

**NOTICE OF DECISION      NO. 0098 165/12**

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 August 13, 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>
4037180	10085 100 STREET NW	Plan: NE Lot: 2 / Plan: NE Lot: 3	\$311,000	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.*

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cc: MESA WEST CAPITAL CORP

## **Edmonton Composite Assessment Review Board**

**Citation: COLLIERS INTERNATIONAL REALTY ADVISORS INC v The City of  
Edmonton, ECARB 2012-002263**

**Assessment Roll Number:** 4037180  
**Municipal Address:** 10085 100 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

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**DECISION OF**  
**John Noonan, Presiding Officer**  
**Taras Luciw, Board Member**  
**Tom Eapen, Board Member**

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### **Background**

[1] The subject property is a 4,238 square foot corner lot zoned as DC2 (Site Specific Development Control Provision), effective zoning CB2 (General Business Zone) and is one of four separately titled properties directly north of the Hotel Macdonald in downtown Edmonton. The four lots constitute a green space, “Frank Oliver Park”, and a driveway accessing the hotel. A fifth property is located east of the hotel. All five properties comprise 64,130 square feet, and sold in 2009 to the current owner with numerous caveats registered on title(s). All five properties are under complaint, the hearings heard sequentially by the same panel considering identical or very similar evidence. The 2012 assessment was prepared using the replacement cost summary approach to value and the land calculation is based on market sales.

[2] The parties asked the Board to carry forward similar evidence and argument from the first file dealing with the five properties neighbouring the Hotel Macdonald, roll 3814951.

### **Issue(s)**

[3] At the hearing, the Board heard evidence and argument on the following issue:

Should the subject be assessed at a nominal value to reflect its use as a park?

## **Legislation**

[4] 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**

[5] The Complainant advanced three different value conclusions, one based on the time-adjusted sale price of the subject and two based on equitable assessment, but focused on the current use of the property. As information on park land value was not available on the City’s website, a nominal value of \$500 was suggested as an appropriate assessment.

[6] The subject and its neighbouring properties sold in March 2009 for \$81.86 per sq. ft. Applying the City’s time-adjustment factor of .84487 resulted in a value of \$69.16 or \$293,000 for the subject’s 4,238 sq. ft.

[7] A list of vacant residential lands comprising six properties on 105 and 104 Streets, each about 7,500 sq. ft., showed an average assessed value of \$29.58 per sq. ft. However, two examples with High Density Residential zoning were closer to \$37 per sq. ft. In comparison, the Complainant argued, the subject should attract a higher value, and \$40 per sq. ft. would be an equitable valuation.

[8] The second equity conclusion involved a comparable at 10215 100 Avenue, zoned RMU (Residential Mixed Use), overlooking the river valley. The appeal on this property had been “withdrawn to correction” at a value of \$56 per sq. ft. Applying that superior property’s valuation, an assessment of \$237,000 would be equitable.

[9] The Complainant submitted that the most persuasive evidence, the property’s restrictions and its use as a park, supported a reduction in assessment to \$500.

## **Position of the Respondent**

[10] The subject assessment incorporated a 60% discount in recognition of utility and other easements, resulting in a value of \$73.38 per sq. ft. The Respondent defended the assessment with the same sales and equity evidence advanced for roll 3814951. [Note: summary reproduced]

[11] The Respondent introduced five sales comparables, all with effective zoning CB2, which showed time-adjusted sales prices in a range of \$116.57 - \$243.60. The average of these sales was \$161.52 per sq. ft., supportive of the subject's assessed value of \$117.61 per sq. ft. prior to the recommendation to reduce. The Respondent acknowledged in questions that the most recent and highest sale occurred January 2009, three sales dated to 2006 and the last transacted in August 2007. It was noted that two of the sales advanced by the Complainant were problematic: the 105 Street property was found in a 2010 CARB decision to be contaminated with dry cleaning chemical, and the 116 St. property was in the Oliver neighbourhood, not comparable to a downtown property.

