

Edmonton Composite Assessment Review Board

**Citation: Colliers International Realty Advisors Inc v The City of Edmonton,
2012 ECARB 2224**

Assessment Roll Number: 9541103
Municipal Address: 4303 76 Avenue NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

Colliers International Realty Advisors Inc. for GPM (11) GP 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 composition of the Board. In addition, the Board members indicated that they had no conflict of interest in this matter.

Background

[2] The subject property is located at 4303 76 Avenue NW in the Weir Industrial neighborhood. The 125,110 square foot (sf) lot is improved with two warehouse buildings. Building #1 has a total area of 18,079sf with an effective year built of 1974, and Building #2 has a total area of 19,633sf with an effective year built of 1974. The site coverage is 28%.

Issues

[3] The Board considered the following issues:

- 1) What is the correct assessment for the subject property?
- 2) Should there be an adjustment for the rear building?

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 \$4,409,000 was incorrect.

[6] In support of this position, the Complainant presented four sales located in the southeast quadrant that transacted between January 1, 2010 and July 1, 2011. The Complainant argued that the sales comparables were similar in total area and age to the subject property. The comparables had an average building area of 41,342sf, compared with the total area of the two subject buildings of 37,714sf. The properties sold for an average sale price of \$95.60/sf, compared with the subject assessment of \$116.91/sf.

[7] The Complainant argued that the average sale price of \$95.60 should be adjusted downward by 10% to \$86.00/sf because three of the comparables had superior zoning to the subject. The Complainant referenced a chart, Edmonton Industrial Sales By Zoning, prepared by Colliers, that showed there is a premium of 10% (\$178.65/sf for IB zoned land vs \$159.60/sf for IM zoned land).

[8] The Complainant stated that the market value of the subject would be \$3,243,000 (truncated) based on \$86.00/sf.

[9] As an alternative approach, the Complainant presented four sales comparables that had an average building area of 14,256sf because the two subject buildings are 18,080sf and 19,634sf. The average sale price was \$89.74/sf, compared with the average sale price of the first four sales of \$95.60/sf. The Complainant noted that the results were remarkably similar and supported earlier findings, especially given the fact that typically the City applies a 10% reduction to the rear building. The Complainant reasoned that an adjustment of 5% (one of two buildings = one-half of the 10%) should be applied to the average sale price of \$89.74/sf, resulting in a value of \$85.25/sf. The resultant market value of the subject property would be \$3,215,000 truncated.

[10] The Complainant also provided an estimate of value for the subject property based on the income approach. The Complainant used a rental rate of \$8.00/sf, a vacancy rate of 3%, a

vacancy shortfall of \$2.00/sf and a capitalization rate of 7.75%. This yielded a value of \$3,709,000.

[11] The \$8.00/sf rental rate selected by the Complainant for the income approach was based on one of the subject leases and four comparable leases. The most recent lease in the subject property commenced on January 1, 2011 for \$8.00/sf. The four comparable leases were recent leases that averaged \$7.96/sf.

[12] The 7.75% capitalization rate used in the income approach was taken from the Cap Rate Report second quarter of 2011 published by Colliers International.

[13] In summary, the Complainant requested the Board reduce the assessment to \$3,250,000.

Rebuttal

[14] 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 stated 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.

[15] The Complainant's criticized the Respondent's sales comparables. Sales #1 and #2 were superior to the subject because they had IB zoning. Sales #4 and #5 were acquired by a tenant. Sale #6 was in a superior location with 50th Street exposure.

Position of the Respondent

[16] The Respondent submitted that the subject assessment of \$4,409,000 was correct. The Respondent explained that no rear building adjustment was given to the subject because there was direct access to 74 Avenue for the rear building. Their policy stipulated that a negative 10% adjustment was given only if there was no direct access to the rear building.

[17] The Respondent defended the subject assessment with eleven sales comparables located in the southeast quadrant that transacted between July 2008 and May 2011. The sale located at 8210 McIntyre Road NW was also used by the Complainant. The comparables were similar in age and size to each of the subject buildings. The average sale price of the comparables was \$132.71/sf, compared with the subject assessment of \$116.91/sf.

