



## ASSESSMENT REVIEW BOARD

Churchill Building  
10019 103 Avenue  
Edmonton AB T5J 0G9  
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### NOTICE OF DECISION NO. 0098 311/11

R. IAN BARRIGAN, VAN M HOLDINGS LTD.  
& R.I.B. HOLDINGS LTD.  
#2445, 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 October 26, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3198108	10340 107 Street NW	Plan: B2 Block: 7 Lot: 123-126	\$4,951,000	Annual New	2011

#### Before:

David Thomas, Presiding Officer  
James Wall, Board Member  
Petra Hagemann, Board Member

**Board Officer:** Jason Morris

#### Persons Appearing on behalf of Complainant:

Ian Barrigan, RIB Holdings  
Janet McCunn, R.I. Barrigan Management

#### Persons Appearing on behalf of Respondent:

John Ball, Assessor, City of Edmonton

## **PROCEDURAL MATTERS**

The parties indicated that they had no objection to the constitution of the Board. The Members of the Board indicated that they had no bias with regard to the subject property.

## **PRELIMINARY MATTER**

The Respondent objected to the presentation of a number of decisions of public tribunals that had been disclosed to the Respondent after the deadline for rebuttal disclosure. The parties agreed that the materials consisted entirely of decisions of public tribunals. The Board held that such materials are not evidence, but are law or argument, and are admissible despite not having been disclosed prior to the deadline for the disclosure of evidence.

## **BACKGROUND**

The subject property is located in the downtown area of Edmonton at the corner of 104 Avenue and 107 Street. The property has a land area of 29,793 square feet and is improved with several income producing commercial rental units.

## **ISSUE(S)**

Is the methodology at arriving at the 2011 assessment of \$4,951,000 correct?

## **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**

The Complainant submitted a 22 page disclosure document (C-1) outlining his objection to the 30.74% increase in assessment of the subject property due to a change in methodology the City used in assessing the subject. In previous years the assessment was based on the income approach. In 2009 the City changed the methodology to the sales comparison approach; the assessment was appealed and the Assessment Review Board ruled to reduce the assessment. In 2010 the City after negotiations with the Complainant reduced the assessment.

The Complainant claimed that by rejecting the income approach the City is dismissing the actual use as its highest and best use. The Complainant suggested that if the sales comparable approach is an accurate method of determining market value for the subject, the sales comparables used by the City to defend the assessment, are weak and do not support the assessment.

The Complainant quotes from material provided by the City from the International Association of Assessing Officers Standard of Mass Appraisal of Real Property (C-1, pg 2), "*The income approach is the most appropriate method to apply when valuing commercial and industrial property if sufficient income data are available. Sales comparison models can be equally effective in large jurisdictions with sufficient sales.*" The Complainant suggests that there are not sufficient sales available to support the latter approach.

The Complainant contacted city assessor Ryan Heit who stated that the City's valuation of the subject property if based on the income approach using "typical market rents" would be \$3,476,000. The Complainant was not successful in obtaining agreement from the land assessor to reduce the assessment of the subject to this stated amount. The Complainant submitted that the subject has been operating as a retail plaza for the past 32 years and is obtaining rents at market rates. It should therefore be assessed using the income approach.

The Complainant had requested current sales comparables from the City and was provided with 44 sales of neighbourhood shopping centres located throughout the City, not considered similar due to their locational differences.

The Complainant submitted 6 comparable properties for consideration to the Board:

- a) Two are sales.
  - 10004-104 Avenue sold in March 2011 (after valuation date) and was purchased by the Provincial Government @ \$131.27/sq ft as part of the new Provincial Museum complex. The location is superior to that of the subject property.
  - 10929-105 Avenue, a 90,162 sq ft parcel was purchased Nov 1, 2010 (after valuation date) by Grant McEwan @ 98.98/sq ft.
- b) The following, #6 + #7 (C-1, pg4) and #8 (C-1, pg 5) are equity comparables.
- c) #11 (C-1, pg 5) is the former Healy Motor property and constitutes a 2011 offering to sell, which indicates a downward trend in the market. The Complainant claims this is the best comparable due to its proximity to the subject. The assessment of this property is \$92.00/sq ft.

In the rebuttal document the Complainant submitted an additional sale (C-2, pg 3) located at the southeast corner of 104 Avenue and 106 Street which sold for \$116.67/sq ft in July 2011, with a 2011 assessment of \$164.96/sq ft. This further indicates that there has been a significant downward trend in market values.

The Complainant further submits that should the proper valuation be the sales comparable approach, appraisers have advised him that demolition costs should be deducted from the value of the raw land.

The Complainant requests a reduction in the assessment to \$3,476,000 based on the income approach.

## **POSITION OF THE RESPONDENT**

The Respondent asserts that the subject property was properly assessed according to the principals of mass appraisal and the commercial vacant land assessment model.

