

Edmonton Composite Assessment Review Board

**Citation: Colliers International Realty Advisors Inc v The City of Edmonton,
2012 ECARB 2299**

Assessment Roll Number: 3127834
Municipal Address: 6907 36 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
Peter Irwin, Presiding Officer
Lillian Lundgren, Board Member
Ron Funnell, Board Member

Preliminary Matters

[1] Each of the Board members advised that they have no conflict of interest in this matter.

Background

[2] The subject property is a 40,126 square foot (sf) warehouse located at 6907 36 Street NW in the Pylypow Industrial neighborhood. It has an effective year built of 1990 and is in average condition. The 167,549sf lot has site coverage of 22%.

Issue

[3] Is the subject property correctly assessed?

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 \$5,108,000 was incorrect.

[6] The Complainant presented four sales comparables located in the southeast quadrant of Edmonton that sold between January 1, 2010 and January 1, 2011. The average sale price of the comparables was \$107.86/sf compared with the subject assessment of \$127.30/sf. The sale prices ranged from \$86.67/sf to \$118.68/sf. The Complainant highlighted sale #2 as the most comparable property based on the condition, age, size and site coverage. This property sold for \$109.52/sf.

[7] The Complainant also presented four sales comparables located in the northeast quadrant of the city. The Complainant explained that these comparables were inferior in location to the four sales comparables in the southeast quadrant, and were presented as support for the valuation. The comparables sold for an average sale price of \$84.84/sf.

[8] The Complainant submitted that they did not have quantitative measures to adjust for the differences in each of the sales comparables.

[9] Based on the condition, age, size and site coverage, the most comparable property was 8210 McIntyre Road NW, as it required the fewest valuation adjustments. It sold for \$109.52/sf. According to the Complainant, this comparable was at the higher range of the comparable properties provided.

[10] In summary, the Complainant requested the Board to reduce the assessment to \$4,414,000 based on \$110.00/sf.

Rebuttal

[11] In rebuttal, the Complainant criticized the Respondent's evidence. The Respondent's sales #1, #2, #3, and #4 were dated sales. 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. The decision states 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."

[12] The Complainant also stated that the Respondent's sale #1 was a sale/lease back in which the vendor leased back the property for five years with a five year renewal. Sale #6 was undergoing renovations at the time of sale and it was not known how the renovations impacted the sale price.

Position of the Respondent

[13] The Respondent made a recommendation to reduce the subject property assessment to \$5,014,000 based on a change to the size of the upper office mezzanine area. The office mezzanine area was adjusted downward to 2800sf from 4,000sf.

[14] The Respondent defended the recommended assessment with six sales comparables located in the southeast quadrant that sold between February 2008 and February 2011. The comparables sold for an average sale price of \$137.18/sf compared with the recommended assessment of \$128.81/sf. The sales ranged from \$124.36/sf to \$146.07/sf.

[15] The Respondent disagreed with the Complainant's interpretation of the reasons in CARB No. 0098 252/10. The Respondent interprets the reasons to mean that less weight was placed on the comparable sales than the sale of the subject property. The subject property which is contaminated sold for \$785,000 and the CARB reduced the assessment to the sale price.

[16] The Respondent stated that the Complainant relied on one sale only, 8210 McIntyre Road NW, for the requested reduction in the assessment. On the other hand, the Respondent provided six sales comparables, most of which required significant upward adjustments for the differences in site coverage.

[17] In summary, the Respondent requested the Board to reduce the assessment to the recommended amount of \$5,014,000.

Decision

[18] The property assessment is reduced to \$5,014,000.

Reasons for the Decision

[19] The Board reviewed the Complainant's evidence and argument and finds as follows.

[20] The Board agrees with the Complainant that each of the Complainant's four comparables require some upward or downward adjustments to provide an indication of value for the subject. In particular, the Complainant's sales located at 4115 101 Street NW, 8210 McIntyre Road NW and 8225 Coronet Road NW are inferior in terms of site coverage and would require significant upward adjustments. Properties such as these will see a lower value per square foot because of the higher site coverage.

[21] With respect to the Complainant's comparable located at 8210 McIntyre Road NW, it is similar in zoning and building size, however it is slightly inferior in age and site coverage. The Complainant didn't know whether it had upper office mezzanine space. This comparable, in itself, is not sufficient evidence to alter the assessment.

[22] The Board agrees with the Complainant that the sales comparables in the northeast quadrant of the city are generally inferior in location to the subject property which is located in the southeast quadrant.

[23] The Board also considered the Complainant's argument with respect to some of the sales used by the Respondent that the Complainant considered dated sales. 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.

[24] 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, this Board is not bound by previous decisions of the Board.

[25] The Board also reviewed the Respondent's sales comparables. The Board finds the Respondent's sale located at 5880 56 Avenue NW to be a poor comparable because it is a sale/lease back with a five year term and a five year renewal option. The Respondent did not produce sufficient evidence to establish that this property sold at market value. The Board finds the Respondent's comparable located at 4810 93 Street NW is not a reliable indicator of value because it was under renovations at the time of sale.

[26] The Board places the most weight on the Respondent's comparables located at 9333 45 Avenue NW, 9330 45 Avenue NW and 9111 41 Avenue NW because they are similar to the subject property in terms in age, site coverage, building area and office mezzanine area. These properties range from \$124.36/sf to \$136.93/sf which supports the recommended assessment.

[27] Accordingly, the assessment is reduced to the recommended amount of \$5,014,000.

Heard commencing September 6, 2012.

Dated this 27 day of September, 2012, at the City of Edmonton, Alberta.

Peter Irwin, Presiding Officer

Appearances:

Greg Jobagy

Stephen Cook

for the Complainant

Steve Lutes

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.