

Edmonton Composite Assessment Review Board

**Citation: Colliers International Realty Advisors Inc v The City of Edmonton,
2012 ECARB 2117**

Assessment Roll Number: 9963897
Municipal Address: 6303 Roper Road 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
Lillian Lundgren, Board Member
Ron Funnell, Board Member

Preliminary Matters

- [1] Upon questioning by the Presiding Officer, the parties indicated that they had no objection to the Board. In addition, the Board members indicated that they had no bias in this matter.

Objection to Portions of the Rebuttal Evidence

- [2] The Respondent raised an objection to portions of the Complainant's rebuttal document marked Exhibit C-2 because the information contained in these portions does not rebut any of the evidence disclosed by the Respondent in Exhibit R-2. The Respondent objected to the assessments of sales #2, #3 and #8 on pages 4 and 5. In addition, the Respondent objected to the assessment maps for these comparables on pages 10, 11 and 12. The Respondent argued that the Complainant's rebuttal document referenced the assessments of three of the Respondent's sales comparables in an attempt to introduce a new issue of equity. Whether the property was equitably assessed was not an issue that was pursued by the Complainant because there was no assessment evidence or argument disclosed in Exhibit C-1.

- [3] The Complainant stated that one of the issues identified in the Assessment Review Board Complaint form was “fairness and equity”; therefore, equity was one of the issues. As a result, this was proper rebuttal evidence and should be allowed. The Complainant stated that he was not clear on what can be regarded as rebuttal evidence if these portions in question were not rebuttal evidence.
- [4] In summary, the Respondent stated that the Complainant provided the same “boiler plate” list of reasons for this complaint as all other complaints. The list included many issues that were not pursued in the Complainant’s Exhibit C-1. Exhibit C-1 contained only evidence and argument relating to the correctness of the assessment and the correctness of the net rentable area.

Decision

- [5] The Board finds that the references to assessment in Exhibit C-2 are not rebuttal evidence because they do not rebut the Respondent’s disclosure, Exhibit R-1. The Respondent’s disclosure contains sales comparables in defense of the correctness of the subject assessment.
- [6] If the Complainant intended to challenge the subject assessment on the basis of equity, the evidence and argument relating to equity should have been disclosed in Exhibit C-1. This would have allowed the Respondent to respond to the issue of equity, and the Complainant to rebut the Respondent’s evidence, in turn.
- [7] The decision of the Board is to exclude the references to assessment in Exhibit C-2 on pages 4 and 5, as well as the assessment maps on pages 10, 11 and 12.

Background

- [8] The subject property is a medium warehouse located at 6303 Roper Road NW in the Roper Industrial neighborhood. The 37,291 square foot warehouse is demised into two large bays. It has an effective year built of 2000. The lot size is 106,055 square feet (sf) with site coverage of 35%.

Issues

- [9] The Board considered the following issues:
1. Is the subject property assessment correct?
 2. What area should be used to calculate the assessment?

Legislation

- [10] 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.

[11] The Matters Relating To Assessment Complaints Regulation reads:

Matters Relating to Assessment Complaint Regulation, Alta. Reg. 310/200/-9

s 8(2)(c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

Position of the Complainant

[12] The Complainant filed this complaint on the basis that the subject property assessment of \$4,760,000 is incorrect. The Complainant also contends that the net leasable area (nla) is incorrect.

Issue 1. Is the subject property assessment correct?

[13] The Complainant advised the Board that the subject property sold November 4, 2010 for \$3,853,368. However, the Complainant did not disclose any documentary evidence of the transaction and indicated that the request for a reduction in the assessment was not based on the sale of the subject property.

[14] The Complainant argued that recent sales for comparable industrial warehouse buildings showed that the subject assessment is unreasonable. In support of this argument, the Complainant presented four sales that transacted between June 10, 2010 and June 30, 2011.

- Sale #1 7603 McIntyre Road NW, 2001 year built, IM zone, 40,000sf nla, 25% site coverage, sold December 2010 for \$110.62/sf.

- Sale #2 3304 Parsons Road NW, 1979 year built, IB zone, 38,373sf nla, 40% site coverage, sold June 2010 for \$75.57/sf.
- Sale #3 4115 101 Street NW, 1978 year built, IB zone, 44,994sf nla, 40% site coverage, sold December 2010 for \$86.67/sf.
- Sale #4 8210 McIntyre Road NW, 1974 year built, IB zone, 42,000sf nla, 28% site coverage, sold January 2011 for \$109.52/sf.

