

Edmonton Composite Assessment Review Board

**Citation: Colliers International Realty Advisors Inc v The City of Edmonton,
2012 ECARB 2266**

Assessment Roll Number: 9982055
Municipal Address: 2423 111 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

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 Board. Members of the Board did not indicate any bias with respect to this matter.

[2] Evidence, arguments and submissions are carried forward, so far as relevant, to this file from file 10142586.

Background

[3] The subject property is a parcel of vacant, undeveloped multi-residential land located in south west Edmonton. It is a very large parcel, comprising 29.021 acres. The subject is 100% assessable. However, 31.6% of the subject is exempt from taxation as a result of an agreement with the City of Edmonton to allow parking for the "Park 'N' Ride" area of the nearby Edmonton Transit Station. The effective

zoning for the subject is RA9. The subject was assessed by the municipality using the direct sales comparison approach to value.

[4] With respect to time adjustment factors to be applied to the sale prices of comparable properties, the Complainant used commercial land time adjustment factors while the Respondent argued that commercial time adjustment factors were not applicable to this RA9 property. The 2012 assessment for the subject is \$23,488,500 or \$809,362 per acre.

Issue

[5] Is the 2012 assessment of the subject, based on the direct comparison approach to value, correct?

Legislation

[6] 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

[7] In support of the argument that the current assessment of the subject was excessive, the Complainant presented a chart of four sales of properties which, in the opinion of the Complainant, were similar to the subject. The sales of these comparables occurred between September, 2009 and June 30, 2011 (C-1, page 6).

[8] The Complainant advised the Board that the size of the subject made it somewhat unique and that it was difficult to find parcels of similar size that had traded recently in the marketplace. The comparables presented by the Complainant ranged in size from 5 acres to 19.59 acres. The Complainant also advised that the zoning of the subject made it difficult to find comparables and that the comparables presented

possessed zoning of AG, AGU, RA7 and CB2. The Complainant suggested that the Board should place less weight on the comparables with agricultural zoning as those sales would not accurately reflect market value for the subject.

[9] The Complainant submitted that the price per acre of these comparables ranged from \$250,000 to \$612,557 and that this supported his request for a value of \$600,000 per acre. The Complainant also presented the same comparables adjusted according to the municipality's commercial time adjustment figures.

[10] The Complainant argued that the most weight should be placed on comparables #3 and #4, with #4 being the best comparable. The Complainant submitted that the subject's RA9 zoning permitted high rise apartment residential use and that the CB2 zoning for comparable #4 did allow for some residential use as well as commercial use.

[11] The Complainant submitted to the Board that it was preferable to use comparables which had sold close to the valuation date as those sales would most closely reflect the market. The Complainant argued that sales dated three or four years before the valuation date would require more time adjustment and would be of less assistance in establishing value for the subject.

[12] The Complainant also argued that the municipality's commercial time adjustment chart reflected a 7.5% decrease from 2011 to 2012 and that the 2012 assessment for the subject should reflect this decrease. Instead, the Complainant noted that the 2012 assessment for the subject was identical to the 2011 assessment.

[13] Upon questioning, the Complainant stated that the unique nature of the subject meant that comparable sales had to be drawn from other parts of the municipality. The Complainant noted further that less weight should be placed on comparables #1 and #2 as these properties were zoned AG at the time of sale, making them less comparable to the subject.

[14] The Complainant requested that the Board reduce the 2012 assessment of the subject to \$17,412,500 based on a value of \$600,000 per acre.

Position of the Respondent

[15] The Respondent noted that the assessment of the subject had been based on the direct sales approach to value. The Respondent agreed with the Complainant that it was very difficult to find sales of comparable properties on account of the very large size of the subject.

[16] Although it was difficult to find comparable sales, the Respondent argued that the 2012 assessment of the subject was correct, fair and equitable. To support this position, the Respondent provided a chart of the sales of four properties which, in the opinion of the Respondent, were similar to the subject (R-1, page 13).

[17] The Respondent pointed out to the Board that the Complainant had inappropriately applied commercial time adjustment factors to his sales comparables. This application was not correct since the subject was effectively zoned RA9.

[18] The Respondent agreed with the Complainant that the unique size of the subject made it difficult to find sales of similar size in the same location as the subject. The comparable sales presented by the Respondent ranged in size from 5.72 acres to 12.063 acres. All were located in the south west portion of Edmonton. Zoning for three comparables was RA7, while the fourth comparable was zoned RF6. The time adjusted sale price per acre ranged from \$849,518.69 to \$1,301,362.68.