[18] In summary, the Respondent requested the Board confirm the assessment at \$4,409,000.

[19] 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. That property, which was contaminated, sold for \$785,000 and the CARB reduced the assessment to the sale price.

[20] The Respondent made the following comments with respect to the Complainant's evidence:

[21] The Complainant's first set of sales comparables on page 11 of Exhibit C-1 were not similar in size to each of the buildings under complaint and, therefore, should be given little weight.

[22] The Complainant's second set of sales comparables on page 13 of Exhibit C-1 were not good comparables. Sales #1 had lease rates that were below market at the time of sale. Sale #2 had no heating system at time of sale. Sale #3 was a non-arms length sale because one of the directors was involved with both the vendor and the purchaser of the property. Sale #4 was vacant at sale date and required significant repairs to the roof, windows and electrical systems.

[23] The Respondent questioned the value of the Complainant's chart entitled "Edmonton Industrial Sales by Zoning" because the characteristics of the sold properties were not known. Factors that affect value such as, the age, location, building area, site coverage, condition and amount of office space were not known.

[24] The Respondent criticized the Complainant's income approach because the \$8.00/sf rental rate may not have been a typical rental rate. The Respondent referenced the Complainant's evidence to show that the rental rates published by Colliers International were in excess of the rate used by the Complainant. Further, it was not known what sales were used to derive the capitalization rate of 7.75%.

Decision

[25] The Board confirms the assessment, at \$4,409,000.

Reasons for the Decision

[26] In determining this matter the Board reviewed the Complainant's evidence and argument and finds that the Complainant failed to establish that the subject assessment is incorrect.

[27] Dealing first with the question of whether the assessment should be adjusted by a negative 10% for the rear building, the Board finds that the subject property does not meet the criteria for this adjustment. The rear building has direct access to 74 Avenue.

[28] With respect to the issue of correctness, the Board reviewed the Complainant's first set of sales comparables. Sales #1 and #2 are not good indicators of value because they have much higher site coverage than the subject property. Further, each of these properties sold at a time when the lease rates were below market which may have resulted in a sale price that was below market. All four sales have building areas that are much larger than each of the subject buildings, and all things equal, larger buildings sell for less per square foot than smaller buildings. The Board places little weight on these comparables because significant upward adjustments are required.

[29] The Board reviewed the Complainant's second set of sales comparables and finds that they are similar in location, age and size of building. However, there are factors that would have a negative effect on the sale prices of each of the comparables. Sale #1 had below market rents at time of sale. Sale #2 had no heating system at time of sale. Sale #3 is non-arms length. Sale #4 required significant repairs at the time of sale.

[30] The Board also reviewed the Complainant's income approach and finds that the estimate of value is unreliable because there is insufficient evidence to support the use of the \$8.00/sf

rental rate and the 7.75% capitalization rate. In particular, it is necessary to know what sales were used to derive the capitalization rate. Were the sales of similar properties? What income stream was used to derive the capitalization rate?

[31] The Board also considered the Complainant's argument respecting the Respondent's sales that the Complainant considered dated. 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.

[32] 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, the Board is not bound by previous CARB decisions.

[33] The Board also reviewed the Respondent's evidence and argument. Overall, the Respondent's sales comparables, which range in value from \$109.55/sf to \$174.62/sf, support the subject assessment. The subject assessment is \$116.91/sf which is at the low end of the comparables.

[34] The Board finds the best comparables put forth by the Respondent are sales #1, #2, #6, #7 and #9 because they are similar in location, age, site coverage and total building area. The average sale price of these five comparables is approximately \$135/sf which supports the subject assessment of \$116.91/sf.

[35] For the above reasons, the assessment is confirmed.

Heard September 4, 2012.

Dated this 5 day of October, 2012, at the City of Edmonton, Alberta.

Lillian Lundgren for:
Peter Irwin, Presiding Officer

Appearances:

Stephen Cook
Greg Jobogy
for the Complainant

Cam 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.