

Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2012 ECARB 2045

Assessment Roll Number: 9944119

Municipal Address: 6830 42 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

DECISION OF

Peter Irwin, Presiding Officer

George Zaharia, Board Member

Howard Worrell, Board Member

Preliminary Matters

[1] At the outset of the hearing, the parties indicated that they had no objection to the composition of the Board. Each of the Board members indicated that they had no bias with respect to this complaint.

[2] During the course of the hearing, the parties indicated that some evidence and argument would be carried forward from Roll Number 9573122.

Background

[3] The subject property is a single-tenant medium warehouse located in the Pylypow Industrial neighbourhood of southeast Edmonton. Built in 1996, the subject improvement (in average condition) is 18,353 square feet in size, of which 5,000 square feet is main floor office space. The lot size is 139,420 square feet (3.2 acres) with site coverage of 13%. The subject is zoned IM.

[4] For 2012, the subject has been valued by the direct sales approach resulting in an assessment of \$3,827,000 or \$208.51 per square foot.

Issue(s)

[5] Is the 2012 assessment of the subject property too high based on sales of similar properties?

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 provided a 26-page brief marked as exhibit C-1, arguing that the 2012 assessment of the subject property, at \$3,827,000 or \$208.51 per square foot, was too high. His position was that sales of similar properties indicated that a value of \$160.00 per square foot should be applied to the subject (Exhibit C-1, page 9).

[8] In support of his position, the Complainant submitted five sales comparables of similar properties located in southeast Edmonton. Four of the five sales were similar to those provided in the hearing on roll number 9573122. The sales occurred between July 2010 and May 2011, with sales prices ranging from \$75.13 to \$154.42 per square foot. The comparable properties ranged in size from 13,788 to 23,596 square feet and were zoned IM and IB. The year of construction of the comparables ranged from 1967 to 1979, and the site coverage ranged from 7% to 44%. The average value of these five sales comparables was \$111.97 per square foot, but recognizing adjustments would have to be made, the Complainant requested that a value of \$160.00 per square foot be applied to the subject property (Exhibit C-1, page 10).

[9] The Complainant stated that “*there is a lack of perfect comparable properties which would have the same age, zoning, site coverage and total building size. Therefore, we must examine the most comparable properties and make the appropriate adjustments during the analysis of the market value for the subject property.* The Complainant further stated: “*Since it is difficult to find quantitative adjustments for age and size, it is common place to adjust the unit valuation upwards or downwards within the specified range of sale values in order to account for these differences*” (Exhibit C-1, page 10).

[10] The Complainant stated that “*due to the similarities between the subject and comparable sale # 5, it is necessary to place the abundance of weight on this sale since it requires the fewest adjustments*”. The Complainant corrected the sale price on this sale at the hearing from \$154.42 to \$166.42 per square foot to reflect an upward adjustment required because of an income

shortfall resulting from a below market lease rate as outlined in the supporting Network sales document. After making the appropriate adjustments for age and zoning, the Complainant requested that a unit value of \$160.00 per square foot be applied to the subject property, resulting in a reduced 2012 assessment for the subject property at \$2,937,000 (Exhibit C-1, page 10).

[11] The Complainant submitted exterior pictures of the five sales comparables (Exhibit C-1, pages 11 to 15).

[12] The Complainant provided a chart entitled “Edmonton Industrial Sales by Zoning” based on sales reported by the Gettel Network that occurred between January 1, 2010 and July 1, 2011. The bar graph was compiled with data from 88 IB zoned properties with an average sale price of \$178.65 per square foot, 154 IM zoned properties with an average sale price of \$159.60 per square foot, and 14 IH zoned properties that sold for an average sale price of \$121.21 per square foot (Exhibit C-1, page 18). Based on this chart, the Complainant stated that IH zoned properties sold for 32% less than IB properties, and 24% less than IM properties. The Complainant stated that to compare the differently zoned properties “*a downward adjustment must be made to IB and IM properties*” (Exhibit C-1, page 10).

[13] The Complainant submitted a 26-page rebuttal document critiquing the Respondent’s four sales comparables, and raising concerns that included dated sales, location, zoning, and building size (Exhibit C-2, pages 9 & 10).

- i. Sales comparables 1 to 3 with sale dates of 2009 are dated sales.
- ii. Sales comparable 1 located on 99 Street is in a superior location, and sales comparables 2 and 4 located in the northwest vs. the subject’s southeast location are up to 180 blocks away.
- iii. Sales comparables 1 and 4 have superior zoning of IB compared to the IM zoning of the subject.
- iv. Sales comparable 4 with a building size of 11,250 square feet is 61% of the size of the subject.

[14] The Complainant addressed the issue of ‘economies of scale’ by quoting information from *The Appraisal of Real Estate, Second Canadian Edition*, Chapter 17.6, which stated, “*appraisers should try to select comparables in the same size range as the subject so that economies of scale do not enter the process*” (Exhibit C-2, page 12).

[15] In the rebuttal, the Complainant responded to the Respondent’s critique of the sales comparable located at 9719 63 Avenue, stating that there was no proof of costs, extent/existence of damages, or motives for the upgrades by the purchaser of this property (Exhibit C-2, page 13).