The Respondent provided the Board with a 113 page brief (R-1) which contained maps of the defined “Downtown” area, pre and post valuation date and exterior photographs of the subject property. In addition the brief outlined 4 sales comparables (R-1, pg 16) with land title documentation in support of the market value of the land component in the subject property. The brief also contained reference to several ARB and Composite Assessment Review Board (CARB) decisions in support of the methodology employed in valuing the land and adding a nominal value for the improvements.

The Respondent informed the Board there was sufficient sales comparable information of downtown land to determine the market value of the land as if vacant. The assessment was based on a review of the subject property’s ability to generate net annual income in order to support the value of the land. As a result of the review the Respondent determined that the highest and best use of the property was as vacant land with nominal value only attributable to the improvements.

Sales comparables in support of the Respondent’s land value ranged in size from 15,028 sq ft to 37,477 sq ft and exhibited a range in time adjusted sales prices from \$196.83/sq ft to \$315.16/sq ft for an average of \$242.52/sq ft which more than supports the 2011 assessment at \$166.00/sq ft. The Respondent confirmed the only adjustment applied for vacant downtown land was to reflect a premium for corner advantage.

The Respondent’s evidence included CARB decisions on 2010 assessment appeals on two downtown properties in the vicinity of the subject property. These decisions confirm the application of the highest and best use principle in valuing this type of property if there is sufficient and compelling evidence in support of land values.

The Respondent requests the Board confirm the subject property’s 2011 assessment at \$4,951,000.

## **DECISION**

The decision of the Board is to reduce the 2011 assessment of the subject property from \$4,951,000 to \$3,476,000.

## **REASONS FOR THE DECISION**

The assessor is at liberty to apply whichever valuation method he elects, however where sufficient evidence is received indicating that the derived assessment may not be market value, it is the Board’s opinion the assessor needs appropriate evidence to defend the assessment value as being a reflection of market value.

The Board noted that this property reverted to the sales approach to value from the income approach in 2009, however both in 2009 by appeal and in 2010 by agreement; the assessed valuation derived by the sales was reduced. This raises some concern as of the sales valuation for the subject’s assessment.

The Board notes that there was apparently both an income valuation (using City typical factors) and a valuation by the direct sales approach made by the City. The derived values from these

approaches varied by 44%. These factors appear to indicate that the current assessment may not necessarily approximate market value.

Further while post facto, the sales comparables introduced by the Complainant for land sales value for similar property in the downtown core in the year following the assessment date, sold for significantly less than the value per square foot used by the Respondent. These would seem to indicate a downward trend in land sales values.

Viewed collectively the Board believed there to be sufficient question as to the correctness of the assessment and reviewed the Respondent's evidence advanced to support the assessment.

The Respondent has relied on 4 sales to provide a land factor for all lands in the downtown area with adjustments for corner location only.

In reviewing these 4 sales, the Board concluded only the first sale (R-1, pg16) was a valid comparable.

The Board's concern with Sale #2 was that the sale was from 2006 and concurs with the Respondent's statement at hearing that it should be given little weight.

The Respondent's sale #3 is noted as being a contaminated property. The Respondent has added \$700,000 to the sales price attempting to reach uncontaminated market value. \$700,000 was the value given for contamination on the realty sales sheet but without any explanation as to its dereliction.

The Board believes that without sound engineering documentation to support the cost of remediating contamination that this sale is too uncertain. Therefore consistent with the Respondent's sales validation criteria it should not be used in this valuation analysis.

Sale #4 also a 2007 sale was likewise found to be suspect. The Respondent provided no supporting sales documentation for the use of this sale.

The Complainant in their investigation of this sale determined this was a purchase of an adjoining lot by the neighbouring land owner for their specific purpose. This raises concerns that this sales value may reflect the adjoining land owner's requirement for this specific land and the price may reflect this buyer's unique need and not a true market valuation.

The result of this analysis leaves a single sale as support for this assessment and for the sales approach. This the Board believes is too narrow a basis upon which to base a varied valuation methodology.

The Board believes the income valuation initially considered by the Respondent and based on typical factors found in the market place results in a more credible valuation of the subject property.

Additionally the income valuation by the Complainant based on their actual income factors while less than that of the Respondent's is within an acceptable range of the Respondent's calculation and supportive of the Respondent's income valuation.

Accordingly, the Board determined the valuation of \$3,476,000 is best supported by the evidence presented.

The Complainant raised alternate issues in equity on a square foot assessment analysis but as this decision calculated on a square foot basis falls below any suggested equity comparisons, therefore the Board comments no further on them

### **DISSENTING OPINION AND REASONS**

There were no dissenting opinions and reasons.

Dated this 1<sup>st</sup> day of November, 2011, at the City of Edmonton, in the Province of Alberta.

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David Thomas, 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: VAN M HOLDINGS LTD.  
R I B HOLDINGS LTD.