

**NOTICE OF DECISION      NO. 0098 102/12**

Colliers International Realty Advisors Inc  
3555 - 10180 101 Street  
Edmonton, AB T5J 3S4

The City of Edmonton  
Assessment and Taxation Branch  
600 Chancery Hall  
3 Sir Winston Churchill Square  
Edmonton AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on July 4, 2012, respecting a complaint for:

<b>Roll Number</b>	<b>Municipal Address</b>	<b>Legal Description</b>	<b>Assessed Value</b>	<b>Assessment Type</b>	<b>Assessment Notice for:</b>
9954292	10216 - 124 Street NW	Plan: RN22 Block: 33 Lot: 14 / Plan: RN22 Block: 33 Lot: 15 / Plan: RN22 Block: 33 Lot: 16 / Plan: RN22 Block: 33 Lot: 13 / Plan: RN22 Block: 33 Lot: 12 / Plan: RN22 Block: 33 Lot: 11	\$37,120,000	Annual New	2012

*This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, RSA 2000, c M-26.*

---

cc: PLAZA 124 NOMINEE COMPANY

## **Edmonton Composite Assessment Review Board**

**Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2012 ECARB 2136**

**Assessment Roll Number:** 9954292  
**Municipal Address:** 10216 124 Street NW  
**Assessment Year:** 2012  
**Assessment Type:** Annual New

Between:

**Colliers International Realty Advisors Inc**

Complainant

and

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

Respondent

---

### **DECISION OF**

**Dean Sanduga, Presiding Officer**

**Darryl Menzak, Board Member**

**Judy Shewchuk, Board Member**

---

### **Preliminary Matters**

[1] Upon questioning by the Presiding Officer, the parties indicated that they had no objection to the composition of the Board. In addition, the Board members indicated that they had no bias with regards to this matter.

[2] At the outset, the Respondent submitted to the Board a one page revised “Suburban Office Summary” noting size changes with a recommendation to reduce the 2012 assessment from \$37,120,000 to \$36,941,000 (Exhibit R-1).

[3] The Respondent recommended that the tax exemption for the subject be increased to 51.638%. This was acceptable to the Complainant.

### **Background**

[4] The subject property is a 7 storey sub-class ‘AA’ office building known as Plaza 124. The property was constructed in 1983, shows an effective year built of 1995, and is located at 10216 – 124 Street, Edmonton, in the 124 area district. The subject property has a total leasable area of 150,445 square feet and the 2012 assessment is \$37,120,000.

## **Issues**

- [5] What is the appropriate rental rate for the subject property?
- [6] What is the appropriate vacancy rate for the subject property?

## **Legislation**

- [7] The *Municipal Government Act* reads:

### ***Municipal Government Act, RSA 2000, c M-26***

**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.

**s 293(1)** In preparing an assessment, the assessor must, in a fair and equitable manner,

- a) Apply the valuation standards set out in the regulations, and
- b) Follow the procedures set out in the regulations.

- [8] The *Matters Relating to Assessment and Taxation Regulation* reads:

### ***Matters Relating to Assessment and Taxation Regulation, Alta Reg 220/2004***

**s 2** 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.

**s 6** When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvements is market value.

## **Position Of The Complainant**

### **Overall Position**

[9] The Complainant presented to the Board an evidence package comprising 49 pages (Exhibit C-1).

[10] The Complainant agreed with the Respondent that the most appropriate approach to assessing the subject is the income approach.

[11] The Complainant stated that the 10% increase in assessment from 2011 to 2012 was unreasonable.

[12] The Complainant stressed that the inputs used by the City of Edmonton Assessment Department for typical rental rates and vacancy rates were not representative of the market place as of the July 01, 2011 valuation date (Exhibit C-1, pages 11 & 12).

[13] The Complainant submitted third party data from Colliers International (Exhibit C-1, pages 16-21), Cushman & Wakefield (Exhibit C-1, pages 22-30), and Avison Young (Exhibit C-1, pages 31-41) arguing that the reports indicate lower rents and higher vacancy rates in district 124.