[16] The Complainant re-introduced the chart entitled “Edmonton Industrial Sales by Zoning” (Exhibit C-2, page 16)

[17] The Complainant stated that his sales comparables were more current, having occurred between July 2010 and May 2011, and that this was important since the sales prices needed no or minimal time-adjustments. In the rebuttal document, the Complainant included a decision of a Composite Assessment Review Board dated September 23, 2010 that stated: “*The Board places less weight on the sales comparables provided by both the Complainant and the Respondent as*

they date back to 2006 and 2007 and required significant time adjustment” (Exhibit C-2, page 17).

[18] The Complainant also provided an excerpt from the Appraisal of Real Estate, Second Canadian Edition where it stated: *”Historical sales may be valuable to retrospective valuations and may assist in time sensitive analysis. However, changes in market conditions make their use less reliable for current valuations with long term adjustments for market conditions”* (Exhibit C-2, page 21)

[19] In conclusion, the Complainant requested the Board to reduce the 2012 assessment of the subject property from \$3,827,000 to \$2,937,000 based on \$160.00 per square foot.

Position of the Respondent

[20] The Respondent submitted a 31-page brief marked as Exhibit R-1 arguing that the original \$3,827,000 assessment of the subject property was fair and equitable. The Respondent also submitted a 44-page Law and Legislation brief.

[21] In support of the position that the assessment was fair and equitable, the Respondent submitted four sales comparables, two located in southeast Edmonton, as is the subject, and two located in northwest Edmonton. The sales occurred between March 13, 2009 and April 28, 2010, selling for time-adjusted sale prices ranging from \$199.45 to \$216.93 per square foot, resulting in an average of \$207.65 per square foot, supporting the \$208.51 per square foot assessment of the subject property. The comparables’ improvements ranged in size from 11,250 to 17,879 square feet. Site coverage of the subject, at 13%, fell within the comparables’ range of 9% to 20% (Exhibit R-1, page 18).

[22] The Respondent critiqued the Complainant’s sales comparable # 2, stating that it should not be considered a valid sale as the building was vacant at sale date, and required significant repairs to the roof, windows and electrical systems (Exhibit R-1, page 23).

[23] The Complainant had provided a self-constructed chart from the Network’s sales reports that has no details of the sales and, in the Respondent’s view, should not be considered.

[24] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at \$3,827,000.

Decision

[25] The decision of the Board is to confirm the 2012 assessment of the subject property at \$3,827,000.

Reasons for the Decision

[26] In his own disclosure, the Complainant stated that adjustments would have to be made to account for age and zoning, thereby establishing his requested assessment at \$160.00 per square foot, despite the average of his sales comparables being \$111.97 per square foot. The Complainant argued that there would have to be adjustments to the Respondent’s sales due to building size, zoning, and superior location. The Board does not agree. It is the position of the Board that the average of the time-adjusted sale prices supports the assessment of the subject property without the necessity of arbitrarily substituting another value.

[27] In reviewing the evidence after the hearing, the Board noted that the Complainant had shown the zoning of the subject property in his Exhibit C-1, page 10 as IH, but then showed the zoning of the subject property as IM further on in his Exhibit at page 25. Also in his Exhibit C-2 at pages 9 and 10, the Complainant indicated that the subject was zoned IM. The Respondent had shown the zoning as IM. Since the Board placed little weight on the different zonings of the various properties, this error was of no consequence.

[28] Regarding zoning, the Board placed little weight on the “Edmonton Industrial Sales by Zoning” chart provided by the Complainant since the sales were of improved properties with no indication of age, condition of the improvement, and location of the properties.

[29] The Board placed little weight on the Complainant’s reference to a previous CARB decision that spoke to dated sales for two reasons:

- i. this Board is not bound by previous CARB decisions; and
- ii. time adjustments to the sale prices of comparable properties is an accepted practice in the assessment complaint process.

[30] The Board placed no weight on the pictures of the sales comparables provided by the Complainant since they were not instructive as to the details required to assess comparability to the subject.

[31] The Board reviewed the critiques of both parties on each other’s comparable sales and could find no evidence that would lead it to disregard any of the sales. The Board acknowledges that adjustments are required to some of these nine sales but no evidence was provided by either party to show what adjustments might be needed to any of the nine comparables provided by the parties.

[32] The Board placed greatest weight on the Respondent’s sales comparables 1 and 3 and the Complainant’s sales comparable 5 because:

- i. all three were southeast quadrant properties, and
- ii. the Complainant had stated that his sale 5 required the least amount of adjustments. However, the Board noted that an upward adjustment would be required to account for the additional 2.8 acres that this comparable property has.

The resulting average sales price of these three comparables at \$196.40 per square foot is 5.8% less than the subject’s \$208.51 per square foot assessment, just beyond the +/- 5% quality standard as mandated in section 10 of *The Matters Relating to Assessment and Taxation Regulation*. As well, this average does not make any upward adjustment to the Complainant’s sales comparable 5 that has 2.8 acres more than the subject.

[33] The Board is persuaded that the 2012 assessment of the subject property at \$3,827,000 is fair and equitable.

Dissenting Opinion

[34] There was no dissenting opinion.

Heard November 15, 2012.

Dated this 6th day of December, 2012, at the City of Edmonton, Alberta.

Peter Irwin, Presiding Officer

Appearances:

Greg Jobagy
Stephen Cook
for the Complainant

Marty Carpentier
Steve Lutes
for the Respondent

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.