[19] The Respondent also presented details of zoning bylaws for DC2, AGU, AG, RF6, RF7 and RA9 zones. The Respondent submitted that the subject with RA9 zoning had a higher allowable degree of development potential than any of the comparables submitted by either party.

[20] The Respondent noted that the subject was located in close proximity to an LRT station, which would be an advantage to the property.

[21] The Respondent argued that this evidence demonstrated that the 2012 assessment of the subject was correct, and requested the Board confirm that assessment of \$23,488,500 for the subject.

[22] The Respondent pointed out to the Board that the Complainant had applied commercial time adjustment factors to his sales comparables and argued that this was not correct since the subject was zoned RA9.

Complainant's Rebuttal

[23] The Complainant also presented a rebuttal document in response to the Respondent's evidence.

[24] With respect to the Respondent's comparable #1, the Complainant pointed out that the sale was dated as it occurred in October, 2009. The Complainant also noted that this sale had not been reported by any of the third party data reporting agencies, raising a suspicion that this was not a market transaction. Also noted was that the transaction included a vendor take back mortgage, potentially affecting the purchase price. As well, the Complainant indicated that this comparable was only 42% of the size of the subject.

[25] With respect to the Respondent's comparable #2, the Complainant noted that it was a dated sale, occurring 2.5 years prior to the valuation date. Further, it was only 24% of the size of the subject.

[26] With respect to the Respondent's comparable #3, the Complainant noted that it was a dated sale, occurring over 3 years prior to the valuation date. Further, it was only 20% of the size of the subject.

[27] With respect to the Respondent's comparable #4, the Complainant noted that it was only 21% of the size of the subject.

[28] The Complainant repeated the request that the Board reduce the 2012 assessment of the subject to \$17,412,500.

Decision

[29] The decision of the Board is to confirm the 2012 assessment of the subject at **\$23,488,500.**

Reasons for the Decision

[30] The Board notes the agreement of the parties that the direct sales approach to value was the appropriate method of valuation for the subject. The Board notes that both parties agreed that it was difficult to find sales of properties comparable to the subject in view of the large size and uniqueness of the subject parcel.

[31] The Board also notes that during the concluding summation and argument phase of the merit hearing, subsequent to the portion of the hearing devoted to questions, a comment was raised concerning the Complainant's comparable sale #3 (655 Watt Blvd.) and the Respondent's comparable sale #2 (603 Watt Blvd.) The Board heard that 603 Watt Blvd sold in December, 2008 for \$849,518 per acre while 655 Watt Blvd, a neighboring property alleged to be virtually identical to 603 Watt Blvd, sold in November, 2009 for \$466,234 per acre. This information was offered to the Board to illustrate a downturn in the market. No other information was provided to explain this enormous drop in price for nearly identical properties over a short period of time. The Board concludes that very little weight should be given to either of the Complainant's comparable #3 or the Respondent's comparable #2, given this large disparity between those two sales.

[32] The Board is of the opinion that the evidence of the sales comparables presented by the Complainant was not sufficiently compelling to persuade the Board to alter the subject's assessment. Comparables #1 and #2 are zoned AG and AGU respectively which makes them inferior to the subject. Even if, subsequent to the sale, the properties were intended for residential development, at the time of sale the zoning was agricultural which would affect the sale price. The Complainant himself indicated that little weight should be given to these comparables. For the reasons given in paragraph 26 the Board is of the opinion that little weight should be given to the Complainant's comparable #3.

[33] The Complainant's comparable #4, is located along Stony Plain Road and is zoned CB2. This comparable is inferior to the subject in terms of location and zoning. The Board heard evidence that property zoned CB2 allows some multi residential development with a commercial space to occupy the main floor of a building. The sale values per acre for this property, with appropriate upward adjustments to account for location and inferior zoning, would be close to the subject's assessment per acre. As well, the Board notes that the blended values per acre for that comparable given in the third party documents are somewhat higher than reported in the Complainant's chart of comparables.

[34] The Board considered the Complainant's argument that the subject's 2012 assessment should demonstrate a 7.5% decrease over the 2011 assessment. This would reflect the commercial time adjustments. The Board notes the Respondent's objection that it is not appropriate to apply commercial time adjustments to the

comparable sales in this case. In any event, it is the opinion of the Board that each year's assessment is independent of previous year's assessments.

[35] The Board concludes that the Complainant has not demonstrated sufficient compelling evidence to persuade the Board that the 2012 assessment of the subject is incorrect.

[36] The Board finds that the 2012 assessment of the subject at \$23,488,500 is correct.

Dissenting Opinion

[37] 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.