

Edmonton Composite Assessment Review Board

**Citation: Colliers International Realty Advisors Inc. v The City of Edmonton, 2012
ECARB 2325**

Assessment Roll Number: 10030323
Municipal Address: 11731 181 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
George Zaharia, Board Member
Howard Worrell, Board Member

Preliminary Matters

[1] At the outset of the hearing, the parties indicated that they had no objection to the composition of the Board. The Board members indicated that they had no bias with respect to this complaint.

[2] There were no preliminary matters.

Background

[3] The subject property is a single-tenant medium warehouse located in the Edmiston Industrial neighbourhood of northwest Edmonton. There are three buildings on the site, each in average condition. Building 1, built in 1999, is 19,001 square feet in size, of which 4,162 square feet is main floor office space, and 1,300 square feet is finished mezzanine area. Building 2, built in 1998, is 2,483 square feet in size, with no main floor office or finished mezzanine area. Building 3 is 480 square feet in size, with no main floor office or finished mezzanine area. Buildings 2 and 3 are cost buildings but the \$170.93 per square foot value is applied to the total combined space of 21,965 square feet. The lot size is 152,469 square feet (3.5 acres) with site coverage of 12% (based on the area of Building 1 only). The subject is zoned IM.

[4] For 2012, the subject has been valued by the direct sales approach resulting in an assessment of \$3,754,500 or \$170.93 per square foot.

Issue

[5] Is the 2012 assessment of the subject property too high based on sales of similar properties?

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] The Complainant provided a 29-page brief marked as exhibit C-1, arguing that the 2012 assessment of the subject property, at \$3,754,500 or \$170.93 per square foot, was too high. His position was that sales of similar properties indicated that a value of \$120.00 per square foot should be applied to the subject (Exhibit C-1, page 10).

[8] In support of this position, the Complainant submitted three sales comparables of similar properties, two located in northwest Edmonton and the third in northeast Edmonton. The sales occurred between March 2010 and May 2011, with sales ranging from \$131.33 to \$141.79 per square foot. The comparable properties ranged in size from 6,700 to 11,812 square feet and were zoned IM and IB. The year of construction of the comparables ranged from 1995 to 2002 and the site coverage ranged from 17% to 36% (Exhibit C-1, page 9).

[9] The average value of these three sales comparables was \$137.12 per square foot. Recognizing adjustments would have to be made in consideration of zoning, building size, and site coverage, the Complainant requested that a value of \$120.00 per square foot be applied to the subject property (Exhibit C-1, pages 9 and 10).

[10] The Complainant stated that a 10% downward adjustment is routinely applied to rear buildings when there are multiple buildings on site (Exhibit C-1, page 10). In questioning, the Respondent was asked if such an adjustment was applied in this case. The answer was “no”.

[11] In support of the reduced assessment using the direct sales approach, the Complainant also provided information using the income approach. The Complainant provided six lease rate comparables with start dates ranging from February 2011 to October 2011 (post facto). Rates ranged from \$8.75 to \$10.50 per square foot resulting in an average of \$9.61 per square foot. Based on these lease comparables, the Complainant opined that, upon review of these lease rates from newer properties similarly located as the subject, a rental rate of \$9.50 per square foot was “*reasonable in the market place*” (Exhibit C-1, page 10). The Complainant also provided pictures of the exteriors of the five of the six lease comparables (Exhibit C-1, pages 11 to 15).

[12] The Complainant submitted a pro-forma utilizing a rental rate of \$9.50 per square foot, a vacancy rate of 5%, a structural allowance of 2%, and a capitalization rate of 7.0%. This resulted in a value of \$2,540,000, and supported the requested reduced assessment of \$2,635,500 based on the direct sales approach (Exhibit C-1, page 16). The Complainant stated that the 5% vacancy rate and 2% structural allowance were typical values, and that the 7.0% cap rate was supported by a Colliers International cap rate study that showed Edmonton industrial single-tenant property cap rates ranged from 6.5% to 7.5% (Exhibit C-1, page 24).

