

## **Edmonton Composite Assessment Review Board**

**Citation: COLLIERS INTERNATIONAL REALTY ADVISORS INC v The City of  
Edmonton, 2012 ECARB 2107**

**Assessment Roll Number:** 1075324  
**Municipal Address:** 4900 93 Avenue 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

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**DECISION OF**  
**Robert Mowbrey, Presiding Officer**  
**Brian Frost, Board Member**  
**Reg Pointe, Board Member**

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### **Preliminary Matters**

[1] Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board members indicated that they had no bias on this file.

### **Background**

[2] The subject property is a large warehouse consisting of four buildings that were constructed in 1977. The four buildings have a total building area of 64,526 square feet and site coverage of 36%. All four buildings have been assessed on the direct sales comparison approach. Three of the four buildings are in average condition and the fourth building is in fair condition. The fourth building in fair condition has received a 10% adjustment for lack of major road access. The 2012 assessment is \$6,456,000.

### **Issue(s)**

[3] What is the market value of the subject property?

## **Legislation**

[4] 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**

[5] The Complainant filed this complaint on the basis that the subject property assessment of \$6,456,000 is in excess of market value. In support of this position, the Complainant submitted a 32-page evidence package marked as Exhibit C-1. In addition, the Complainant submitted a 21-page rebuttal package to the Board marked as Exhibit C-2.

[6] The Complainant provided the Board with a map and photographs of the subject property (Exhibit C-1, pages 4, 5, 6 and 13).

[7] The Complainant advised the Board about assessment and valuation and how the subject property was evaluated by the Complainant. The Complainant indicated that real estate Owner – Operators purchase the majority of industrial warehouse buildings in Western Canada. Such owners are most concerned with its particular physical and locational characteristics, rather than the property’s income generation. This suggests that the Direct Comparison Approach is a relevant valuation technique for the subject property. However, to further support a reduced assessment, the Complainant also presented an income approach to value. The overall income capitalization method is the Income Approach, utilized due to its dominant usage by investors for properties similar to the subject. The Income approach is sometimes referenced as a secondary measure of value for industrial warehouse buildings. It is therefore utilized as a supporting method in valuation, as it is a good test for market value.

[8] The Complainant advised the Board that the subject property was sold six months prior to the valuation date on December 30<sup>th</sup>, 2010 for a total consideration of \$5,300,000. The Complainant noted that the time-adjustment factor is 0.0% as per the City of Edmonton’s time-adjustment factor chart (Exhibit C-1, page 26). The sale of the subject property was validated by a third party source (Exhibit C-1, pages 10, 11, 17-21).

[9] The Complainant referred to the following excerpts from CARB 0302-10/2011 detailing that the best indicator of market value was the sale of the subject property itself:

- The Board is of the opinion that the arms length sale of the subject property is the best indicator of market value.
- The Board looked to past decisions in regard to the sale of a subject property in determining assessed value, as well as Alberta Court of Queen's Bench, 697604 Alberta Ltd. vs. Calgary "24". In my view, the Municipal Government Board (MGB) failure to rely on the evidence of value provided by the recent sale of the property fails to meet the test of reasonableness. Board Orders 068104, 046106 and 025105 all indicate a valuable sale of the subject near or at the assessment date is the best indicator of value (Exhibit C-1 page 11, 22-25).

[10] The Complainant presented four sales comparables to the Board that were within approximately 18 months of valuation. The sales comparables were all large warehouses which ranged in size from 38,373 to 79,615 sf. By incorporating this time frame, there was no necessity for time adjustments as the City of Edmonton's City Assessor's chart showed that from June 2010, there was a 0.0 % adjustment. The first sale was zoned IH, the second sale was zoned IM and the third and fourth sale were zoned IB, the same as the subject property.

[11] The Complainant advised the Board that each of the sales comparables is located within close proximity to the subject. The subject's sales were supported by other market transactions close to the subject as the average sale price per square foot is almost exactly the same amount. The site coverage of all these comparables were all significantly lower, and with the above referenced factors considered, the Complainant concluded that the sale price for the subject property was supported by the comparable transactions within the Edmonton marketplace (\$80.00 x 64,528 sf = \$5,162,000 truncated).

[12] The Complainant provided the Board with a rebuttal package that refuted the Respondent's assertion that extensive work was necessary on the subject property. The repair documents stated that the total work is \$172,000 spread over five years (Exhibit C-2).

[13] During cross-examination by the Complainant regarding the Respondent's evidence, the Complainant noted that the current value "of the land" was \$5,300,000 (Exhibit R-3, page 9).

[14] During argument, summation and closing, the Complainant argued that the best indicator of value was the sale of the subject property close to valuation date. In addition, the sales comparables by the Complainant supported the sale of the subject property. The Complainant advised the Board that there were numerous Board orders that support the sale of a property as being "market."

### **Position of the Respondent**

[15] The Respondent presented the Board with a 42-page assessment brief marked as Exhibit R-1. In addition, the Respondent presented the Board with a 44-page law and legislation package marked as Exhibit R-2. The Respondent further presented the Board with a surrebuttal evidence package marked as Exhibit R-3.

[16] The Respondent explained to the Board that the subject assessment and similar assessments were prepared using the direct comparison assessment methodology. The Respondent stated that sales occurring from January 2008 through June 2011 were used in the model development and testing (Exhibit R-1, page 37).