[12] Four equity comparables located about a block east on Jasper Avenue, which are vacant land used as parking lots, showed that lots ranging from 4,881-11,200 sq. ft. in size were assessed in a range of \$150-\$161 per sq. ft., or an average \$156.38. These equity comparables were superior to those of the Complainant, which were residential-zoned lots.

[13] The four lots, including the subject, to the north of the hotel were under application as of February 2011 for rezoning from DC2(E) to CCA (Core Commercial Arts Zone). Although there was no indication that this rezoning had come into effect as of condition date, December 31, 2011, it would allow the owner significantly greater development options in the future. Exhibits R2 and R3, to be carried forward in evidence for the subsequent four hearings dealing with the other Macdonald lots, were September 1989 agreements between the City of Edmonton and Canadian Pacific Hotels Corporation, revising 1983 agreements. These agreements allow for the construction of Office Tower 1 on the four lots north of the hotel, and Office Tower 2 on the lot east (the gazebo lot). The two towers would be 39 and 29 stories respectively. The rezoning application only applies to the four lots north, the gazebo retaining its DC status. The parties agreed that CCA zoning would be more accommodative of development options.

### **Decision**

[14] The Board confirms the assessment of \$311,000.

### **Reasons for the Decision**

[15] The Board calculated that prior to the 60% deduction; the assessment amounted to \$183.45 per sq. ft., a higher level than the neighbouring assessments due to the corner lot aspect of the subject. The Board repeats its reasons from roll 3814951.

[16] The parties' evidence shows there are no very good comparables to the lots neighbouring the Hotel Macdonald. These properties carry a lot of baggage in the form of restrictive covenants. The lot addressed as 9955 Jasper Avenue has some 10 caveats not related to financing. Others of these lots have fewer caveats, but the point remains that there are no good sales or equity comparables with so many restrictions.

[17] Usually the Board is asked to consider the full fee simple interest in a property, as if unencumbered. Here, we have a different story, and the assessor recognizes it, too. While future development will eventually work around the site-specific restrictions, these properties have been "vacant" for a long time. Despite that, the Board cannot accept the Complainant's assertion that these lots should carry a nominal valuation. While there may not be a robust demand today for 39-storey office buildings in Edmonton, that state of demand might not rule in perpetuity. Meanwhile, these properties are assessed at discounts of as much as 60% from what they would ordinarily command. The Board notes that the choice of 60% is somewhat or wholly arbitrary.

The Board did not see, nor is it likely easily found, market evidence that supports 60% or some other figure.

[18] The best evidence of value before the Board was the sale of the subject and its neighbours in March 2009 for \$5,250,000 which produces a time-adjusted value to July 1, 2011 of \$4,435,567. As is usually the case, there was no breakdown of that sale price into value ascribed to each separate title. The Board finds that these properties are best viewed as a whole until such time as a further change occurs, such as zoning. While the Complainant points out that the time-adjusted sale price amounted to \$69.16 per sq. ft., the Board accepts that some of the parcels are assessed lower and higher. What matters to the Board is the end result.

[19] The Respondent advised that the sum total of the five parcels yielded \$4,566,500. The Board employed the same reasoning for all of the five rolls under complaint, that the sale was the best value indicator. However, the Board adjusted its thinking for the smallest of the properties, a 2837 sq. ft. road directly in front of the hotel entrance, dedicated to remain a road. The Board reduced that assessment from \$178,000 to \$2000, the value of the pavement improvement. Making that adjustment, the value of the five accounts in sum is \$4,390,500 or some 99% of time-adjusted sale price.

Heard commencing August 14, 2012.

Dated this 30<sup>th</sup> day of August, 2012, at the City of Edmonton, Alberta.

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John Noonan, Presiding Officer

**Appearances:**

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

Keivan Navidikasmaei, Assessor, City of Edmonton  
Tanya Smith, Legal Counsel, City of Edmonton  
for the Respondent