

IN THE MATTER OF A COMPLAINT filed with the Regional Municipality of Wood Buffalo Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being chapter M-26 of the revised statutes of Alberta 2000.

BETWEEN:

MNP LLP – Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) – Respondent

BEFORE:

Members:

George Zaharia, Presiding Officer

Joshua Gogo, Member

Keith Haxton, Member

Staff:

Anita Hawkins, Clerk

BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[1] A hearing was convened on November 3, 2020 in the Regional Municipality of Wood Buffalo in the Province of Alberta to consider a complaint about the assessment of the following property:

| | |
|-------------------------------|------------------------------------|
| Assessment Roll Number | 30602590 |
| Civic Address | 306 MacKay Crescent, Fort McMurray |
| Owner | Paramount Holdings Inc |
| File Number | ARB 20-007 |

[2] The subject property is an industrial warehouse located in the MacKenzie Industrial Park Neighbourhood. The improvement is a 15,750 square feet (sf) steel framed industrial flex type building constructed in 1980 with no major improvements giving it an effective year built of 1980. It is in average condition and quality compared to neighbouring

properties built in the same era. There is no mezzanine.

[3] The subject property is valued using the income approach with the 2020 assessment set at \$3,089,620.

PROCEDURAL MATTERS

[4] The CARB derives its authority to make decisions under Part 11 of the *Municipal Government Act*, R.S.A. 2000, c. M-26.

[5] The parties confirmed that they had no objection to the composition of the Board. The Board confirmed it had no bias in relation to the matters.

[6] The hearing was conducted by way of video conference. The parties consented to the use of this technology.

PRELIMINARY MATTERS

[7] There were no preliminary matters.

ISSUES

| Issue identified on the complaint form | Assessment Amount | Requested Value |
|---|--------------------------|------------------------|
| An Assessment Amount | \$3,089,620 | \$2,780,660 |

MERIT MATTERS

Position of the Complainant

[8] It is the position of the Complainant that the subject property is over-assessed as a result of relevant information being overlooked to capture its market value. The only parameter that the Complainant took issue with was the capitalization rate (cap rate) used in establishing the requested reduced assessment of the subject property.

[9] The Complainant summarized how the Respondent had grouped industrial warehouses into two groups based on year built – old and new. Old properties were built in 1980 and before and for the 2020 assessment the applied cap rate was 9.0%. New properties were built in 1981 and thereafter and for the 2020 assessment the applied cap rate was 8.5%. The subject property was included in the old group and it was assessed with a 9.0% cap rate.

[10] In support of increasing the cap rate from 9.0% to 10.0%, the Complainant provided one sale of a comparable property within the market area. The sales report showed that the comparable property sold December 17, 2018 for \$3,750,000, was built in 2007, was 16,880 sf in size, and sold with a cap rate of 10.06%

[11] In conclusion, based on increasing the cap rate from 9.0% to 10.0%, the Complainant requested the Board to reduce the 2020 assessment of the subject property from \$3,089,620 to \$2,780,660.

Position of the Respondent

[12] The Respondent provided an overview of its disclosure.

- a) Property assessments are prepared in accordance with the requirements of the *Municipal Government Act*, RSA 2000, cM-26, (MGA) and the *Matters Relating to Assessment and Taxation Regulation*, 2018, Alta Reg 203/17, (MRAT). The legislation requires the municipality to prepare assessments that represent market value by application of the mass appraisal process.
- b) Property assessments represent an estimate of the value of the fee simple estate in the property as it existed on December 31, 2019 and would have realized if it had been sold on July 1, 2019 on the open market and under typical market conditions from a willing seller to a willing buyer.
- c) Mass appraisal is the legislated methodology used for valuing individual properties, and involves 1) stratifying properties into groups of comparable properties, 2) common property characteristics are identified for the properties in each group, and 3) a uniform valuation model is created for each property group.
- d) A single property appraisal is the valuation of a particular property as of a given date, while mass appraisal is the valuation of many properties as of a given date, using standard procedures and statistical testing.
- e) The income approach used to value the subject property best reflects the typical actions of buyers and sellers when purchasing income-producing properties.
- f) Annually, the RMWB sends out request for information (RFI) to all the property owners, seeking rent rolls, year-end financial statements, parking income, and expenses. For 2020 valuation, income information provided by property owners for 604 leases were analyzed.
- g) Income producing properties were stratified into retail, warehouse, office, and mix.

[13] The Respondent provided information about the rent income achieved by the subject property based on the owner's response to a RFI. Four leases were listed covering 10,200 sf of the 15,750 sf of the subject property. The leases were effective from as early as April 1, 2013 and expired as late as May 31, 2023. The four leases ranged from \$35.05/sf to \$46.68/sf.

[14] For 2020, income information was provided by property owners for 604 leases, of which 150 were for warehouse properties. The Respondent provided a table of a sample of some of the leases located near to the subject property. The net rents ranged from \$19.00/sf to \$45.50/sf resulting in an average of \$27.40/sf and a median of \$24.00/sf. The rent applied to the subject property in valuing it was \$23.25/sf which falls within the range of values for the comparable properties.