[13] The Complainant provided a chart entitled “Edmonton Industrial Sales by Zoning” based on sales reported by the Gettel Network that occurred between January 1, 2010 and July 1, 2011. The bar graph was as a result of 88 IB zoned properties with an average sale price of \$178.65 per square foot, 154 IM zoned properties with an average sale price of \$159.60 per square foot, and 14 IH zoned properties that sold for an average sale price of \$121.21 per square foot (Exhibit C-1, page 19). Based on this chart, the Complainant stated that IB zoned properties sold for 10.67% more than IM zoned properties (Exhibit C-1, page 9).

[14] The Complainant submitted a 21-page rebuttal document challenging the appropriateness of the Respondent’s seven sales comparables. The Complainant raised concerns that included dated sales, location, building size, age, zoning, and site coverage (Exhibit C-2, pages 8 to 11). A concern was also raised regarding “*extensive glazing on front of building.*”

[15] The Complainant addressed the issue of ‘economies of scale’ by quoting information from *The Appraisal of Real Estate, Second Canadian Edition*, Chapter 17.6, which stated, “*appraisers should try to select comparables in the same size range as the subject so that economies of scale do not enter the process*” (Exhibit C-2, page 12).

[16] The Complainant submitted a bar graph entitled “Edmonton Industrial Sales” showing the average sale per square foot for the four quadrants of the city. This was based on Gettel Network reports of sales that occurred between January 1, 2010 and July 1, 2011. There were 109 sales in the northwest with an average sale price of \$157.54 per square foot; 17 sales in the northeast with an average sale price of \$115.71 per square foot; 128 sales in the southeast with an average sale price of \$180.60 per square foot, and 5 sales in the southwest with an average sale price of \$120.91 per square foot (Exhibit C-2, page 21). The Complainant argued that “location” within the four quadrants of the City was a very important factor in establishing the value of a property.

[17] The Complainant stated that his sales comparables were more current, having occurred between March 2010 and May 2011. This was important, since the sales prices needed no or minimal time-adjustments. In the rebuttal document, the Complainant included a decision of a Composite Assessment Review Board dated September 23rd, 2010, which stated *“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 required significant time adjustment”* (Exhibit C-2, page 20).

[18] In questioning of the Respondent, the Complainant pointed out that if the assessment of the subject was based upon only Building 1, which is 19,001 square feet in size, and not Buildings 2 and 3, which are cost buildings, the assessed value per square foot would be \$197.00.

[19] In conclusion, the Complainant requested the Board reduce the 2012 assessment of the subject property from \$3,754,500 to \$2,635,500 based on \$120.00 per square foot.

Position of the Respondent

[20] The Respondent submitted a 39-page brief marked as Exhibit R-1 and argued that the original \$3,754,500 assessment of the subject property was fair and equitable. The Respondent also submitted a 44-page Law and Legislation brief.

[21] In support of the position that the assessment was fair and equitable, the Respondent submitted seven sales comparables, four located in northwest Edmonton and three located in southeast Edmonton. The sales occurred between December 12, 2008 and April 28, 2010, with time-adjusted prices ranging from \$176.59 to \$216.93 per square foot, resulting in an average of \$194.80 per square foot. This supported the \$170.93 per square foot assessment of the subject property. The comparables' improvements ranged in size from 10,637 to 27,800 square feet. Site coverage of the subject, at 12%, fell within the comparables' range of 9% to 21% (Exhibit R-1, page 18).

[22] The Respondent highlighted mass appraisal information included in Exhibit R-1 that supported the direct sales comparison approach. Excerpts from two real estate publications were read (Exhibit R-1, page 6).

