

Edmonton Composite Assessment Review Board

**Citation: COLLIERS INTERNATIONAL REALTY ADVISORS INC v The City of
Edmonton, 2012 ECARB 2223**

Assessment Roll Number: 8951386
Municipal Address: 3304 PARSONS 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
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 3304 Parsons Road NW. The subject building has main floor space of 31,335 square feet and a finished mezzanine of 7,533 sf for a total building area of 38,868 square feet. The site coverage of the subject property is 39% and the subject property is in average condition. The 2012 assessment is \$3,818,000.

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 \$3,818,000 is in excess of market value. In support of this position, the Complainant submitted a 31-page evidence package marked as Exhibit C-1.

[6] The Complainant provided the Board with a map and photographs of the subject property (Exhibit C-1, pages 4, 5 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 regarding the sale of the subject property. The subject property was sold in June 2010 for \$2,900,000. The subject was sold 13 months prior to the valuation date. The Complainant noted that the time-adjustment factor is 0.0% as per the City of Edmonton’s time-adjustment factor. The sale of the subject property was validated by a third party source (Exhibit C-1, pages 9, 10, 18, 19, 20 and 21).

[9] The Complainant provided a decision, CARB 0302-10/2011, and referred the Board to the following excerpts 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 three sales comparables to the Board that were within approximately 18 months of valuation. The sales comparables were all medium warehouses which ranged in size from 12,724 to 44,994 sf and the site coverage ranged from a low of 23% to a high of 40%. By incorporating this time frame, there was no necessity for time-adjustments as the City of Edmonton’s City Assessor’s chart shows that from June 2010, there is 0.0 % adjustment. The first sale and the third sale are zoned IB, as is the subject property. The second sale is zoned IH (Exhibit C-1, page 12).

[11] The Complainant advised the Board that the Complainant’s sale comparables ranged from a low of \$73.88 to a high of \$86.67 per square foot of total building area. The average selling price per square foot of total building area is \$78.56 (Exhibit C-1, page 12).

[12] During argument and summation, the Complainant stated that Board Orders state the sale of the subject property is the best indicator of market value and the sale meets the definition of “market.”

[13] With the Complainant having the last word, the Complainant stated the Respondent is asking the Board to ignore the actual sale of the subject property. The Complainant notes the City’s sales are older and have more land, are 20 years newer and have excess site coverage.

[14] The Complainant requests the Board to reduce the 2012 assessment to \$2,900,000.

Position of the Respondent

[15] The Respondent presented the Board with a 37-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.

[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 7).

[17] 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 7).

[18] 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 8).

[19] The Respondent 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 6).

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

[21] To support the City of Edmonton's assessment of the subject property, the Respondent provided the Board with four sales comparables. The sales comparables ranged in age from 1968 to 1998. The total building area ranged in size from a low of 34,967 square feet to a high of 41,991 sf. The site coverage ranged from a low of 28% to a high of 45% and all the sales comparables were in average condition. Two of the four sales comparables were on a major arterial road, the same as the subject property. Two of the sales comparables were not on a major arterial road. The time-adjusted selling price per square foot of the total building area ranged from a low of \$90.74 to a high of \$136.93 (Exhibit R-1, page 16).

[22] The Respondent advised the Board regarding the market value within a range and stated that the MGB has ruled on a number of occasions that market value encompasses a range of values and the issue is whether the assessment falls within that range of values. Both the ARB and the MGB have further ruled on numerous occasions that it would not alter an assessment, if the requested change to the assessment, or if the evidence indicates a change to the assessment within 5% (Exhibit R-1, pages 26-27).

[23] In addition, the Respondent further advised the Board that the burden of proof lies on the party who desires the Board to take action and must prove its case to the Board's satisfaction (Exhibit R-2, page 18).

[24] The Respondent asked if the Complainant had seen all three properties and the Complainant stated that third party documents validate the sales. The Respondent pointed out that third party documents are not always right and referred the Complainant to an excerpt from Exhibit R-1, page 27, which states: "all opinions, estimates, data, and statistics furnished by other sources are believed to be reliable; however, we cannot guarantee its validity or accuracy. Possession of this report or copies thereof does not carry with it the right of publication."

[25] During argument and summation, the Respondent indicated that the subject property had leases that were below market and as such the lower price was influenced by this fact. In addition, the Respondent advised the Board that all three of the Complainant's sales comparables were not on a major arterial route, as was the subject property.

[26] In closing, the Respondent asked the Board to confirm the 2012 assessment of \$3,818,000.

Decision

[27] The decision of the Board is to reduce the 2012 assessment from \$3,818,000 to \$2,900,000.

Reasons for the Decision

[28] 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.

[29] 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.

[30] The Board believes the sale of the subject property is a valid sale and meets the definition of "market."

[31] The Board did not rely on the Complainant's sale comparables, as there were issues with them, which make the comparability to the subject property most difficult.

Dissenting Opinion

[32] There was no dissenting opinion.

Heard commencing November 7, 2012.

Dated this 30th day of November, 2012, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

Greg Jobagy

Stephen Cook

for the Complainant

Luis Delgado

Mary-Alice Nagy

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.