[14] The Complainant requested that the assessment be reduced from \$37,120,000 to \$30,931,000, or a per square foot rate of \$205.60.

### **Issue 1: What is the appropriate rental rate for the subject property?**

[15] The Complainant, basing its rental rate argument on the analysis of its own data, concluded that the Respondent was using rental rates well above what the market conditions would support.

[16] The Complainant produced a table (Exhibit C-1, page 12) outlining recent leasing activity for comparable buildings to the subject property. The leases pertained to the period from June 2009 to November 2011. The rental rates ranged from \$8.00 to \$15.00 per square foot with an average of \$13.42 per square foot. The Complainant argued that these comparable leases are in properties in similar locations to 124 Street.

[17] The Complainant relied on the Colliers data for the second quarter of 2011 (Exhibit C-1, page 21) showing that the average asking rent for the 124 Street market was \$13-\$15 per square foot with a high of \$16 per square foot. The Avison Young data for the same period (Exhibit C-1, page 34) showed an average asking rate of \$14.22 per square foot.

[18] The Complainant argued that \$18.00 per square foot rental rate was unwarranted in view of independent third party information as well as its own City-wide analysis of typical market rates (Exhibit C-1, page 12). The Complainant further argued that the rental rate for the subject property should be assessed at \$16.00 per square foot.

## **Issue 2: What is the appropriate vacancy rate for the subject property?**

[19] The Complainant stated that the assessment had been prepared recognizing a 7% vacancy rate for the office component of the subject property but that this was not appropriate for this area. It was further stated that the subject property suffers a 13.28 % vacancy rate and that this is very typical of the area as can be seen from referenced market reports.

[20] In support, the Complainant cited the Avison Young reports establishing the typical overall vacancy rate for the second quarter of 2011 as 16.7% and the direct vacancy rate as 13.5% (Exhibit C-1, p 34). The Cushman & Wakefield report for the same period established a 19.96% overall vacancy rate and 18.29% direct vacancy rate (Exhibit C-1, page 24). The Colliers International report, also for the same time frame, found a 17.17% direct vacancy rate and a 22.19% current vacancy rate (Exhibit C-1, page 21).

[21] The Complainant stated that, considering this market data, it is very reasonable to request a modest 10% vacancy rate.

## **Position Of The Respondent**

### **Overall Position**

[22] The Respondent submitted a 168-page assessment brief (Exhibit R-2) and argued that the subject property is an 'AA' high quality office complex and the rental rate and vacancy rate are correct, as these were derived from the Mass Appraisal process through multiple regression analysis. This methodology is consistent with Provincial Quality Standards, and has been tested by the audit, as set out in the *Matters Relating to Assessment and Taxation Regulation*.

[23] The Respondent suggested that the Income Approach is the approach of choice, as it best reflects typical actions of buyers and sellers when purchasing income-producing properties. The Respondent further stated that ample information provided by owners with regard to both income and expenses reinforced this suggestion.

[24] In support of the office lease rate and vacancy rate, the Respondent submitted Suburban 124 'AA' Class office buildings rental rate and vacancy rate comparables noting a rental rate of \$18.00 per square foot and a 7% vacancy rate, the same as the subject property (Exhibit R-2, page 57).

[25] The Respondent criticized the Complainant's comparables stating that there was a large discrepancy in their ages and no evidence as to the building's classifications of the comparables.

[26] The Respondent quoted from the Appraisal Institute, "The Valuation of Office Properties" noting descriptions of Class A, B, and C office buildings (Exhibit R-2, page 25).

[27] The Respondent further stated that reliance on third party information is unreliable as stated in a previous MGB decision (Exhibit R-2, page 89) and a previous CARB decision (Exhibit R-2, page 99).

[28] The Respondent requested that the Board confirm the recommended revised assessment at \$36,941,000.

