

NOTICE OF DECISION NO. 0098 218/12

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 15, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
10014937		Plan: NB Block: 8 Lot: 41	\$832,000	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: MESA WEST CAPITAL CORP

Edmonton Composite Assessment Review Board

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

Assessment Roll Number: 10014937

Municipal Address:

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
John Noonan, Presiding Officer
Taras Luciw, Board Member
Tom Eapen, Board Member

Background

[1] The subject property is a 7,321 square foot vacant lot on the south side of Jasper Avenue on the corner of 109 Street and zoned JAMSC (Jasper Avenue Main Street Commercial), effective zoning CB2 (General Business Zone). The 2012 assessment was prepared using the replacement cost summary approach to value and the land calculation is based on market sales. The 2012 assessed value is \$832,000.

Issue(s)

[2] At the hearing, the Board heard evidence and argument on the following issues:

1. Is the subject over-assessed in light of market sales evidence?
2. Is the subject equitably assessed?

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 presented three vacant land sales comparables that transacted in 2009 or 2010 at prices ranging from \$69.16-\$92.23 per sq. ft. with lot sizes ranging from 7,500 to 64,130 sq. ft. The three sales produced an average time-adjusted per sq. ft. value of \$82.93. Recognizing economy of scale, a smaller property like the subject should be valued at the upper end of the range. A \$90 per sq. ft. value applied to the subject's 7,321 sq. ft. would produce an indicated value of \$658,500 from this direct sales comparison approach. In response to questions from the Respondent, the Complainant conceded that the lowest sale value of the three, \$69.16 per sq. ft., was attached to a 64,130 sq. ft. sale with numerous caveats on title (the Macdonald Hotel neighbouring properties), and another sale at 10044 105 Street had been found in a 2010 CARB decision to be a contaminated property. The third sale was at the corner of Jasper Avenue and 116 Street in the Oliver neighbourhood.

[5] The Complainant presented twelve equity comparables, most of approximately 7,500 sq. ft. From this group, a subset of six had no improvements, and their land only assessments averaged \$29.58 per sq. ft. As these lands carried residential zoning, and the two examples of High Density Residential showed value close to \$37 per sq. ft., it was reasonable to conclude that these comparables supported a market value of \$40 per sq. ft. for the subject.

[6] A list of comparable land assessments for other vacant downtown parcels held by the same ownership group demonstrated a range of per sq. ft. assessments from \$44.52 - \$157.83. A property at 10215 100 Avenue, zoned RMU (Residential Mixed Use), was highlighted. This lot overlooked the river valley and was potentially the most valuable real estate, permitting high-rise residential development. This lot was vastly superior to all others for which the ownership group was filing assessment complaints. That property's appeal had been "withdrawn to correction" with a \$56 per sq. ft. assessment agreed. The same \$56 per sq. ft. value applied to the subject would produce an equitable assessment of \$409,500.

[7] The Complainant noted in Exhibit C-1, page 9 that the assessment had been adjusted downward by 35% due to a Land Market Adjustment and by 35% for an Easement Influence so the original value would have been \$190 per sq ft (rounded).

[8] In summary, the Complainant outlined three different value conclusions, but was not pursuing the lowest value suggested, derived from residential-zoned lots. A reduction to \$658,500 was requested based on the sales comparables provided and their \$90 per sq ft conclusion, or based on equity, \$409,500 or \$56 per sq. ft.

[9] The Complainant's rebuttal evidence highlighted that the sales presented by the Respondent were dated, in all but one case four or five years before valuation date, and required time-adjustments of as much as 41%. Reference was made to a previous CARB decision relating to a 2010 assessment. That decision, contained in the City's evidence, had placed less weight on sales dating to 2006 and 2007. Two years later, the Respondent is still using such sales. The most recent sale presented by the Respondent, at \$243.60 per sq. ft., was a clear outlier. It was observed that the purchaser owned adjacent parcels and was motivated to acquire this property to complete a land assembly for a proposed high-rise development. Further, that property carried a 2012 assessment of \$84 per sq. ft.

Position of the Respondent

[10] The Respondent confirmed that the subject property had been adjusted downward by 35% for an LRT easement and that the two adjustments referred to by the Complainant are one and the same. The subject was also adjusted upward by 10% for the corner influence.

[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 \$155 per sq. ft. before adjustments. 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.

[12] Four equity comparables on the north side of Jasper Ave at 107 Street demonstrated interior lot values almost identical to the subject. Lots of just over 8,000 sq. ft. and just over \$13,000 value for paving carried assessments of \$154.54 per sq. ft.; a corner lot was valued at \$173.56 per sq. ft.

[13] In summary, the Respondent reviewed the sales and equity comparables presented by the Complainant in support of a reduced assessment, and found them lacking. In light of all the evidence, onus to alter the assessment had not been met.

Decision

[14] The Board reduces the assessment to \$738,000.

Reasons for the Decision

[15] The parties and the Board are hampered by a lack of recent sales of vacant downtown land. The Board found the three Complainant sales wanting, for the reasons outlined by the Respondent: location, contamination, and encumbrances. The most recent sale in the Respondent's list, at 10025 102 Street, assessed this year at \$84 after selling in 2009 at \$243.60 was, as the Complainant noted, an obvious outlier. The remaining four Respondent sales, dated as they were, produced an average of some \$141 per sq. ft. and were the best evidence before the Board. Applying a 35% deduction to account for the subject's LRT easement and the 10% corner lot premium yields a per sq. ft. value of \$100.82.

[16] The Board had in evidence the 2011 CARB decisions for three roll numbers relating to highly similar vacant lots on Jasper Avenue a short distance east of the subject. (Rolls 10014623, 10014630 and 10014633). Those 2011 decisions reached a value conclusion of \$140 per sq. ft. based on seven comparable sales, very similar to the \$141 per sq. ft. found here. This panel heard the 2012 assessment complaints for the same three rolls, and in each case decided to reduce the

land values to approximately \$130.50 per sq. ft., that figure achieved by the application of the City's time-adjustment factor (.92565) to the previous year's decided value.

[17] In this case, the Board had the benefit of only four sales comparables, all of which were included in the seven relied upon in 2011. Again, while the seven sales produced a 2011 average of \$140 per sq. ft. in 2011, the smaller selection of four sales produced a time-adjusted average of \$141 in 2012. (In a down-trending market, the implication is that the four sales would have produced an average of \$150 or more in 2011.) In this case, as well as for two other lots neighbouring the subject, the Board is in the awkward position of creating inequitable assessments for similar properties: a base rate of \$141 here before adjustment, and \$130 just down the street. The reason for this discrepancy is that in each case the Board acts on the best available evidence. For the three rolls just down the street, the 2011 decisions were the best evidence. For the subject, there was no 2011 decision in evidence before the Board, and thus a different value conclusion drawn from the four sales excluding the outlier, all presented by the Respondent.

[18] The equity issue was only briefly addressed: the Complainant observing that it came as no surprise that vacant lots on the north and south sides of Jasper Avenue should attract the same valuation; the Respondent critiquing an equity value request based on a residential-zoned site about which details were scarce. The Board concurs, and declines to alter the assessment on the equity argument.

Heard August 15, 2012.

Dated this 13th day of September, 2012, at the City of Edmonton, Alberta.

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