

**NOTICE OF DECISION      NO. 0098 195/12**

Colliers International Realty  
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:

<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>
1033166	10044 108 STREET NW	Plan: NB Block: 8 Lot: 48 / Plan: NB Block: 8 Lot: 47 / Plan: NB Block: 8 Lot: 48 / Plan: NB Block: 8 Lot: 49 / Plan: NB Block: 8 Lot: 50 / Plan: NB Block: 8 Lot: 51 / Plan: NB Block: 8	\$90,856,500	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.*

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cc: 44 CAPITAL EDMONTON INVESTMENT CORP

## **Edmonton Composite Assessment Review Board**

**Citation: COLLIERS INTERNATIONAL REALTY ADVISORS INC v The City of  
Edmonton, ECARB 2012-002282**

**Assessment Roll Number:** 1033166  
**Municipal Address:** 10044 108 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**  
**Warren Garten, Presiding Officer**  
**Lillian Lundgren, Board Member**  
**Ron Funnell, Board Member**

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### **Preliminary Matters**

- [1] Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board Members indicated no bias with respect to this file.
- [2] There were no other preliminary matters brought forward before the Board related to this roll number
- [3] All representatives were either sworn in or confirmed before the Board.

### **Background**

[4] The subject is a downtown 12 storey high rise office building located in the Government District. The building was constructed in 1981 with a total of 381,513 square feet of office space, 1,114 square feet of retail CRU space and 964 square feet of restaurant space. The building also has 293 underground parking stalls.

### **Issue(s)**

[5] Is the subject property appropriately classified as an AL (A Low) building? Should it be changed to a BH (B High) building?

## **Legislation**

[6] 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**

[7] The Complainant request that the subject property be reclassified from the current AL (A Low) to BH (B High). This would result in a reduction of the office rent used in the Income Approach to Value from the current \$17.00 per square foot to \$14.00 per square foot.

[8] This requested reclassification would also affect the cap rate changing it to 7.00% from the current rate of 6.5%.

[9] The resulting change would reduce the assessment to \$69,325,000 as requested by the Complainant.

[10] The Complainant argued that the rental rates of \$17.00 per square foot was unachievable and \$14.00 is closer to market value. Further the Complainant indicated that all surrounding buildings were classified as BH. Upon questioning it was determined that there was no evidence of this and no evidence that it would have an impact on the subject.

[11] As evidence, the Complainant brought before the Board a list of 2 recent leases dated July 1, 2011 being rented by Service Canada C-1 page 11. The rental rates for the 3 year terms are \$10.08 per square foot. This list was in support of a change in classification in order to reinforce the market rental rate of the subject. Upon questioning, it was determined that there was no evidence of the actual lease in place or the terms and conditions of the lease.

[12] Further the Complainant, using a chart on C-1 page 12, argued that the subject is underperforming its' lease rate from all other BH buildings. This list included the Milner Building at \$19.50 per square foot, Oxbridge Building at \$13.25 per square foot, Baker Centre at \$13.00 per square foot and HSBC Building at \$14.00 per square foot. The list also included the Bank of Montreal Building, an AL building at \$30.00 per square foot.

[13] The Complainant argued that the cap rate should be increased to 7.0% with the reduction in the classification to BH.

[14] The Complainant provided four comparable sales to support the cap rate change on C-1 page 18. The comparable building are all classified as A buildings and include the HSBC Building, Canadian Western Bank Building, 103 Street Building and the ATCO Centre. Cap rates ranged from a low of 6.12% for the HSBC Building to 7.58% for the 103 Street Building. These cap rates were calculated using a leased fee calculation. Upon questioning it was determined that the cap rates in the chart were decreasing the closer the dates came to the valuation date.

[15] The Complainant for comparison purposes argued that based on the Direct Sales Approach to Value, the four buildings in (14) above were considered superior and were sold based on a price per square foot ranging from \$256.80 for the HSBC Building to \$385.34 for the ATCO Centre. This approach to value is unreliable as stated by the Complainant.

