

## **Edmonton Composite Assessment Review Board**

**Citation: Colliers International Realty Advisors Inc v The City of Edmonton,  
2012 ECARB 2213**

**Assessment Roll Number:** 9564352  
**Municipal Address:** 7103 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

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**DECISION OF**  
**Peter Irwin, Presiding Officer**  
**Lillian Lundgren, Board Member**  
**Ron Funnell, Board Member**

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### **Preliminary Matters**

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

### **Objection to a Portion of the Rebuttal Evidence**

[2] The Respondent raised an objection to a portion of the Complainant's rebuttal document marked Exhibit C-2 because the information did not rebut any of the evidence disclosed by the Respondent in Exhibit R-2. The Respondent objected to pages 14 through 24 because they include new evidence and introduced a new issue of equity that was not addressed in the Complainant's disclosure document, marked Exhibit C-1.

[3] The Complainant argued 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.

## **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 pages 14 through 24 in Exhibit C-2.

## **Background**

[8] The subject property is 12,922 square foot (sf) warehouse located at 7103 42 Street NW in the Weir Industrial neighborhood. It has an effective year built of 1985 and is in average condition. The lot size is 99,781sf and has site coverage of 11%.

## **Issue**

[9] Is the subject property assessment correct?

## **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 assessment was incorrect.

[13] In support of this position, the Complainant presented five sales comparables that had an average sale price per square foot of \$145.53. The subject property was assessed at \$200.51/sf.

[14] The Complainant identified sales #2 and #3 as the most comparable properties, based on location, condition and site coverage. Sale #2, located at 6400 30 Street NW, sold for \$144.33/sf and sale #3, located at 1811 66 Avenue NW, sold for \$154.43/sf. The Complainant argued that it was reasonable to conclude that the value of the subject property was within the range of \$144/sf and \$155/sf. The Complainant selected \$150.00/sf, which resulted in a value of \$1,938,500, truncated.

[15] In summary, the Complainant requested the Board reduce the assessment to \$1,938,500.

**Rebuttal**

[16] 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.

[17] After the ruling from the Board, the Complainant continued with the balance of the rebuttal document.

[18] The Complainant argued that the Respondent's dated sales should be given less weight because of the reasons in Assessment Review Board decision No. 0098 252/10. This decision states that

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 require significant time adjustment. None of these sales were contaminated properties, as is the subject.

[19] The Complainant also commented that some of the Respondent's sales comparables were in a superior location to the subject or had smaller building areas than the subject.

### **Position of the Respondent**

[20] The Respondent submitted that the subject assessment of \$2,591,000 was correct. In support of this position, the Respondent presented six sales comparables that had an average sale price of \$206.89/sf. The Respondent argued that, while each of the comparables requires some adjustment for differences, they were supportive of the assessment. The Respondent requested the Board to confirm the assessment at \$2,591,000.

[21] The Respondent provided the following comments on the Complainant's sales comparables. Sale #3 had an income shortfall at the time of sale. Sale #5 had a vendor take back mortgage. Accordingly, the sale prices of these properties may have been affected.

[22] The Respondent disagreed with the Complainant's interpretation of the reasons in CARB No. 0098 252/10. The Respondent interpreted the reasons to mean that less weight was placed on the comparable sales than the sale of the subject property. The subject property, which is contaminated, sold for \$785,000 and the CARB reduced the assessment to the sale price.

### **Decision**

[23] The property assessment is confirmed at \$2,591,000.

### **Reasons for the Decision**

[24] The Board finds the best evidence of value for the subject property to be the Complainant's sale #2 and the Respondent's sales #2, #3 and #4. These comparables, located at 6400 30 Street NW, 6928 51 Avenue NW, 5915 91 Street NW and 5815 99 Street NW, are similar to the subject property in location, building area and site coverage. Further, the comparables at 6928 51 Avenue NW, 5915 91 Street NW and 5815 99 Street NW have similar office mezzanine space. The average sale price of these comparables is approximately \$197.00/sf, which supports the subject assessment of \$200.50/sf.

[25] The Board places less weight on the Complainant's sales #1, #3, #4 and #5. Sale #1, located at 3946 76 Avenue NW, and sale #4, located at 4611 Morris Road NW, have higher site coverage than the subject and require significant adjustments for the differences. Sale #3, located at 1811 66 Avenue NW, had an income shortfall at time of sale; therefore, the sale price may not reflect market value. Sale #5 is located in the northeast quadrant, which tends to be an inferior location to the southeast quadrant. In addition, sale #5 had a vendor take back mortgage which may have affected the sale price.

[26] The Board also places less weight on the Respondent's sales #1, #5 and #6 because they are less comparable overall, in terms of the factors that affect value.

[27] The Board also considered the Complainant's argument with respect to some of the sales used by the Respondent that the Complainant considered dated sales. The Board finds that 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, provided they are adjusted for changes in the marketplace between the sale date and the valuation date.

[28] With respect to the reasons in CARB decision No. 0098 252/10, this Board is unable to comment on the reasons because this Board did not hear the evidence and argument presented at that hearing. The facts of that case appear to be different than this case. Furthermore, this Board is not bound by previous decisions of the Assessment Review Board.

Heard commencing September 5, 2012.

Dated this 2 day of October, 2012, at the City of Edmonton, Alberta.

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Peter Irwin, Presiding Officer

**Appearances:**

Greg Jobagy

Stephen Cook

for the Complainant

Cam Ashmore

Will Osborne

for the Respondent