

Edmonton Composite Assessment Review Board

**Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2012
ECARB 2234**

Assessment Roll Number: 9942037
Municipal Address: None
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
James Fleming, Presiding Officer
Mary Sheldon, Board Member
Jasbeer Singh, Board Member

Preliminary Matters

[1] At the outset of the hearing, the Presiding Officer advised the parties that he had worked with the Complainant's representative, Stephen Cook, at the MGB, but that this relationship would not cause him to be in conflict. Upon being asked, the parties indicated that they had no objection to the composition of the CARB. The members of the CARB did not indicate any bias with respect to this file.

[2] Evidence, argument and submissions are carried forward, so far as applicable, to this file from file # 10142586.

Background

[3] The subject property is a parcel of undeveloped, industrial land, zoned IM at 8735 126 Avenue in the northeast quadrant of Edmonton. It is 1.147 acres in size and is fully serviced. While it is located near to Yellowhead highway, it has no direct exposure. It is assessed for 2012 at \$609,000 or \$570,759 per acre. The subject has

been assessed using a direct comparison approach to value. There was no dispute as to the use of the Respondent's time adjustment calculations.

Issue

[4] Is the 2012 assessment of the subject correct, fair and equitable?

Legislation

[5] 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

[6] The Complainant argued that the 2012 assessment of the subject was excessive. In support of this position, the Complainant provided a chart of the sales of five properties which, in the opinion of the Complainant, were similar to the subject (C-1, page 8).

[7] The Complainant advised that each comparable was located near a major highway such as Yellowhead Trail, Sherwood Park Freeway or Anthony Henday Drive. The size of the comparables ranged from 1.03 acres to 5.78 acres and the time adjusted price per acre ranged from \$131,492 to \$442,620 per acre with an average time adjusted price per acre of \$346,247.

[8] The Complainant submitted that the comparables' time adjusted average land value was less than the average serviced land value in northeast Edmonton, according to an Avison Young vacancy report (C-1, page 20).

[9] The Complainant also noted that two of the Respondent's four comparable sales were from May, 2007 and January, 2009, and therefore dated. They asked that less weight be placed on those sales.

[10] During questioning, the Complainant indicated that the sale price for sales comparable #2, at 5008 Yellowhead Trail, was negatively affected by the irregular shape of the lot and advised the Board to place less weight on that comparable. The Complainant also acknowledged that comparable #4, at 12350 Meridian Street, had only rural servicing. Further, comparable #1, at 7212 8 Street, and comparable #5, at 1235 70 Avenue, were located in the southeast quadrant of Edmonton whereas the subject was located in the northeast.

[11] The Complainant argued that, based on the range of time adjusted prices per acre of the five comparables, an appropriate value for the subject would be \$435,000 per acre. That would translate into a total land assessment for the subject of \$464,000.

[12] The Complainant requested that the CARB reduce the 2012 assessment of the subject to \$464,000.

Position of the Respondent

[13] The Respondent argued that the current assessment of the subject was correct, fair and equitable. In support of this position, the Respondent provided a chart of four sales of properties which, in the opinion of the Respondent, were similar to the subject (R-1, page 13).

[14] The Respondent stated that all the comparables were fully serviced lots, similar to the subject. Comparable #1 was located in the northeast quadrant of the municipality, similar to the subject, while the others were in the southeast or northwest. The sizes of these comparables ranged from 0.615 acres to 1.07 acres and the time adjusted sale price per square foot ranged from \$12.73 to \$16.18 while the assessment per square foot of the subject was \$13.10.

[15] The Respondent argued that this evidence supported the assessment per square foot of the subject.

[16] The Respondent also provided copies of orders of foreclosures and orders for sale and vesting title with respect to some properties in the Maple Grove area of the municipality to indicate that the Complainant's comparable #1 from the same area, could potentially be an unreliable sale on which to estimate a value for the subject.

[17] The Respondent requested that the CARB confirm the 2012 assessment of the subject at \$609,000.

Complainant's Rebuttal

[18] The Complainant provided a brief to the CARB which provided a rebuttal to the Respondent's evidence (C-2).

[19] With respect to the Respondent's comparable #1, at 12532 60 Street, the Complainant stated that this sale was dated. Further, it was purchased by the owner of an adjoining property which could have influenced the purchase price.

[20] With respect to the Respondent's comparable #2, at 14329 123 Avenue, the Complainant stated that this was a dated sale, was located in a different quadrant of Edmonton, was zoned differently and was only 58% as large as the subject.

[21] With respect to the Respondent's comparable #3, at 3951 78 Avenue, and comparable #4, at 15504 128 Avenue, the Complainant indicated that these were located in different quadrants in Edmonton.

[22] The Complainant requested that the CARB reduce the 2012 assessment of the subject to \$464,000.

Decision

[23] The Complaint is denied, and the assessment is confirmed at **\$609,000**.

Reasons for the Decision

[24] The CARB considered all of the evidence and argument.

[25] In evaluating the Complainant's comparables, the CARB notes that comparable #1 is from an area where there were significant foreclosures and court ordered sales, many of which involved the same vendor. Although the comparable sale was completed prior to the foreclosure/court actions, the Respondent suggested that the vendor was a motivated seller in order to obtain some proceeds before the property went to foreclosure. The CARB was persuaded this was plausible and neither party had any evidence to influence the CARB on this matter.

[26] The second sale from the Complainant seems to be an outlier at \$131,000 per acre (when all other sales were in the \$450,000 range). This sale is on a very irregular shaped lot. Together, these reasons persuade the CARB to put little weight on the sale.

[27] Comparable sale #4 from the Complainant only had rural services and, as neither party provided pricing to bring the serving comparable with the subject, the CARB puts little weight on this sale. In addition, this sale was to a neighbor, which always gives concern as to whether it was a market sale, or whether there were additional motivations involved.

[28] Two of the Complainant's sales remain; one is in the same quadrant as the subject (#3), while the other is in the southeast (#5).

[29] Turning then to the Respondent's sales comparables, the CARB agrees with the Complainant that the 2007 sale (#2) has limited value in contributing to the 2011 valuation date. The CARB also accepts that the Respondent's first sale comparable was sold to a neighbor and thus should be given limited weight for the reasons outlined respecting the Complainant's sale #4 in paragraph 27.

[30] The Complainant asks that the two remaining sales of the Respondent receive limited consideration based on their location in different quadrants of the City. The CARB notes that the Complainant provided no evidence on the differential valuation

based on location of the comparables, and in addition, the Complainant used a comparable from a different quadrant as well, establishing, at least in the context of this complaint, that using comparables from other quadrants is reasonable. The CARB concludes that use of sales from other quadrants of the City is reasonable in this instance.

[31] Accordingly, the CARB is left with four comparables; two from the Complainant (#3 & #5) and two from the Respondent (#4 & #5). The CARB calculated an average of all four comparables and with rounding, has arrived at a value of \$549,000 per acre (rounded).

[32] This results in a value for the property of \$585,730 ($\$549,000 \times 1.067$). The CARB notes that this is within 5% of the current assessed value (\$609,000) and as has been established by jurisprudence, value is a range generally established as plus or minus 5%.

[33] Therefore because the value is within that range, the CARB concludes that the assessment should be confirmed as noted above.

Dissenting Opinion

[34] There was no dissenting opinion.

Heard commencing October 15, 2012.

Dated this 23 day of October, 2012, at the City of Edmonton, Alberta.

James Fleming, Presiding Officer

Appearances:

Greg Jobagy

Stephen Cook

for the Complainant

Darren Nagy, Assessor

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.