[17] The Respondent stated that factors found to affect value in the warehouse inventory were: the location of the property; the size of the lot; the age and condition of the buildings; the total area of the main floor (per building), and; the amount of finished area on the main floor as well as the developed upper area (per building) (Exhibit R-1, page 37).

[18] The Respondent added that the most common unit of comparison for industrial properties is value per square foot of building area. When comparing properties on this basis, it is imperative that the site coverage be a key factor in the comparison. Properties with a larger amount of land in relation to the building footprint display a higher value per square foot, to account for the additional land value attributable to each unit of the building size (Exhibit R-1, page 38).

[19] The Respondent advised it is legislatively obligated to use mass appraisal methodology for valuing individual properties. The Respondent employed the sales comparison approach for the 2012 annual assessment of all warehouse properties in Edmonton. The Respondent informed the Board that a large percentage of industrial property in Edmonton was owner occupied and had no income attributable to it, making the sales comparison a more reliable approach in this market place (R-1, page 36).

[20] The Respondent further advised the Board regarding multi-building accounts. The Respondent said industrial accounts which consist of multiple buildings have been valued according to the same mass appraisal model as single building accounts. In doing so, each building has been analyzed for its contributory value to the property. For such accounts, a single assessment has been produced that represents the aggregate market value of that particular property. The Respondent noted that owing to differences in age, condition, type of construction and building sizes, the City assesses each building with its own attributes and combines the individual assessments to arrive at the total annual assessment for the total property. The Respondent noted that a number of Board decisions have been issued in which assessments of tax rolls containing more than one building have been confirmed. The Board is not bound by either these decisions, or those similar cases in which assessments have been altered (Exhibit R-1, page 9).

[21] The Respondent provided the Board with photographs and maps detailing the subject property (Exhibit R-1, pages 4-7).

[22] To support the City of Edmonton's assessment of the subject property, the Respondent provided the Board with eleven sales comparables. The sales comparables ranged in age from 1968 to 1980. The Respondent separated the sales chart into two parts, the first six sales with a total building area of less than 10,000 square feet and the second five sales had a low of 31,506 square feet to a high of 44,887 square feet. The site coverage ranged from a low of 31% to a high of 48% and all sales comparables were in average condition. The time adjusted selling price per square foot, based on total building area, ranged from \$81.28 to \$231.09 (Exhibit R-1, page 17).

[23] The Respondent provided evidence on the sale of the subject property. The Respondent indicated that an inspection and discussion with the purchaser revealed that the building in question had foundation and plumbing problems, along with renovations to some of the bays after the sale. The Respondent advised the Board that the purchase price reflects the "fair" condition at time of sale (R-1, page 29).

[24] The Respondent provided the Board with a response regarding the Complainant's sale comparables:

- a. Sale #1(5705 103A Street) was acquired by a previous tenant, thus making the definition of “market” suspect (Exhibit R-1, page 30).
- b. Sale #4 (3304 Parsons Road) had four main floor bays that were leased well below market and the mezzanine was also at below market rates (Exhibit R-1, page 31).
- c. Sale #3 (4115 101 Street) has a question regarding the year built. The Complainant stated 1978, but third party documents stated the year of construction is 1969).

[25] The Respondent provided the Board with a surrebuttal that gave details regarding the maintenance issues with the subject property. In addition, the Respondent notes the purchaser obtained a mortgage for \$6,000,000 in November 2010.

[26] During summary and argument, the Respondent advised the Board that one sale does not make a market and with the issues surrounding the subject property (foundation, plumbing and renovations) the Board should take this into account.

### **Decision**

[27] The decision of the Board is to reduce the 2012 assessment from \$6,456,000 to \$5,300,000.

### **Reasons for the Decision**

[28] The Board reviewed the Complainant’s evidence and oral testimony and the Respondent’s evidence and oral testimony and found the Complainant’s evidence and oral testimony to be more compelling.

[29] The Board is persuaded by the sale of the subject property. The Board believes the best indicator of market value is the sale of the subject property itself.

[30] The Board believes the sale of the subject property is a valid sale and meets the definition of “market”; notwithstanding the fact that the property had some foundation, plumbing and needed renovations. The Respondent’s evidence suggests the subject property at time of sale was not “average condition” but considered to be in “fair” condition.

[31] The Board further notes the Respondent’s sale comparables are all in “average condition” whereas the subject property’s assessment shows the largest building, by far, is assessed as in “fair condition.”

[32] The Board is further persuaded by the Alberta Court of Queen’s Bench, 697604 Alberta Ltd. vs. Calgary “24”. The Judge notes the MGB’s failure to rely on the evidence of value provided by the recent sale of the property fails to meet the test of reasonableness. Recent Board Orders all indicate a valuable sale of the subject property near or at the assessment date is the best indicator of value.

[33] The Board did not rely on the sales comparables of the Complainant as the Respondent pointed out the number of issues with the Complainant’s sale comparables.

## **Dissenting Opinion**

[34] There is no dissenting opinion.

Heard commencing November 8, 2012.

Dated this 30<sup>th</sup> day of November, 2012, at the City of Edmonton, Alberta.

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Robert Mowbrey, Presiding Officer

### **Appearances:**

Greg Jobagy  
for the Complainant

Mary-Alice Nagy  
Suzanne Magdiak  
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.*