

Edmonton Composite Assessment Review Board

**Citation: COLLIERS INTERNATIONAL REALTY ADVISORS INC v The City of
Edmonton, 2012 ECARB 2230**

Assessment Roll Number: 9954252
Municipal Address: 9410 37 AVENUE 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 9410 – 37 Avenue NW. The building has an effective year built of 1996 and comprises 10,554 square feet (sf) of main floor space. The building was built in two approximately equal sized phases, the first in 1985 and the second in 2007. The site is 3.11 acres resulting in site coverage of 8%. The 2012 assessment is \$2,973,500.

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

,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 \$2,973,500 is in excess of market value. In support of this position, the Complainant submitted a 24-page evidence package marked as Exhibit C-1.

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

[7] 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).

[8] The Complainant presented six 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 17,149 sf, and with sites ranging from 0.51 to 1.29 acres. The price per sf ranged from \$78.88 to \$177.78. The Complainant stated that based on the sales comparables, the first phase should be valued at \$120 per sf while the second newer phase should be valued at \$180 per sf for an average of \$150 per sf for the subject property, or \$1,583,000.

[9] To account for the wide variance in land size between the subject’s 3.11 acres and the comparables’ average 0.85 acres, the Complainant provided four land sales which concluded that land similar to the subject sold recently for an average of \$494,133 per acre. The Complainant

concluded that the extra land contained within the subject parcel would add \$1,075,000 of value to the subject assessment.

[10] Accordingly, the Complainant requested that the subject assessment should be reduced to the sum of the value based on the unit value and the excess land value, or \$2,658,000.

Position of the Respondent

[11] The Respondent presented the Board with an 84-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.

[12] 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 10,554 sf building with an effective year built of 1996. The Respondent advised the Board that the City was mandated to use mass appraisal for assessment purposes.

[13] 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.

[14] The Respondent provided the Board with photographs and maps detailing the subject property (Exhibit R-1, pages 13-17).

[15] To support the City of Edmonton's assessment of the subject property, the Respondent provided the Board with three sales comparables. The sales comparables ranged in effective year built from 1964 to 1999 as compared to the subject's 1996. The total building areas of the sales comparables ranged from 6,000 sf to 7,196 sf as compared to the subject's 10,554 sf. The site coverage ranged from 5% to 14% as compared to the subject's 8%. Two of the sales comparables were, like the subject, in average condition while the third was in fair condition. The time-adjusted selling price per square foot, based on total building area, ranged from \$197.41 to \$378.61 (Exhibit R-1, page 26).

[16] In critique of the Complainant's comparables, the Respondent provided in its Exhibit R-1, page 26, a summation of the Complainant's comparable properties and notes relating to their relevance and validity. The Respondent stated that the Complainant's sale 1 was nearly 20 years older than the subject, exhibited 43% site coverage and was vacant at the time of sale; sale 2 was also substantially older with 26% site coverage and was as well vacant at the time of sale; sale 3 was, similar to sale 2, substantially older, had 23% site coverage and was vacant at the time of sale; sale 4 was Non Arms Length and should be disqualified as a valid sale; sale 5 had substantial mould and water damage, was rated in fair condition and exhibited 44% site coverage, and; sale 6 exhibited 31% site coverage.

[17] The Respondent advised the Board that the subject property and other similar properties were assessed using the direct sales assessment methodology. The subject property reflected an effective age of 1996, was in average condition, and has a site coverage ratio of 8%.

[18] The Respondent asked the Board to confirm the 2012 assessment of \$2,973,500.

Decision

[19] The decision of the Board is to confirm the 2012 assessment of \$2,973,500.

Reasons for the Decision

[20] The Board reviewed the Complainant's evidence and the methodology in accounting for the excess land component evident in the subject. 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. The Board noted that the subject parcel was substantially larger than the comparable sales as presented by the Complainant and that the Complainant made an effort to compensate; however, it wondered if the Complainant's method of accounting for the value inherent in the lower site coverage may be flawed. The Board was not satisfied that excess land within a developed parcel should be valued as if an undeveloped whole parcel. Further, the Board questioned the Complainant's practice of averaging a range of comparable's land size, regardless of site coverage, to determine a basis for arriving at the amount of land considered excess as it did not seem to recognize utility, shape and access.

[21] The Board considered the Respondent's critique of the Complainant's building and land sales comparables, the former as summarized in the preceding paragraph 16, that the Complainant's sale 1 was nearly 20 years older than the subject, exhibited 43% site coverage and was vacant at the time of sale; sale 2 was also substantially older with 26% site coverage and was as well vacant at the time of sale; sale 3 was, similar to sale 2, substantially older, had 23% site coverage and was vacant at the time of sale; sale 4 was Non Arms Length and the Board agreed it should be disqualified as a valid sale; sale 5 had substantial mould and water damage, was rated in fair condition and exhibited 44% site coverage, and; sale 6 exhibited 31% site coverage. The Complainant's four land sales, as explained by the Respondent, were invalid as no money changed hands on one of the sales, one was 50% larger than the subject with a vendor take back mortgage as a possible influence, and in the final two instances, were Court ordered sales with price pre agreed to in April 2008.

[22] The Board reviewed the Respondent's comparable property sales and noted that all three comparable sales exhibited site coverage similar to the subject's 8%. The Board was swayed by the Respondent's position that site coverage is a key issue in valuation for assessment purposes.

[23] The Board noted the Complainant's statement that two of the three of the Respondent's sales were dated beyond 2 years of the valuation date however the Board was satisfied that The City of Edmonton's time adjustment tables, in their consistency and universal use, fairly compensated for this time factor.

[24] 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 neither sufficient nor compelling enough to enable the Board to form an opinion as to the incorrectness of the assessment.

Dissenting Opinion

[25] 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.