[15] The Respondent provided information about the sale used by the Complainant as justification for a reduction in the assessment of the subject property. The Complainant had provided information about a sale of that property that occurred December 17, 2018 that showed a sale price of \$3,750,000. The Respondent provided evidence that this property sold again October 9, 2019 for \$3,969,500, almost 6% more than the first sale. Considering that the second sale price increased from the first sale in an otherwise declining market lead the Respondent to believe that the first sale was motivated and thus not a good indicator of market value.

[16] Further to the sale report of the first sale provided by the Complainant that showed a cap rate of 10.06%, the Respondent pointed out that the sales report did not include any income and expense data. The Respondent concluded that without this information, the cap rate was meaningless.

[17] In conclusion, the Respondent stated that it had met all governing legislation, regulations, and quality standards and requested the Board to confirm the 2020 assessment of the subject property at \$3,089,620.

DECISION

[18] The Decision of the CARB to confirm the 2020 assessment of the subject property at \$3,089,620.

REASON FOR DECISION

[19] The Complainant's only support for a reduction in the 2020 assessment of the

subject property was based on one sale of a comparable property. This is contrary to the section 5 of the *Matters Relating to Assessment and Taxation Regulation, 2018* (MRAT) that mandates: *An assessment of property based on market value*

- (a) *must be prepared using mass appraisal,*
- (b) *must be an estimate of the value of the fee simple estate in the property, and*
- (c) *must reflect typical market conditions for properties similar to that property.*

[20] The Complainant's request is also contrary to section 293(2) of the Municipal Government Act RSA 2000 chapter m-26 that mandates: "*If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located*". The Board found that by establishing that the typical rent applied to the subject property fell within a range of the rents achieved by similar properties, the Respondent had considered the assessments of similar properties in the municipality.

[21] The sale that the Complainant relied upon showed a sales cap rate of 10.06%, which was then the basis of the requested 10% cap rate that the Complainant wanted to be used in establishing the assessed value of the subject property. However, without providing what the income and expenses upon which the cap rate was determined, the Board placed no weight on the 10.06% cap rate.

[22] The first sale of the comparable property that was dated December 17, 2018 was for \$3,750,000. The second sale dated October 9, 2019 was for \$3,969,500. Both these sale prices exceeded the subject property's 2020 assessment of \$3,089,620, providing a strong indication that the subject property was not over-assessed.

[23] The Complainant provide no other evidence in support of its position that the assessment of the subject property was not equitable compared to other similar properties.

[24] The Respondent provided an outline of its methodology to assess properties in its municipality. The Board found that the methodology used by the Respondent was consistent with legislated requirements.

[25] In support of the 2020 assessment, the Respondent provided details of the rent being achieved by the subject property and how this rent compared to similar properties located in the same area as the subject property. The \$23.25/sf rent applied to the subject property fell within the range of leases achieved by neighbouring properties that ranged from \$19.00/sf to \$45.50/sf. The Board found that the rent applied to the subject property met the requirements mandated in section 5(c) of the *Matters Relating to Assessment and Taxation Regulation, 2018* that states; "*must reflect typical market conditions for properties similar to that property.*"

[26] The Board was persuaded that the 2020 assessment of the subject property at \$3,089,620 was fair and equitable. Section 467(3) of the *Municipal Government Act*, RSA 2000, c M-26 states that “*An assessment review board must not alter any assessment that is fair and equitable, taking into consideration the assessments of similar property or business in the same municipality.*” The Board found that the assessment of the subject property was equitable compared to similar properties.

[27] In coming to its conclusion, the Board has reviewed carefully the provisions of the *Municipal Government Act* (“MGA”), the *Matters Relating to Assessment Complaints Regulation* (“MRAC”) and the *Matters Relating to Assessment and Taxation Regulation* (“MRAT”).

DISSENTING OPINION

[28] There was no dissenting opinion.

[29] The decision of the Composite Assessment Review Boards is final and binding on all parties, subject only to appeal to the Court of Queen’s Bench on a question of law or jurisdiction with respect to the decision in accordance to section 470 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this
30th day of November 2020.

Section 17 (1) FOIP

George Zaharia, Presiding Officer

APPENDIX A

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

| Exhibit Number | Description |
|-----------------------|--------------------------------|
| C1 | Complainant's Brief (31 pages) |
| R1 | Respondent's Brief (32 pages) |

APPENDIX B

REPRESENTATIONS

| Person Appearing | Capacity |
|-------------------------|---|
| Walid Melhem (MNP) | Representative for the Complainant |
| Julie Peyton | Assessor, Regional Municipality of Wood Buffalo |

APPENDIX C

LEGISLATION

MUNICIPAL GOVERNMENT ACT R S A 2000 Chapter 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;

Duties of assessors

293(1) In preparing an assessment, an assessor must, in a fair and equitable manner,
(a) apply the valuation and other standards set out in the regulations, and
(b) follow the procedures set out in the regulations.

(2) If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.

(3) The municipal assessor must, in accordance with the regulations, provide the Minister or the provincial assessor with information that the Minister or the provincial assessor requires about property in the municipality

Decisions of assessment review board

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.

**MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION,
2018**

Mass appraisal

5 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
 - (b) must be an estimate of the value of the fee simple estate in the property, and
 - (c) must reflect typical market conditions for properties similar to that property.
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