- i. *“When sufficient valid sales are available, this approach tends to be the preferred valuation method.”* IAAO, *Standard on Mass Appraisal of Real Property*, Chicago, Illinois, 2002, section 4.3.
- ii. *“The Direct Comparison approach is applicable to all types of real property interests when there are sufficient recent, reliable transactions to indicate value patterns or trends in the market. For types that are bought and sold regularly, the direct comparison approach often provides a supportable indication of market value. When data are available, this is most straightforward and simple way to explain and support value opinion.”* Appraisal Institute of Canada, *The Appraisal of Real Estate, Second Canadian Edition*, Vancouver, British Columbia, 2002, page 17.3.

[23] The Respondent stated that sales occurring from January 2008 through June 2011 were utilized in model development and testing. Factors that affected value in the warehouse inventory were location, lot size, age and condition of the building, main floor space, and the amount of finished main floor space as well as developed upper area (Exhibit R-1, page 7).

[24] The Respondent pointed out that Building 1 is the major component of the assessment of the subject property, while the Quonset building and the portable office are assessed as cost buildings and are of minimal value.

[25] The Respondent stated that there were few low site coverage properties selling which necessitated using sales comparables from other quadrants of the City.

[26] The Respondent provided several excerpts from *The Appraisal of Real Estate, Second Canadian Edition* addressing approaches to value, time adjustments, and comparability of factors used to determine value.

- i. *Typically, the direct comparison approach provides the best indication of value for owner-occupied commercial and industrial properties* (Exhibit R-1, page 28).
- ii. *An adjustment for market conditions is made if general property values have appreciated or depreciated since the transaction dates due to inflation or deflation or a change in investors' perception of the market over time* (Exhibit R-1, page 29).
- iii. *Data on each property's sale price, income, expenses, financing terms, and market conditions at the time of sale is needed* (Exhibit R-1, page 30).
- iv. *It is imperative that the appraiser analyze comparable sales and derive their capitalization rates in the same manner used to analyze the subject property and capitalize its income* (Exhibit R-1, page 31).

[27] In response to the Complainant's use of the income approach to support its direct sales comparison conclusion, the Respondent argued that there was not sufficient information provided to justify the values used by the Complainant in his suggested pro-forma.

[28] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at \$3,754,500.

Decision

[29] The decision of the Board is to confirm the 2012 assessment of the subject property at \$3,754,500.

Reasons for the Decision

[30] Although the Board acknowledges that the Complainant provided sales comparables that are all within one and one-half years of the valuation date, the Board places less weight on the Complainant's sales comparables because the largest sales comparable is a little more than 50% of the subject, and the site coverage varies significantly from the subject's.

[31] In his own disclosure, the Complainant stated that adjustments would have to be made to account for zoning, site coverage, and building size thereby establishing his requested assessment at \$120.00 per square foot, despite the average of his sales comparables being \$137.12 per square foot. The Complainant argued that there would have to be adjustments to the Respondent's sales due to location, building size, age, and zoning. The Board does not agree. The average time-adjusted sales price of \$194.80 per square foot supports the \$170.93 per square foot assessment of the subject property without the necessity of arbitrarily substituting another value.

[32] Although the Complainant raised the issue of quadrants of the city generating varying values, the northeast quadrant has the lowest average sale price per square foot, and that IB zoned land is more valuable than IM zoned land, the Complainant's sale comparable # 2 is located in northeast Edmonton. The Board notes with interest that the northeast property sale price was actually higher than the two northwest property sales prices and that the northeast property is zoned IM while the northwest properties are zoned IB.

[33] The Board questions the purpose of including reference to a 10% downward adjustment for rear buildings. In this case, as a result of the placement of the buildings on the site, there are no rear buildings.

[34] The Board places no weight on the Complainant's income approach used to support his derived direct sales approach value. The Complainant did not provide evidence as to how the various values used in the pro-forma were derived. The Board is influenced by the direction given in *The Appraisal of Real Estate, Second Canadian Edition*, which states:

- i. *data on each property's sale price, income, expenses, financing terms, and market conditions at the time of sale is needed; and*
- ii. *it is imperative that the appraiser analyze comparable sales and derive their capitalization rates in the same manner used to analyze the subject property and capitalize its income.*

The aforementioned requirements were not provided to support the values used in the proposed pro-forma. Additionally, the Board does not find the pictures of the buildings used for the lease rate comparables to be instructive or supportive of the indicated lease rates.

