

## **Edmonton Composite Assessment Review Board**

**Citation: Colliers International Realty Advisors Inc v The City of Edmonton,  
2012 ECARB 2311**

**Assessment Roll Number:** 10067967  
**Municipal Address:** 4803 74 Avenue NW  
**Assessment Year:** 2012  
**Assessment Type:** Annual New

Between:

**Colliers International Realty Advisors Inc for 1388652 Alberta Ltd**  
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.

### **Objection to a Portion of the Rebuttal Evidence**

[2] The Respondent raised an objection to pages 11 through 25 of the Complainant's rebuttal document marked Exhibit C-2 because the information contained in these portions does not rebut any of the evidence disclosed by the Respondent in Exhibit R-2. The Respondent argued that the Complainant's rebuttal document referenced assessments in an attempt to introduce a new issue of equity. Whether the property was equitably assessed was not an issue that was pursued by the Complainant because there was no assessment evidence or argument disclosed in Exhibit C-1.

[3] The Complainant stated that one of the issues identified in the Assessment Review Board Complaint form was "fairness and equity"; therefore, equity was one of the issues. As a result, this was proper rebuttal evidence and should be allowed. The Complainant stated that he was not clear on what can be regarded as rebuttal evidence if these portions in question were not rebuttal evidence.

[4] In summary, the Respondent stated that the Complainant provided the same "boiler plate" list of reasons for this complaint as all other complaints. The list included many issues that were not pursued in the Complainant's Exhibit C-1. Exhibit C-1 contained only evidence and

argument relating to the correctness of the assessment and the correctness of the net rentable area.

## **Decision**

[5] The Board finds that the references to assessment in Exhibit C-2, pages 11 through 25, are not rebuttal evidence because they do not rebut the Respondent's disclosure, Exhibit R-1. The Respondent's disclosure contains sales comparables in defense of the correctness of the subject assessment.

[6] If the Complainant intended to challenge the subject assessment on the basis of equity, the evidence and argument relating to equity should have been disclosed in Exhibit C-1. This would have allowed the Respondent to respond to the issue of equity, and the Complainant to rebut the Respondent's evidence, in turn.

[7] The decision of the Board is to exclude pages 11 through 25 in Exhibit C-2.

## **Background**

[8] The subject property is a 28,457 square foot (sf) warehouse located at 4803 74 Avenue NW in the Weir Industrial neighborhood. It has an effective year built of 2006 and is in average condition. The lot size is 94,009sf with site coverage of 30%.

## **Issues**

[9] The Board considered the following issues:

1. Is the subject assessment correct?
2. What area should be used to calculate the assessment?

## **Legislation**

[10] 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.

[11] The Matters Relating To Assessment Complaints Regulation reads:

***Matters Relating to Assessment Complaint Regulation, Alta. Reg. 310/200/-9***

s 8(2)(c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

**Position of the Complainant**

[12] The Complainant filed this complaint on the basis that the subject assessment was incorrect and the net leasable used to prepare the assessment was incorrect.

**1. Is the subject assessment correct?**

[13] The Complainant argued that the subject assessment of \$4,514,500 was in excess of market value. In support of this position, the Complainant presented five sales comparables that transacted between January 1, 2010 and July 1, 2011. The Complainant time adjusted these sales to the valuation date of July 1, 2011 using the City of Edmonton's time adjustment factors. The comparables had an average time adjusted sale price (tasp) of \$113.83/sf compared with the subject assessment of \$158.64/sf.

[14] The Complainant stated that each of the above properties was comparable to the subject based on location, building area and condition, however, the two most comparable sales were comparables #1 and #4. Comparable #1 located at 7603 McIntyre Road NW sold in December 2010 for a tasps of \$110.62/sf and comparable #4 sold in March 2010 for a tasps of \$150.84/sf. Based on these comparables, the Complainant concluded that the subject property should be valued at \$130.00/sf. The resultant requested assessment value was \$3,556,500.

[15] The Complainant submitted that industrial properties within the City of Edmonton were assessed by the Direct Comparison Approach. Thus, the Income Approach was less reliable than a direct comparison valuation in determining the appropriate assessment for a property. However, this method was a good test of reasonability for assessment purposes.

[16] To this end, the Complainant prepared an estimate of value based on the income approach. The Complainant used a \$9.50/sf rental rate, a 3% vacancy rate, a \$2.00/sf vacancy shortfall and a 6.75% capitalization rate, which resulted in a value of \$3,673,000. The Complainant stated that this value supported the value arrived at using the direct sales approach.

[17] The Complainant used a rental rate of \$9.50/sf based on the most recent leases in the subject property and three recent leases of comparable properties. The most recent leasing activity within the subject property was within the first two units, commencing on July 1, 2011 at a rate of \$9.00/sf for five year terms. The three comparable leases commenced in early 2011 at an average rate of \$9.69/sf.

