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T Update Week 2002-45
Commercial and Industrial Properties

Case Name:
Victoria-Brant Ltd. v. Municipal Property Assessment Corp., Region No. 15

IN THE MATTER OF Section 40 of the Assessment Act, R.S.O. 1990, c. A.31, as amended, and IN THE MATTER OF complaints with respect to taxation years 1998, 1999 and 2000 on premises known municipally as 559-593 Brant Street

Between
Victoria-Brant Limited, Assessed Person/Complainant,
and
The Municipal Property Assessment Corporation, Region No. 15 and the City of Burlington, Respondents

[\[2002\] O.A.R.B.D. No. 582](#)

File No. 17657

Hearing No. 47037

Complaint Nos. 1330223, 1330225, 1330228

Ontario Assessment Review Board
L. Robertson and J. Tersigni, Members

October 28, 2002
(20 paras.)

Appearances:

S. Pocrnic, for the Assessed Person/Complainant.
L. Jenkins, M. Moore, for the Municipal Property Assessment Corporation.
E. Cowley, for the Municipality.

DECISION

¶ 1 These complaints came before the Assessment Review Board on August 23, 2002 in the City of Burlington.

ISSUE

¶ 2 The issue before the Board for determination is whether the current value for the subject property for the 1998, 1999 and 2000 taxation years is correct.

DECISION

¶ 3 The assessment for the subject property is reduced from \$5,086,000 to \$4,964,000 for 1998, 1999 and 2000 taxation years.

REASONS FOR DECISION

Background

¶ 4 The subject property was described as a commercial one-storey, neighbourhood shopping centre with several ancillaries and one "No Frills" anchor tenant. The physical age of the property is 1954 however the effective year built of 1961 was utilized. The gross square footage is 22,585 square feet, with a Fair Market Rent (FMR) of \$8 per square foot. The subject property is located on a main artery road, between Fairview Street and Lakeshore Road in the City of Burlington.

¶ 5 The Municipal Property Assessment Corporation (MPAC) arrived at an estimated current value by using the Income Approach to Value and in opening submissions recommended to reduce the subject property's value to \$4,964,000 based on a review of information, reducing the FMR to \$7.40 per square foot for the anchor tenant.

¶ 6 Mr. Pocrnic, representing the complainant declined to accept MPAC's recommendation for a reduction.

Evidence and Arguments

¶ 7 Agent, Mr. Pocrnic, representing the complainant, states that the FMR should be applied in the same manner that all other grocery stores throughout the Province have been valued. Using the same criteria, the subject property's entire CVA should be \$4,668,000 with the anchor CVA portion of \$1,244,614. This calculation was arrived at by using a FMR of \$5.99, anchor vacancy and bad debt of 8% including a 10% capitalization rate.

¶ 8 Secondly, Mr. Pocrnic stated that criteria given to him by a model developed in Ottawa recommended that the subject property's FMR should be adjusted to \$5.99 due to an inferior location factor and produced Exhibit 1, which was a 24 hour traffic count of the subject property comparable plazas in the Burlington area. It concluded that the subject property had the lowest vehicle volumes over a 24 hour period with traffic counts of 16,775 vehicles. Conversely, 13 other plaza locations had much higher traffic counts when compared to the subject property.

¶ 9 Furthermore, as reported by Mr. Pocrnic, these traffic counts are a good measure of establishing the subject property as an inferior location, as the larger malls and anchor stores draw more traffic, therefore should be seen as superior locations.

¶ 10 The assessor, Ms Jenkins, introduced Exhibit 2, which included three comparable properties. All properties were similar in size and location, however, two were built in the mid 1970's. The average FMR was \$7.39 while the subject property's FMR was \$8. Their 1996 values ranged from a low of \$1,450,000 to a high of \$1,911,000 with the subject property's value at \$1,662,256. All three comparables were located on major arterial roads as is the subject property.

¶ 11 Ms Jenkins also stated that MPAC provides adjustments for age when determining current value on properties and many positive and negative variables are taken into consideration when using the Multiple Regression Analysis, including traffic flow.

¶ 12 The assessor stated that a province-wide model was used to determine the CVA and it was unfortunate that Mr. Pocrnic was incorrectly quoted \$5.99 as a FMR from the Centralized office.

¶ 13 Under cross-examination, Mr. Cowley, representing the City of Burlington questioned Mr. Pocrnic's rationale as to the subject property's inferior location when Blockbuster and the CIBC bank have recently located to this location. Mr. Cowley suggested that Mr. Pocrnic's traffic counts may not show a true picture of visitors to the plaza site, as the traffic volume did not account for vehicles visiting the plaza site, only volumes on Brant Street. Also, Mr. Cowley questioned why no regard was given for pedestrian traffic in the final analysis as the plaza is situated in a residential area.

¶ 14 The Board is governed by the following sections of the Assessment Act (Act).

¶ 15 Subsection 44(2) of the Act directs that:

44(2) Reference to similar lands in vicinity. - In determining the value at which any land shall be assessed, reference shall be had to the value at which similar lands in the vicinity are assessed.

¶ 16 Subsection 19.2(1) of the Act establishes June 30, 1999, as the valuation day for taxation year 2001.

19.2(1) Valuation days. - The day as of which land is valued for a taxation year is determined in accordance with the following table:

Taxation year	Day as of which property is valued
1998, 1999, 2000	June 30, 1996
2001, 2002-09-17	June 30, 1999
2003	June 30, 2001
2004	June 30 of the year before the taxation year.

Analysis, Findings and Conclusion:

¶ 17 The Board gives little weight to Mr. Pocrnic's argument of the subject property being in an inferior location because of reduced traffic volumes. Although traffic is an important variable when determining a property's value, many variables are used by MPAC to assist in determining a property's correct current value. Mr. Pocrnic failed to convince the Board that this property is in an inferior location and should command a lower FMR of \$5.99 per square foot when compared to similar plaza properties in the vicinity that are assessed at \$7.40 per square foot.

¶ 18 The Board prefers the evidence of MPAC the assessor for whom introduced three comparable properties in the vicinity. The average FMR was determined to be \$7.39. The Board noted that the subject property's FMR is \$8.00, which is above the average.

¶ 19 In determining the value at which land shall be assessed, reference shall be had to the value at which similar lands in the vicinity are assessed. The Board is satisfied that comparable plaza properties in

the vicinity are using similar Fair Market Rents and that the subject property is above the average when compared to similar properties in the Burlington area.

¶ 20 Having regard to all of the evidence presented, the Board accepts MPAC's recommendation to reduce the subject property's current value from \$5,086,000 to \$4,964,000 for the 1998, 1999 and 2000 taxation years.

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