### **Position of the Respondent**

[16] In response to the Complainant's request for a change in classification, the Respondent indicated that the lease signed by Service Canada at \$10.08 per square foot is below market rent, and was a renewal for a 3 year period. This odd number may have had some other negotiating issues surrounding the rate and in the absence of the actual lease, should be considered not typical.

[17] As evidence the Respondent brought forward before the Board a chart R-1 page 39, listing a total of 17 comparable leases from AL classified buildings with a median time adjusted rental rate of \$16.76 and an average of \$17.09. This was in support of the subject's \$17.00 per square foot rate use in the City's Income Approach to Value.

[18] The Respondent brought evidence of adjusted cap rates on a list C-1 page 31 including building calculations pages 32 to 38. This list calculated the price based on a fee simple approach and had time adjusted the final price. The adjusted cap rates ranged from a low of 4.92% for Petroleum Plaza to 6.79% for the ATCO Centre. Based on this information, the Respondent argued that the cap rate of 6.5% used on the subject falls within the range of comparable properties and should not be increased.

[19] To confirm equity, the Respondent listed on R-1 page 41, all AL buildings in the Downtown showing the rental rate of \$17.00 per square foot and a cap rate of 6.50%. Page 42 list sales ranging from \$230 per square foot for the Enbridge Tower to \$315 per square foot for Petroleum Plaza. This compared to the subject's \$236 per square foot is at the low end of the pricing.

### **Decision**

[20] It is the Boards decision to confirm the assessment at \$90,856,500

### **Reasons for the Decision**

[21] The Board placed little weight on the Complainant's evidence of the Service Canada lease renewal (C-1 page 11) as it was a single lease renewal and not indicative of the overall market in the Government sector. Nor was it a typical lease rate in an AL building as

demonstrated in C-1 page 12 (Bank of Montreal Building). Furthermore the length of the term (3 years) is not a typical lease (5 years) term in the marketplace.

[22] The Board also found that there was no actual evidence in the form of the Service Canada lease to review and as such could not determine all terms and conditions in the lease that may have affected the lease rate. This unusual lease rate of \$10.08 could not be confirmed. Notwithstanding this lack of evidence, the Board recognizes that one lease does not “create a market”.

[23] The Board found that the Complainant’s chart C-1 page 12 which listed several BH buildings did not adequately compare all factors that are used to rate a building’s quality i.e. effective age, location, finishes etc. Simply to list a number of BH buildings with a BH classification and a few current leases does not prove that the subject is in fact a BH quality building. The Board denies the request to change the building to a BH from an AL building.

[24] The Board further considered the Complainant’s cap rate request from 6.5% to 7.0%. C-1 page 18. This chart (4 building sales) was not time adjusted to the valuation date of July 1, 2011 nor was it calculated using a fee simple method. The method used was a lease fee approach which does not adjust the overall rents to current market rents and could distort the overall cap rate calculation for comparison purposes, as at valuation date. As a result little weight was placed on this evidence.

[25] The Board found that by comparison the Board found that the Respondent’s R-1 page 31 chart which included a total of 6 buildings in the A classification had been time adjusted and has been calculated using the fee simple method. The adjusted cap rate ranged from 4.92% to 6.79%. The subject cap rate of 6.5% is well within that current range.

[26] Carrying this argument forward, the Board found on R-1 page 42 that the average selling price of the 6 comparable sales to be \$270 per square foot. This is higher than the existing assessment of \$236.86 per square foot. There was no evidence from the Complainant to indicate that these 6 comparable sales were superior to the subject. As a result the Board has denied the request to increase the cap rate on the subject.

### **Dissenting Opinion**

[27] There were no dissenting options regarding the decision made by the Board.

Heard commencing August 20, 2012.

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

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Warren Garten, Presiding Officer

### **Appearances:**

Greg Jobagy

Stephen Cook  
for the Complainant

Brennen Tipton  
Cameron Ashmore  
James Cummings  
for the Respondent