



## ASSESSMENT REVIEW BOARD

Churchill Building  
10019 103 Avenue  
Edmonton AB T5J 0G9  
Phone: (780) 496-5026

### NOTICE OF DECISION NO. 0098 302/11

Colliers International  
#1000, 335 – 8<sup>th</sup> Avenue SW  
Calgary, AB T2P 1C9

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 November 1, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3567609	10079 Jasper Avenue NW	Plan: F Lot: 2	\$1,879,000	Annual New	2011

#### Before:

Patricia Mowbrey, Presiding Officer  
Jack Jones, Board Member  
Jasbeer Singh, Board Member

#### Board Officer:

Annet Adetunji

#### Persons Appearing on behalf of Complainant:

Stephen Cook, Colliers International  
Greg Jobagy, Colliers International

#### Persons Appearing on behalf of Respondent:

John Ball, Assessor, City of Edmonton

## **PROCEDURAL MATTERS**

1. Upon questioning by the Presiding Officer, the parties present indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file.

## **BACKGROUND**

2. The subject property is a 1953 vintage theatre located at 10079-Jasper Avenue which is currently vacant and has most recently been utilized as a restaurant/ music club. The subject property has been assessed as a restaurant for the 2011 assessment using the income approach to valuation.

## **ISSUE**

3. Is the 2011 assessment of the subject property at \$1,879,000 fair and equitable?

## **LEGISLATION**

### ***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**

4. The Complainant presented evidence (C-1, C-2 & C-3) and argument for the Board's review and consideration.
5. The Complainant challenged the 2011 assessment utilizing the income approach by presenting the lease rate (C-1, page 5) for a similar property (former theatre) on Jasper Avenue that is currently being used as a church with a lease rate of \$13.76 per square foot. The Complainant also challenged the capitalization rate used in the 2011 assessment by presenting the cap rate of 8% from a neighbouring building (EPCOR Tower), which the Complainant claims is a far lower risk investment than the subject property. The Complainant suggested the cap rate for the subject property should be 8.5% (C-1, page 13).
6. Using the income approach with a lease rate of \$13.75 per square foot and a cap rate of 8.5% the Complainant suggested the 2011 assessment for the subject property should be \$1,040,753 (C-1, page 13).

7. The Complainant also presented an analysis (C-1, page 14) to suggest that the highest and best use of the subject property is the land value. The analysis used five sales comparables (C-1, page 20) to determine a land value for the subject property of \$200.00 per square foot and in the analysis derived a total valuation for the subject property of \$1,500,000 (C-1, page 14).
8. The Complainant further presented a critique (C-3) of the Respondent's two equity comparables to illustrate differences with the subject property with respect to use and location. The Complainant also included a revised 2011 assessment (October, 2011) for the neighbouring property which suggested the land value was \$154.28 per square foot (C-3, pages 3 & 8) and requested the same land value for the subject property, resulting in a revised assessment of \$1,157,110.
9. In summary the Complainant requested the 2011 assessment be reduced from \$1,879,000 to \$1,157,110.

### **POSITION OF THE RESPONDENT**

10. The Respondent presented evidence (R-1) and argument for the Board's review and consideration.
11. The Respondent acknowledged that the subject property is unique and therefore somewhat difficult to value. The determination was based on the most recent use for the 2011 assessment which was as a restaurant.
12. The Respondent presented two equity comparables (R-1, pages 30 & 31) to support the lease rate (\$22.00 per square foot) and the cap rate (7.5%) utilized to prepare the 2011 assessment of the subject property.
13. The Respondent also presented sales comparables to support the 2011 assessment. These sales comparables were:
  - i. Bank of Montreal Building- next door to the subject. Sold for \$10,355,650 on Sept. 6, 2007 (R-1, page 29).
  - ii. Subject property- Sold a 90% interest for \$2,520,000 on Dec. 14, 2007 (R-1, page 67).
  - iii. 10025- 102 St. - A vacant land sale for \$4,325,000 in January, 2009 and equates to \$288.00 per square foot for land value (R-1, page 83).
14. The Respondent also referenced a number of previous CARB and Court decisions that were summarized (R-1, page 83) as follows:

*"Ultimately, it is not the choice of approach, but the closeness to which the assessment value approximates market value that determines whether the assessment is in accordance with the act and regulations."*
15. In summary the Respondent requested the 2011 assessment be confirmed at \$1,879,000.

## **DECISION**

16. The decision of the Board is to confirm the 2011 assessment of the subject property at \$1,879,000 as fair and equitable.

## **REASONS FOR THE DECISION**

17. The Board reviewed and considered the evidence and argument presented by both parties and determined the 2011 assessment was appropriate for the subject property.
18. The Board noted both parties expressed concern with the uniqueness of the subject property as originally built in 1953 and the difficulties in valuation.
19. The Board placed greatest weight on the evidence and argument presented by the Respondent which supported the income approach to value (R-1, page 30). The Board considered comparable property #1 as most comparable to the subject. It is somewhat smaller but has been retrofitted to a night club / lounge which is a similar use to the subject property. It has an assessed lease rate of \$23.00 per square foot and cap rate of 7% which supports the subject property's 2011 assessment of \$22.00 per square foot and cap rate of 7.5%.
20. The Respondent further supported the overall valuation with sales data on downtown properties including the subject property (R-1, pages 29, 67 & 83). The Board noted that the vacant land sale comparable located at 10025- 102 St. was used by both parties (R-1, page 83, C-1, page 20) and in the Board's opinion is the best land value comparable and supports the 2011 assessment of the subject property.
21. The Board placed less weight on the evidence and argument presented by the Complainant noting the requested assessment (C-1, page 13) used a lease rate of \$13.75 per square foot, which was from a former theatre located in close proximity to the subject property but is currently being used as a church with a lease expiring in July, 2011. The Board also noted the 8.5% cap rate requested by the Complainant was derived from the EPCOR building's assessed cap rate of 8%. The requested lease and cap rate were not supported by any evidence presented to the Board.
22. The Complainant presented a direct sales comparison approach to value for the subject property with comparables and a unit value comparison prepared by an unnamed appraiser. The entire appraisal report was not presented to the Board at the hearing for review and consideration. Therefore the Board was unable to give weight to this partial appraisal report as the signature page, the comparative analysis and the final estimate of value were not included.
23. The Board noted that the 2011 assessment for the neighbouring property presented by the Complainant (C-3, page 8) was dated October, 2011 and concluded this evidence is post facto (after the July 1, 2010 valuation date) and cannot be considered.
24. The Board finds that the Complainant did not shift the onus or meet the burden of proof required to revise the 2011 assessment of the subject property.
25. The Board finds the 2011 assessment of the subject property at \$1,879,000 is fair and equitable.

## **DISSENTING OPINION AND REASONS**

There was no dissenting opinion.

Dated this 2<sup>nd</sup> day of November, 2011, at the City of Edmonton, in the Province of Alberta.

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Patricia Mowbrey, Presiding Officer

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*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: GE Canada Real Estate Equity Holding Company/ Societe de Portefeuille Immobil I