this 9th day of October, 2012, at the City of Edmonton, Alberta.

Hatem Naboulsi, Presiding Officer

Appearances:

Peter Smith, CVG
Dan Walsh, observing
for the Complainant

Joel Schmaus, Assessor
for the Respondent