

NOTICE OF DECISION NO. 0098 188/12

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 20, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3009958	10245 102 Street NW	Plan: 2137RS Block: 1 Lot: E	\$14,964,500	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: Dundeval Canada (GP) Inc.

Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2012 ECARB 2272

Assessment Roll Number: 3009958
Municipal Address: 10245 102 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
Warren Garten, Presiding Officer
Lillian Lundgren, Board Member
Ron Funnell, Board Member

Background

[1] The subject is a nine-level, unheated parkade located at 10245 – 102 Street. The subject was built in 1975 and has 156 underground stalls and 461 surface stalls. It is currently assessed at \$14,964,500.

Issue

[2] Is the assessment of the subject property correct?

a) Is the use of a 6.5% capitalization rate appropriate?

Legislation

[3] 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

[4] The Complainant stated that the only issue is the capitalization rate. The capitalization rate used in the 2011 assessment was 7.5%, whereas, the capitalization used for the 2012 assessment is 6.5%. The Complainant stated that there have been no sales of multi-storey parking lots to justify the decrease in capitalization rates. The Complainant believes that the Respondent is relying on the capitalization rates for the sales of Class AA and Class A office buildings located downtown and applying these rates to the parkades.

[5] Since there are no sales of multi-storey parking lots, the Complainant stated that he cannot provide any evidence on capitalization rates. It is the Complainant's position that the Respondent must prove that the 7.5% capitalization rate used for the subject assessment is correct.

[6] The Complainant used the Income Approach to prepare a revised assessment and applied a 7.5% capitalization rate to derive the value of \$12,969,500. The Complainant requested the Board to reduce the assessment to this value.

Position of the Respondent

[7] Following the Complainant's presentation, the Respondent requested the Board to dismiss the complaint because the Complainant did not meet the onus. The Respondent stated that there is no evidence in the Complainant's document that shows the assessment is incorrect. The Respondent argued that the obligation of the Complainant is to prove that the assessment is incorrect. For these reasons, the Respondent requested the Board to dismiss the complaint. The Respondent advised the Board that he will be seeking costs in this matter.

Decision

[8] The complaint is dismissed.

Reasons for the Decision

[9] In a complaint before the Assessment Review Board, the Complainant raises the issues of the complaint and has the burden to establish the validity of the complaint. To satisfy the initial burden of proof in an assessment complaint, the Complainant must provide enough evidence to convince the Board that there is merit to the complaint.

[10] In determining this matter, the Board reviewed the Complainant's fourteen page document marked Exhibit C-1. The document contains the property description, a copy of the complaint form, the assessment notice, assessment record, and photographs of the subject property.

[11] The document also lists the three year assessment history which shows the assessments for 2010, 2011 and 2012. The Complainant argued that the primary cause of the assessment change is the reduction in the capitalization rate. The requested value is based on the capitalization rate used in 2011.

[12] After reviewing the entire document, the Board finds no evidence with respect to capitalization rates in the marketplace. In fact, there is no evidence of any kind to support the requested assessment; therefore, the Complainant did not meet the initial burden of proof.

[13] Accordingly, the complaint is dismissed and the assessed value of \$14,964,500 is confirmed.

Heard commencing August 20, 2012.

Dated this 4th day of September, 2012, at the City of Edmonton, Alberta.

Warren Garten, Presiding Officer

Appearances:

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

Brennen Tipton, City of Edmonton
Cameron Ashmore, City of Edmonton
James Cummings, City of Edmonton
for the Respondent