[15] The Complainant stated that there are few sales of newer property. The subject property was constructed in 2000, and it could be seen from the sales that only one was a similar age. The average of the above was \$96.00/sf, and in consideration of the subject's much newer age, an upward adjustment for the subject was necessary. The Complainant noted that Sale #1 was the closest in age and sold for \$110.62/sf in December 2010, and thus represented a good comparable to the subject. Further, the Complainant stated that the average size, average site coverage and zoning of the sales comparables were very close to the subject.

[16] The Complainant concluded that, based on the direct sales approach, the resultant market value of the subject would be \$4,090,240 or \$4,090,000, truncated.

[17] The Complainant also argued that the income approach shows that the subject property is assessed in excess of market value. In support of this argument, the Complainant prepared an estimate of value using a \$9.00/sf rental rate, a 5% vacancy rate, a 2% structural allowance and a 7% capitalization rate, which yielded a value of \$4,052,528 or \$4,052,500, truncated.

[18] The factors used in the income approach were selected as follows:

- The \$9.00/sf rental rate was based on recent leasing in the subject property and six recent leases from comparable properties.
- The 7% capitalization rate was within the range of capitalization rates published by Colliers International for multi-tenant industrial properties in the second quarter of 2011.
- The higher vacancy rate and the mid-range capitalization rate were chosen because larger bays are more difficult to rent.

[19] In summary, the Complainant requested that the assessment be reduced to \$4,090,000 based on the direct sales and income approaches to value.

Issue 2. What area should be used to calculate the assessment?

[20] The Complainant submitted that the subject's net leasable area is incorrect. The municipality has overstated the leasable area associated with the warehouse component of the property. The assessed area is 37,291sf, compared to the actual net leasable area of 37,184sf.

Rebuttal

- [21] Prior to the Complainant submitting the rebuttal evidence in Exhibit C-2, the Respondent raised an objection to portions of the document. Please refer to the Preliminary Matters section of this decision for the details.
- [22] After the ruling from the Board, the Complainant continued with the balance of the rebuttal document.
- [23] The Complainant criticized the Respondent's sales comparables for the following reasons. The Respondent's sales #2, #5, #6, #7 and #8 were dated sales, some of which occurred three or more years prior to the valuation date. Sale #1 had 70% office space, 20% laboratory space and 10% warehouse space. Sale #7 was a sale/lease back. Sales #3 and #8 were in the northwest quadrant. No adjustments were made for size differences.

Position of the Respondent

Issue 1. Is the subject property assessment correct?

- [24] The Respondent defended the subject assessment with eight sales comparables that transacted between February 2008 and February 2011. The sales were time adjusted using the City of Edmonton time adjustment factors and had an average time adjusted sale price (tasp) of \$141.75/sf compared with the subject assessment of \$127.64/sf.

- Sale #1 4810 93 Street NW, 1974 effective year built, 25% site coverage, 27,750sf total building area, sold February 2011 for \$144.14/sf.
- Sale #2 9333 37 Avenue NW, 1977 effective year built, 30% site coverage, 19,903sf total building area, sold August 2008 for \$141.09/sf.
- Sale #3 16821 107 Avenue NW, 1987 effective year built, 39% site coverage, 19,893sf total building area, sold January 2010 for \$158.46/sf.
- Sale #4 9111 41 Avenue NW, 1992 effective year built, 27% site coverage, 28,688sf total building area, sold March 2010 for \$124.36/sf.
- Sale #5 6111 56 Avenue NW, 1998 effective year built, 34% site coverage, 23,958sf total building area, sold July 2008 for \$146.07/sf.
- Sale #6 9330 45 Avenue NW, 1998 effective year built, 29% site coverage, 39,663sf total building area, sold September 2009 for \$136.93/sf.
- Sale #7 5880 56 Avenue NW, 2000 effective year built, 33% site coverage, 30,078sf total building area, sold February 2008 for \$143.65/sf.
- Sale #8 17404 111 Avenue NW, 2005 effective year built, 39% site coverage, 74,801sf total building area, sold June 2008 for \$139.31/sf.