[18] The Complainant relied on the capitalization rates published in the Colliers International Cap Rate Report for the second quarter of 2011. The 6.75% capitalization rate was the lowest rate for multi-tenant industrial buildings in Edmonton.

[19] The Complainant did not have any documentary evidence to support the use of the other factors in the income approach.

[20] In summary, the Complainant requested the Board to reduce the assessment to \$3,556,500.

## **2. What area should be used to calculate the assessment?**

[21] The subject property was assessed on the direct sales approach using a total area of 28,457sf. The Complainant argued that the subject property should be valued on the net leasable area of 27,356sf as shown on the rent roll.

### **Rebuttal**

[22] Prior to the Complainant submitting the rebuttal evidence in Exhibit C-2, the Respondent raised an objection to portions of the document. Please refer to the Preliminary Matters section of this decision for the details.

[23] After the ruling from the Board, the Complainant continued with the balance of the rebuttal document.

[24] The Complainant stated that the Respondent's comparables #1, #2, #3, #4 and #5 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. 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.

[25] The Complainant also stated that the Respondent's sale #1 was a sale/lease back. The vendor leased back the property for five years with a five year renewal. This may have influenced the sale price.

[26] The Complainant submitted that the Respondent's comparable sales #4 and #6 were located in the northwest quadrant, which is considered to be an inferior location to the southeast quadrant.

### **Position of the Respondent**

#### **1. Is the subject assessment correct?**

[27] The Respondent submitted that the subject assessment of \$4,514,500 was correct. In support of this position, the Respondent presented six sales comparables, which had an average sale price of \$150.75/sf. Four of the sales were similar in age, site coverage and total building area. The Respondent stated that there were few sales of similar newer properties and that was the reason for looking outside of the southeast quadrant for comparables. The Respondent acknowledged that two of the comparables were located in the northwest quadrant.

[28] In summary, the Respondent requested the Board to confirm the assessment at \$4,514,500.

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

[30] The Respondent commented on the Complainant's sales comparables. Sales #2, #3, #4 and #5 were inferior because they were much older than the subject property. Sale #5 sold with other assets and the value of the realty was too convoluted to be used in the audit or model.

[31] The Respondent also stated that the Respondent's sales #1 and #2 may not reflect market value because they were both acquired based on a future upside.

## **2. What area should be used to calculate the assessment?**

[32] The Respondent submitted that the correct area for the subject property was 28,457sf based on the gross building area. The Respondent stated that the subject warehouse property and all similar properties were valued on the direct sales approach, which uses the gross building area. The net leasable area was used in the income approach; not the method used to value the subject property.

### **Decision**

[33] The property assessment is confirmed at \$4,514,500.

### **Reasons for the Decision**

[34] The main issue of this complaint is whether the \$4,514,500 assessment of the subject property is correct. Having weighed the Complainant's sales evidence, the Board finds that the sales comparables do not establish that the assessment is incorrect or that the assessment should be reduced to \$130.00/sf as requested.

[35] The Board appreciates that there are few market transactions of similar property. The Board finds that the Complainant's sales #2, #3 and #5 are not similar to the subject property because they were constructed at least 27 years prior to the subject property, which was constructed in 2006. Sales #1 and #2 are not good indicators of value for the subject property because they had below market leases in place at the time of sale and may have sold below market value.

[36] While the Board considers the Complainant's sale #4, at 9111 41 Avenue NW, to be the best comparable put forth by the Complainant, it requires adjustments for the differences in age, building size and site coverage. The unadjusted sale price of \$150.84/sf is within 5% of the subject assessment, and this sale alone is not sufficient evidence to alter the assessment.

[37] The Board also reviewed the Complainant's income approach and finds that there is insufficient evidence to support the estimate of value. The Board is not convinced that the \$9.50/sf rental rate is a typical rental rate based on only three lease comparables. Further, it is not known what income stream was used to derive the 6.75% capitalization rate published by Colliers International.

[38] With respect to the Respondent's sales comparables, sale #1 is not a reliable indicator of value because it has a vendor lease back agreement that may have affected the sale price. Sale #3

is not a good comparable because it is 29 years older than the subject property. Sales #2, #4, #5 and #6 range in sale price from \$136.93/sf to \$178.28/sf, however, these comparables require various adjustments for age, site coverage or location. The subject property assessment of \$158.64/sf falls within the range of sale prices for these comparables.

[39] In conclusion, the Board is not prepared to alter the assessment and the assessment is confirmed at \$4,514,500.

[40] The Board accepts the area of 28,457sf as the correct area to be used for assessment purposes because the subject property and all similar properties are assessed on the direct sales approach using the gross building area. This area is shown on the property detail report on page 15 of Exhibit R-1.

Heard September 5, 2012.

Dated this 4 day of October, 2012, at the City of Edmonton, Alberta.

---

Lillian Lundgren for:  
Peter Irwin, Presiding Officer

**Appearances:**

Greg Jobagy  
Stephen Cook  
for the Complainant

Cameron 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.*