

Edmonton Composite Assessment Review Board

**Citation: COLLIERS INTERNATIONAL REALTY ADVISORS INC v The City of
Edmonton, 2012 ECARB 2123**

Assessment Roll Number: 9979797
Municipal Address: 5725 92 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
Robert Mowbrey, Presiding Officer
Brian Frost, Board Member
Reg Pointe, Board Member

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 medium warehouse located at 5725 – 92 Street NW. The building has an effective year built of 1976 and comprises 14,868 square feet (sf) of main floor space 3,162 sf of which is finished office space. The site is 0.924 acres resulting in a site coverage of 37%. The 2012 assessment is \$1,723,500.

Issue

[3] Is the 2012 Assessment excessive in relation to market value?

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 assessment of \$1,723,500 is in excess of market value. In support of this position, the Complainant submitted a 30-page evidence package marked as Exhibit C-1.

[6] The Complainant advised that the Municipal Address, Legal Description and Roll Number (Exhibit C-1, page 3) had been incorrectly transcribed from another file and asked that those items be stricken from the page.

[7] The Complainant provided the Board with property details, maps and photographs of the subject property (Exhibit C-1, pages 4 - 6).

[8] The Complainant advised the Board about assessment and valuation and how the subject property was evaluated by the Complainant. From the Complainant’s evidence package regarding the valuation methodology utilized by the Complainant, “The Direct Comparison Approach is based on the Principle of Substitution which maintains that a prudent purchaser would not pay more for a property than what it would cost to purchase a suitable alternative property that exhibits similar physical characteristics, tenancy, location, etc. Within this approach, the property being reviewed is compared to properties that have sold recently and considered to be relatively similar to the subject.” (Exhibit C-1 page 7).

[9] The Complainant presented four sales comparables to the Board, all of which sold within 18 months of the valuation date. The sales comparables were all warehouses which ranged in size from 10,000 sf to 15,972 sf, and with sites ranging from 0.51 to 1.29 acres. The price per sf ranged from \$75.13 to \$104.96. The Complainant stated the comparables were all similar to the subject in terms of age, zoning and size. The comparable sales were considered recent so no time-adjustment factors were warranted; however, sales 1, 2 and 3 were zoned IM and IH, both of which are considered inferior to the subject property’s IB zoning. The average selling price per square foot of the five sales based on total building area was \$89.74. The Complainant stated

that with adjustment for variances in zoning and age, the subject property should reflect a unit value of \$105.00 per sf or \$1,561,000.

[10] The Complainant provided a Comparable Recent Leasing summary itemizing four spaces similar to that evident in the subject property that had recently leased, (Exhibit C-1, pg 10). The leases, all three year terms, ranged from \$8.25 - \$9.50 per sf and averaged \$8.81 per sf.

[11] The Complainant presented reports from Colliers and CR Richard Ellis which documented average vacancy rates, rental rates and capitalization rates for Edmonton Industrial properties by zone (Exhibit C-1, pages 22 - 28).

[12] On the basis of the documented leases and third party data, the Complainant stated that the subject if analyzed using the income approach to value should utilize a \$8.50 per sf lease rate, a 3% vacancy rate and a 7.50% cap rate. The result (Exhibit C-1, Page 13) suggested the value by the Income Approach would be \$1,606,000, or \$108.02 per sf. This, the Complainant suggested, fully supported the estimate of value by the Direct Comparison Approach.

[13] Accordingly, the Complainant requested that the subject assessment should be reduced to \$1,561,000.

Position of the Respondent

[14] The Respondent presented the Board with a 52-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.

[15] The Respondent explained to the Board that the subject assessment and similar assessments were prepared using the Direct Sales Comparison assessment methodology for value for the 14,868 sf building. The Respondent advised the Board that the City was mandated to use mass appraisal for assessment purposes.

[16] The Respondent advised the Board that for the 2012 annual assessment the sales comparison approach was employed. This was because there was ample data from which to derive reliable value estimates and only a portion of the inventory was traded on its ability to generate income. A large percentage of industrial property in Edmonton is owner-occupied, and as such has no income attributable to it.

[17] The Respondent provided the Board with photographs and maps detailing the subject property (Exhibit R-1, page, 12 - 14).

[18] The Respondent highlighted excerpts from The Appraisal of Real Estate, Second Canadian Edition, a publication of The Appraisal Institute of Canada (Exhibit R-1, pgs 23 - 29) that more particularly related to the relevance of the Direct Sales Comparison Approach being the best indication of value for owner occupied properties and for deriving of cap rates, subject to market adjustments where required.

[19] To support the City of Edmonton's assessment of the subject property, the Respondent provided the Board with five sales comparables. The sales comparables were inadvertently

transcribed from a previous roll number and did not bear relevance to this file. The Respondent asked that the Board strike the evidence. (Exhibit R-1, page 30).

[20] In critique of the Complainant's comparables, the Respondent provided in its Exhibit R-1, page 30, a summation of the Complainant's comparable properties and individual comments relating to their relevance and validity. The Respondent stated that the Complainant's sale 1 was vacant at the time of sale. Sale 2 was vacant at the time of sale and had 26% site coverage versus the subject's 37%. Sale 3 was vacant and had 23% site coverage. Sale 4 was a non arms length sale and had 50% site coverage. Sale 5 was leased at below market lease rates.

[21] The Respondent advised the Board the subject property and other similar properties were assessed using the direct sales assessment methodology. The subject property was built in 1992, is in average condition, and has a site coverage ratio of 37%.

[22] The Respondent asked the Board to confirm the 2012 assessment of \$1,723,500.

Decision

[23] The decision of the Board is to reduce the 2012 assessment of \$1,723,500 to \$1,561,000.

Reasons for the Decision

[24] The Board reviewed the Complainant's evidence as it related to both the Direct Sales Comparison Approach and the Income Approach. The Board was satisfied that the Complainant's sales comparables were all in the same market area as the subject and relatively comparable in building size and site coverage.

[25] The Board considered the Respondent's critique of the Complainant's sales comparables as summarized in the preceding paragraph 20, particularly that the Complainant's sale 1 was vacant at the time of sale; sale 2 was vacant at the time of sale and had 26% site coverage versus the subject's 37%; sale 3 was vacant and had 23% site coverage; sale 4 was a non arms length sale and had 50% site coverage, and; sale 5 was leased at below market lease rates.

[26] The Board was not swayed by the Respondent's position that vacancy within comparable sales was a negative aspect which would reduce the sales price per sf in most cases. The Board heard that 2/3 of industrial properties in Edmonton were owner occupied and it was persuaded by the Complainant's argument that vacancy could well be seen as an advantage rather than a disadvantage in the sale of a property.

[27] The Board notes the Respondent provided no sales data to support its assessment and therefore the Board could not agree with the Respondent's position.

[28] The Board agreed with the Respondent's comment that the Complainant's Income Approach to Value utilized generalized third party information as it related to a typical property and the subject property, may not be considered typical and as such the income approach was prone to error.

[29] Jurisprudence has established that the onus of showing an assessment is incorrect rests with the Complainant. The Board finds that the Complainant's evidence was sufficient and compelling enough to enable the Board to form an opinion as to the incorrectness of the assessment.

Dissenting Opinion

[30] There was no dissenting opinion.

Heard commencing November 5, 2012.

Dated this 28th day of November, 2012, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

Greg Jobagy

Stephen Cook

for the Complainant

Joel Schmaus

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.