- [25] The Respondent acknowledged that the sales comparables had only been adjusted for time and that some upward and downward adjustments were necessary. The average sale

price of the comparables was \$141.75/sf, which was well above the subject assessment of \$127.64/sf.

- [26] The Respondent disagreed with the Complainant's position that the Respondent's sales #2, #5, #6, #7 and #8 were dated sales. An adjustment for market conditions was made if general property values had appreciated or depreciated since the transaction dates due to inflation or deflation or a change in investor's perceptions of the market over time. The Respondent had adjusted the sales that required adjustment. The Respondent stated that the Complainant used the same time adjustment factors as the Respondent.
- [27] According to the Respondent, the City of Edmonton validation records show that the subject property sold as part of a much larger sale of some 500 properties across Canada. To establish the purchase price, an underwriting of the value was performed by the purchaser and the underwriting team. Appraisals were not done.
- [28] In summary, the Respondent requested the Board to confirm the assessment of \$4,760,000.

Issue 2. What area should be used to calculate the assessment?

- [29] The Respondent submitted that the correct area to be used was 37,291sf, as shown on the property detail report in Exhibit R-1 page 15. The Respondent submitted that the subject property and all similar properties are assessed on the direct sales approach using the gross building area of the building. The Complainant's measurements are based on the net leasable area which is smaller than the gross building area.

Decision

- [30] The property assessment is confirmed at \$4,760,000.

Reasons for the Decision

- [31] In determining this matter, the Board reviewed the evidence and argument of the Complainant and finds as follows:
- [32] The Complainant's sale #2 at 3304 Parsons Road NW, sale #3 at 4115 101 Street NW and sale #4 at 8210 McIntyre Road NW are not reliable indicators of value for the subject property because they were constructed at least twenty-one years prior to the subject property. The Board places little weight on these sales comparables.
- [33] The Board finds that the Complainant's comparable #1, located at 7603 McIntyre Road NW, is similar in age and building size to the subject. However, at time of sale it had a lease in place that was considered to be below market. Therefore, the sale price of \$110.62/sf may be low. The Board is not convinced that this sale is sufficient evidence that the subject's assessment is incorrect.
- [34] The Board also reviewed the Complainant's income analysis and finds the resultant value unreliable. There is no supporting evidence for the Complainant's contention that there is

higher risk associated with the subject property owing to the size of the bays. Therefore, the Board places little weight on the estimate of value using unsupported parameters.

- [35] The Board considered the Complainant's argument with respect to dated sales. The Board agrees with the Complainant that there are few sales of similar newer properties. However, given that there are so few sales of newer properties, it is not unreasonable for the Respondent to use sales of similar property that transacted approximately three years prior to the valuation date of July 1, 2011. In this case, the Complainant's sales comparables are recent but they are not useful indicators of value for the subject property because they are not similar.
- [36] Next, the Board reviewed the Respondent's evidence and argument. The Board places little weight on the Respondent's sales #1, #3, #7 and #8. Sale #1, located at 4810 93 Street NW, is not a good comparable because it has a disproportionate amount of office space compared to the subject property and it has 20% laboratory space which the subject property does not have. Sale #3 at 16821 107 Avenue NW, and sale #8, at 17404 111 Avenue NW, are located in the northwest quadrant of the city which requires a locational adjustment. Sale #7 is a lease/back and, as such, may not reflect market value.
- [37] The Respondent's sale #2, at 9333 37 Avenue NW, sale #4, at 9111 41 Avenue NW, sale #5, at 6111 56 Avenue NW and sale #6 are more similar to the subject and require fewer adjustments for the differences that affect value. These four comparables range in sale price from \$124.36/sf to \$146.07/sf with an average sale price of \$137/sf. The subject assessment of \$127.64/sf falls within the range of these sale prices.
- [38] The Board accepts the area of 37,291 square feet as the correct area to be used for assessment purposes because the subject property and all similar properties are assessed on the direct sales approach using the gross building area.
- [39] Accordingly, the Board confirms the assessment of \$4,760,000.

Dated this 27 day of September, 2012, at the City of Edmonton, Alberta.

Peter Irwin, Presiding Officer

Appearances:

Greg Jobagy

Stephen Cook

for the Complainant

Cameron Ashmore

Will Osborne

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.