

**NOTICE OF DECISION      NO. 0098 16/12**

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 June 7, 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>
4132072	10147 109 STREET NW	Plan: 9020932 Unit: 517	\$731,500	Annual New	2012
4132056	10171 109 STREET	Plan: 9020932 Unit: 515	\$937,500	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: CAPITAL CENTRE NOMINEE COMPANY

## **Edmonton Composite Assessment Review Board**

**Citation: Colliers International v The City of Edmonton, ECARB 2012-001482**

**Assessment Roll Number:** 4132072 & 4132056

**Municipal Address:** 10147 109 STREET NW

**Assessment Year:** 2012

**Assessment Type:** Annual New

Between:

**Colliers International**

Complainant

and

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

Respondent

---

### **DECISION OF**

**James Fleming, Presiding Officer**

**Darryl Menzak, Board Member**

**Judy Shewchuk, Board Member**

---

### **Preliminary Matters**

[1] With the agreement of both parties, and due to the similarity of the properties under complaint and the similarity of the evidence and argument for each property, the decisions for Roll Numbers 4132072 and 4132056 have been combined.

[2] At the outset of the hearing Mr. Fleming advised that he had served on the Municipal Government Board (MGB) with Mr. Cook (representing the Complainant) for a number of years, but felt that he could deliver an unbiased decision in the matters under complaint. There was no objection by either party.

[3] There were no other issues raised concerning bias, or the composition of the panel.

### **Background**

[4] Both properties are retail condominiums located on the ground floor of a mixed use high rise residential property built in 1981. Portions of both condos are leased by Norquest College, and the balance of the space is vacant in the case of Roll 4132072, and occupied by a Restaurant in the case of Roll 4132056. The property is zoned EZ (Enterprise Zone), and is assessed using the Direct Sales Comparison (DSC) method. The property in Roll 4132072 (10147 109 St.) is 3,029 square feet (sq. ft.) and the property in Roll 4132056 (10171 109 St.) is 3,997 sq. ft.

### **Issue(s)**

[5] The Complaint form for each property contained a number of pages outlining the basis for the complaint, but upon questioning, the Complainant indicated that there was only one issue outstanding for the properties.

[6] What is the appropriate rate per sq. ft. to be applied in calculating the value in the DSC method? Is it the \$190.00 per sq. ft. requested by the Complainant for each property, or the \$241.50 sq. ft. for Roll 4132072 as contained in the assessment of that property or the \$234.55 for Roll 4132056 as contained in the assessment of that 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.

### **Position Of The Complainant**

[8] The Complainant provided the same 5 sales comparables (Exhibit C-1, pg. 11 – Roll 4132072) to support their request in each complaint. The year of construction ranged from 1953 to 1987, and the size ranged from 3,200 sq. ft. to 8,830 sq. ft. The time adjustment was not in dispute in either complaint. All of the Complainant's comparables were free-standing buildings as opposed to the subjects which were office/retail condominiums. The price per sq. ft. for the sales ranged from \$122.81 per sq. ft. to \$194.02 per sq. ft. and averaged \$151.06 per sq. ft. The Complainant acknowledged the differences between the comparables and the subject by requesting a rate of \$190.00 per sq. ft. which in their opinion was adequate recognition of the differences between the comparables and the subject.

[9] In their Rebuttal, the Complainant highlighted that there was no supporting evidence provided for 4 of the Respondent's sales, and that a further 2 sales were sold together, which could result in "motivational" issues which would diminish the comparability (Exhibit C-2, pg. 8, Roll 4132072). Finally, they noted that 6 of the Respondent's sales were less than half the size of the subjects which would certainly limit the comparability. They pointed out that this left 3 sales which were arguably similar, and only 1 of these could be considered comparable with the subject, that being sale #1, a retail condo which sold in June 2009 for \$145.20 per sq. ft. an amount which was much lower than the requested value for the subjects.

[10] Based on this analysis, they were requesting the reduction in the assessments as noted below:

Roll Number	Assessment	Request
4132072	\$731,500	\$576,000
4132056	\$937,500	\$759,000

### **Position Of The Respondent**

[11] The Respondent presented 11 sales comparables (Exhibit R-1 pg. 24 – Roll 4132072) with an average year of construction of 1970, an average size of 2,053 sq. ft. and an average price of \$240.00 per sq. ft. They also included information on attributes of other spaces in the same building as the subject properties which, they said, demonstrated similar treatment. They pointed out that the difference in the assessed value per sq. ft. for the 2 properties was accounted for in the size difference because Roll 4132056 was about 900 sq. ft. larger than Roll 4132072 (3,997 sq. ft. compared to 3,023 sq. ft. respectively). Further, they noted that 3 of the Complainant's comparables were 2 storeys, older buildings and none of them were condominiums. They argued that these properties could not be considered comparable for all of those reasons.

[12] The Respondent requested that the assessment for both properties be confirmed.

### **Decision**

[13] The complaint is denied and the assessment is confirmed as noted below:

Roll Number	Assessment
4132072	\$731,500
4132056	\$937,500

### **Reasons For The Decision**

[14] The CARB considered all of the evidence and argument. The CARB agrees with the Respondent that the Complainant's sales comparables are not comparable with the subject properties. With respect to age, all but 2 of the 5 properties are at least 20 years older than the subject. As noted above, 3 comparables are 2 storey properties which dramatically impacts the price per sq. ft., because simple division to calculate the price per sq. ft. values the second floor at the same price as the ground floor and this appears to be inappropriate. Finally, the subject properties are office condominiums while the comparables are free standing buildings. The Complainant said they made adjustments to make these properties comparable, but provided little evidence or a quantifiable basis for any adjustments.

[15] In their rebuttal, the Complainant offered two arguments. One was that the majority of the Respondent's comparables were lacking appropriate supporting information to prove they

were comparable. The second argument was that the “one” valid Respondent’s comparable (Comp. #1: 9710 105 St.) was very similar to the subject properties, and the value of that comparable supported (and in fact was of a much lower value) the subject properties.

[16] The CARB notes that it is the responsibility of the Complainant to demonstrate that the assessment is incorrect. As noted above, the complainant did not provide sufficient evidence to convince the CARB that the Complainant’s evidence was stronger.

[17] The CARB noted the arguments of the Complainant that the comparable of the Respondent was supportive of their request. The CARB notes that this is only one example in support of the Complainant’s request, and the CARB concludes that with only one example, and with inadequate proof from the Complainant’s own presentation, there is insufficient evidence to disturb the assessment.

### **Dissenting Opinion**

[18] There was no dissenting opinion.

Heard commencing June 7, 2012.

Dated this 13<sup>th</sup> day of June, 2012, at the City of Edmonton, Alberta.

---

James Fleming, Presiding Officer

### **Appearances:**

Stephen Cook  
Greg Jobagy  
for the Complainant

Chris Rumsey  
for the Respondent