### **Issue 1: What is the appropriate rental rate for the subject property?**

[29] The Respondent presented the Board with evidence as support for the 2012 assessment on suburban office properties located in seven basic market areas of the City (Exhibit R-2, page 50). These showed that the rental rate for 'AA' buildings in the 124 district is \$18.00 per square foot.

[30] The Respondent provided a chart of Suburban 124 'AA' Rents (Exhibit R-2, page 67) showing rent rates ranging from \$16 to \$22 with a median of \$18.00 and an average of \$18.19 per square foot.

[31] The Respondent provided a rent roll for the subject (Exhibit R-2, pages 36-48) showing that the subject receives rental rates of up to \$24 per square foot, well above the assessed rate of \$18 per square foot.

[32] The Respondent submitted advertising data for the subject building (Exhibit R-2, page 62) showing an asking lease rate of \$18.00 per square foot.

[33] The Respondent argued that the Complainant relied upon third party information from Colliers International, Cushman & Wakefield and Avison Young. These studies were from the third quarter in 2011 and the second quarter of 2011, and although they were on a national basis, they had sections which related to Edmonton. The Respondent contended that this third party information confirmed that rents for office space in the City of Edmonton were either rising or at least stabilized during the 2011 assessment year.

### **Issue 2: What is the appropriate vacancy rate for the subject property?**

[34] The Respondent submitted a statement on the "Vacancy Allowance in Model" and stated that there is no chronic vacancy in the subject. The "valuation model in the assessment is based on a standard level of vacancy and bad debt allowance. Any chronic vacancy on an individual property is then stabilized to reflect the 3 year vacancy that is site specific. Those properties not affected by chronic vacancy are given the standard vacancy allowance" (Exhibit R-1, page 52).

[35] The Respondent provided a City of Edmonton Suburban 'AA' Vacancy Study indicating that district 124 'AA' class office buildings show a vacancy rate ranging from 0% to 18% (Exhibit R-1, page 53).

[36] The Respondent submitted that the typical vacancy rate of 7% is correctly applied to the subject.

## **Complainant's Rebuttal**

### **Preliminary Matter**

[37] The Complainant submitted a rebuttal document (Exhibit C-2) comprising 55 pages. The Respondent argued that page 16 and pages 25-38 contained new evidence and should be inadmissible.

[38] The Board recessed to consider this matter and decided that this evidence was admissible except for the portions which referred to the year 2008.

### **Complainant's Rebuttal**

[39] In rebuttal (Exhibit C-2), the Complainant criticized the Respondent's equity comparables, as #1- #5 were much smaller than the subject and had much newer effective years built. As for comparable #6 (Le Marchand Mansion), it is a unique, historic, luxury building overlooking the river valley and commands a rental rate premium.

[40] The Complainant submitted that their comparables were more appropriate than the comparables presented by the Respondent as the building sizes were, as reported in the Suburban Survey published by BOMA, closer in size to the subject than were the Respondent's comparables (Exhibit C-2, page 24).

[41] The Complainant submitted that using the subject's rent roll as provided by the Respondent (Exhibit R-2, pages 37-48), the vacancy for the subject is 12.73%.

### **Decision**

[42] The Board confirms the rental rate of \$18.00 per square foot.

[43] The Board revises the vacancy rate allowance from 7% to 10%.

[44] The Board applies a rent rate of \$18 per square foot and a vacancy rate of 10% thereby reducing the 2012 assessment from \$37,120,000 to \$35,689,000.

### **Reasons for the Decision**

#### **Issue 1: What is the appropriate rental rate for the subject property?**

[45] In the Colliers report for the second quarter of 2011 (Exhibit C-1, page 21), the rental rates for the 124 Street market area were \$13-\$15 per square foot; however, as there was no evidence indicating the classifications of these properties, the Board placed little weight on this evidence.

