



ASSESSMENT REVIEW BOARD

Churchill Building
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NOTICE OF DECISION NO. 0098 874/11

COLLIERS INTERNATIONAL REALTY
ADVISORS INC
1000-335 8TH AVE 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 March 16, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
1560721	10220 172 Street NW	Plan: 7722579 Block: 4 Lot: 2	\$1,953,000	Annual New	2011

Before:

Warren Garten, Presiding Officer
George Zaharia, Board Member
Tony Slemko, Board Member

Board Officer: Jason Morris

Persons Appearing on behalf of Complainant:

Stephen Cook, Colliers International
Greg Jobagy, Colliers International

Persons Appearing on behalf of Respondent:

Ryan Heit, Assessor, City of Edmonton
Alana Hempel, Assessor, City of Edmonton

PROCEDURAL MATTERS

The parties indicated they had no objection to the composition of the Board. In addition, the Board members indicated they had no bias on this file.

PRELIMINARY MATTERS

There were no preliminary matters.

BACKGROUND

The subject property is an automotive dealership built in 1985 and located at 10220 – 172 Street NW within the Stone Industrial neighborhood of west Edmonton. The property improvement has approximately 7,773 square feet of main floor space, situated on a lot 70,181 square feet in size, resulting in an 11% site coverage.

The property was assessed on the income approach resulting in a 2011 assessment of \$1,953,000, inclusive of an oversized land value of \$834,600.

ISSUE(S)

Is the 2011 assessment of the subject property at \$1,953,000 fair and equitable compared to similar properties owned by the same owner?

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

1. The Complainant provided a recent assessment history of the subject property that showed an 11.3% increase in the 2011 assessment compared to the 2010 assessment, arguing that there is no justification for such an increase (Exhibit C-1, pages 3 and 7).
2. To support his position that the 2011 assessment of the subject property is excessive, the Complainant provided the 2010 and 2011 assessments of seven other properties, six of which surround the subject property, and are all owned by the same owner. The change in assessment of the six surrounding properties between 2010 and 2011 ranged from minus

8.8% to plus 3.2%. This resulted in an average of minus 1.68% and a median of minus 1.65%, compared to the plus 11.3% increase of the subject property. Given that these are similar parcels of land with similar uses, and with the same owner, it is not equitable that the subject property should be treated differently (Exhibit C-1, page 7).

3. The Complainant requested the Board to reduce the 2011 assessment from \$1,953,000 to the 2010 assessment of \$1,755,000.

POSITION OF THE RESPONDENT

1. The Respondent initially argued that the Complainant had not met onus, in that there was no sales information, lease rate market survey, or land sales to prove that there was an error in the 2011 assessment (Exhibit R-1, page 76).
2. The Respondent addressed the “Burden of Proof” and who bears the burden of establishing a fact to the level of satisfaction that a certain fact exists. In the Law and legislation brief, it states that *“The onus of proving the incorrectness of an assessment is on the individual alleging it.”* It is further stated that *“The Complainant’s evidence needs to be sufficiently compelling to allow the Board to alter the assessment.”* (Exhibit R-2, section b. page 18)
3. The Respondent disregarded the Complainant’s 11.3% year by year percentage increase by directing the Board to Exhibit R-2, section X, page 33, wherein it is stated that *“...respective Boards have held that each year’s assessment is independent of previous assessments, and the mere fact of a large percentage increase without more evidence, is not enough information to draw the conclusion that an assessment is too high.”*
4. Upon questioning by the Complainant as to how the lot of the subject property could be subdivided, the Respondent agreed with the Complainant that this would be problematic. As a result, the Respondent recommended to reduce the assessment of the subject property by 50% of the \$834,600 oversized land value. This recommendation was based on a similar change made to other properties.
5. As a result of the recommended reduction in the 2011 assessment of the subject property, the reduced assessment would be \$1,535,500. This became the revised position of the Respondent.

DECISION

The Board accepted the Respondent’s recommendation to reduce the 2011 assessment from \$1,953,000 to \$1,535,500.

REASONS FOR THE DECISION

1. Once it became apparent that the subject property’s lot could not be subdivided, the Board accepted the parties’ mutual agreement that the oversized land value of \$834,600 should be reduced by 50%.

2. This approach had been already applied to other properties with similar conditions.
3. The Board is persuaded that the reduced assessment of the subject property at \$1,535,500 is fair and equitable.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 13th day of April, 2012, at the City of Edmonton, in the Province of Alberta.

Warren Garten, Presiding Officer

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: 771077 ALBERTA LTD