[35] The Board considered the Complainant's concerns with the Respondent's sales comparables due to dated sales, location, building size, age, and zoning as identified in Exhibit C-2:

- i. Regarding dated sales, the Board agrees with the Complainant that sales close to the valuation date would be preferable. However, the Board acknowledges the direction provided in *The Appraisal of Real Estate, Second Canadian Edition*, which states "*An adjustment for market conditions is made if general property values have appreciated or depreciated since the transaction dates due to inflation or deflation or a change in investors' perception of the market over time*". Further, although the Complainant raised time-adjustments as a concern on this file, the practice of time-adjusting sales prices has been accepted by both Complainants and Respondents in the assessment complaint process.

- ii. Regarding location and the various quadrants of the City, the Board acknowledges the Respondent's position that properties in the southeast typically sell for more than properties in the northwest. Therefore the Board placed greatest weight on the Respondent's sales comparables from northwest Edmonton that averaged \$190.98 per square foot, and therefore were supportive of the \$170.93 per square foot assessment of the subject property, also located in northwest Edmonton.
- iii. Regarding the Complainant's concern that the Respondent's sales #'s 1, 6, and 7 building sizes were between 48% and 64% of the subject, the Board notes that the Complainant's sales comparables are between 31% and 54% of the subject size. The Board notes that all of the Respondent's sales comparables except one are closer in size to the subject than the Complainant's.
- iv. The Board acknowledges that the three sales submitted by the Complainant were closer in age to the subject than the Respondent's sales comparables, but the Board notes that the Respondent's sales #'s 2 and 3 that are 24 years apart in age, are only \$1.69 different in time-adjusted sale prices.
- v. Regarding zoning, the Board places little weight on the "Edmonton Industrial Sales by Zoning" chart provided by the Complainant since the sales were of improved properties with no indication of age, condition of the improvement, and location of the properties.

Although the Complainant raised a concern with the "*extensive glazing on front of building*" of sales comparable # 7, no evidence had been presented to suggest that the amount of glazing affected value, and therefore the Board places no weight on this concern.

[36] The Board places little weight on the Complainant's reference to a previous CARB decision that spoke to dated sales for two reasons:

- i. this Board is not bound by previous CARB decisions; and
- ii. time adjustments to the sale prices of comparable properties is an accepted practice in the assessment complaint process.

[37] Only in questioning of the Respondent did the Complainant raise the matter that the \$170.93 per square assessment was being applied to all three buildings of the subject, even though two of the buildings were identified as cost buildings. However, the Complainant used the total size of the three buildings of 21,965 square feet as did the Respondent, and therefore the Board had no reason to use any other size.

[38] The Board places greatest weight on the Respondent's sales comparables #'s 2, 3, 5 and 7 because:

- i. they are all located in the northwest quadrant as is the subject;
- ii. the building sizes better reflect the building size of the subject, and;
- iii. the site coverage range of 9% to 21% better reflects the 12% site coverage of the subject.

- iv. The average time-adjusted sales price of these four comparables at \$190.68 per square foot supports the subject's \$170.93 per square foot assessment.

[39] The Board is satisfied that the Respondent adhered to the directions provided in *The Appraisal of Real Estate, Second Canadian Edition* with regards to different approaches to value and time adjustments. Data must be drawn from properties that are physically similar to the property being assessed.

[40] The Board is persuaded that the 2012 assessment of the subject property at \$3,754,500 is fair and equitable.

Dissenting Opinion

[41] There was no dissenting opinion.

Heard commencing November 14, 2012.

Dated this 5th day of December, 2012, at the City of Edmonton, Alberta.

Peter Irwin, Presiding Officer

Appearances:

Greg Jobagy
Stephen Cook
for the Complainant

Suzanne Magdiak
Tanya Smith
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.