[46] Also in the Colliers report for the second quarter of 2011, Class 'A' buildings in the downtown financial category showed average asking rates of \$20-\$22 per square foot with a high of \$40. Class 'A' buildings in the downtown government and non-financial category showed

average asking rates of \$19-\$21 per square foot with a high of \$30 per square foot. The Board placed more weight on this evidence, noting that the subject is a superior building at 'AA' classification and that the area is downtown while the subject is in the 124 Street district. This evidence supports the assessed rental rate at \$18 per square foot.

[47] In the Colliers report for the second quarter of 2011 (Exhibit C-1, page 23), the net asking rental rates were averaging \$18.27 per square foot in the suburban area where the subject is located. This supports the assessed rental rate of \$18 per square foot.

[48] In the Cushman & Wakefield report for the first quarter of 2011 (Exhibit C-1, page 26), the average net rental rate for the Central district (reasonably close to the 124 Street district) is shown at \$19.84 per square foot. This supports the assessed rental rate of \$18 per square foot.

[49] The Avison Young report for the second quarter of 2011 (Exhibit C-1, page 32 & 34) showed an average asking rate of \$23.40 for 'AA' buildings and \$14.22 for buildings in the 124 Street district. As there was no information regarding the classifications of the 124 Street buildings, the Board placed more weight on the data for the 'AA' buildings than the data for the 124 Street buildings. This evidence supports the assessed rental rate of \$18 per square foot.

[50] The Board notes that the rental roll of the subject shows rent rates up to \$24 per square foot, supporting the assessed rent rate of \$18 per square foot.

[51] The Board accepts the Respondent's evidence that the typical rent rates applied in all 'AA' buildings is \$18 per square foot.

[52] The Board finds that third party data may be used to indicate market conditions.

[53] The Board places little weight on the lease rates for the Complainant's comparables because the spaces were much smaller than the subject and there was no evidence with respect to their classifications.

[54] Considering all the evidence presented by both parties, the Board was persuaded that the lease rate of \$18 per square foot is appropriate.

## **Issue 2: What is the appropriate vacancy rate for the subject property?**

[55] The Board places little weight on the Respondent's 'AA' vacancy study (Exhibit R-2, page 53) showing rates for the 124 Street district ranging from 0 – 18% with an average of 7%. The Board finds that this data is not reliable as the sample size included only four buildings, two of which showed 0% vacancy rates.

[56] The Complainant's third party reports also raise questions with respect to the Respondent's application of a 7% vacancy rate, as the third party reports have produced significantly higher figures as detailed below.

[57] The Colliers International data for the second quarter of 2011 shows a current vacancy rate of 22.19% for the 124 Street district and a vacancy rate for downtown Class 'A' buildings of 10.04% (Exhibit C-1, page 21).



[58] The Cushman & Wakefield data for the second quarter of 2011 shows the overall vacancy rate for the 124 Street district at 19.9% (Exhibit C-1, page 24). The Board notes that the vacancy rates for the first quarter were slightly higher (Exhibit C-1, page 27).

[59] The Avison Young data for the second quarter of 2011 shows the vacancy rate for the 124 Street district at 16.7% (Exhibit C-1, page 34).

[60] In considering the third party data, the Board finds the 7% applied by the Respondent too low. The Board finds that the Complainant's request for a 10% vacancy rate is reasonable given the considerable lack of evidence supporting the Respondent's vacancy rate and the third party reports supporting a much higher vacancy rate. Therefore, the Board accepts the Complainant's 10% vacancy rate.

[61] As a result of the above findings, the Board, by applying a 10% vacancy rate and an \$18 rental rate to the subject, revises the assessment to \$35,689,000.

### **Dissenting Opinion**

[62] There is no dissenting opinion.

Heard commencing July 4, 2012.

Dated this 31<sup>st</sup> day of July, 2012, at the City of Edmonton, Alberta.

---

Dean Sanduga, Presiding Officer

### **Appearances:**

Stephen Cook, Colliers International Realty Advisors Inc.  
Greg Jobagy, Colliers International Realty Advisors Inc.  
for the Complainant

John Ball, City of Edmonton  
Tanya Smith, City of Edmonton  
for the Respondent