

Edmonton Composite Assessment Review Board (The Board)

Citation: 724985 Alberta Ltd c/o Colliers International Realty Advisors Inc. v The City of Edmonton, 2012 ECARB 2334

Assessment Roll Number: 9978452
Municipal Address: 9910 39 Avenue NW
Assessment Year: 2012
Assessment Type: Annual New

Between:

724985 Alberta Ltd c/o Colliers International Realty Advisors Inc.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Don Marchand, Presiding Officer
James Wall, Board Member
Brian Hetherington, Board Member

Preliminary Matters

[1] Each of the Board members indicated that they had no bias with respect to this complaint.

[2] After being advised by the Presiding Officer that he had worked with the Complainant's representative years ago, both parties indicated that they had no objection to the composition of the panel.

[3] The Parties indicated that the evidence presented respecting this complaint was very similar to roll 8974529 (citation: **2012 ECARB 2324**). Accordingly, they advised that a large percentage of the evidence would be carried forward to this hearing.

Background

[4] The subject property is a Class "B" owner-occupied suburban office building, known as the Ledcor building, located in the Suburban Southside Area (SSA) of southeast Edmonton. Built in 1985, the building contains 43,934 sq ft., an underground parkade containing 15 stalls, and surface parking for 110 vehicles. The subject was assessed using the Income Approach to valuation. The 2012 property assessment is \$8,227,500.

Issue

[5] The Complainant advised the Board that there was only one issue before the Board:

Should the typical net rental rate of \$16.00/sq. ft., applied to the subject property in calculating the 2012 assessment, be reduced to \$14.00/sq. ft.?

Legislation

[6] The Board's jurisdiction is within the ***Municipal Government Act, RSA 2000, c M-26 [MGA]***:

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.

[7] The Board gave consideration to the requirements of an assessment, contained in the MGA:

289(2) Each assessment must reflect

a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

b) the valuation and other standards set out in the regulations for that property.

[8] The valuation standard is set out within the *Matters Relating to Assessment and Taxation Regulation*, Alta. Reg. 220/2004 [MRAT]

2. An assessment of property based on market value

a) must be prepared using mass appraisal,

b) must be an estimate of the value of the fee simple estate in the property, and

c) must reflect typical market conditions for properties similar to that property

[9] Market value is defined within the MGA as

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;

Position of the Complainant

[10] The Complainant presented the Board with a 19-page report (Exhibit C-1), in support of a reduced assessment of \$7,160,000.

[11] The Complainant stated that there had been a 9.4% increase in the current assessment over the previous year's assessment. The current assessment amounts to a rate of \$187.27 per sq. ft of building area.

[12] The Complainant said that the City had calculated the assessment using a \$16.00 per sq. ft. rental rate. Based upon a recent rent renewal and two neighbouring comparable leases, the Complainant was seeking a rent rate of \$14 per sq. ft. to be used in the assessment calculation. He added that this was the sole issue to be reviewed by the Board.

[13] The Complainant advised that the actual rent for the subject property was \$9.69 per sq. ft., as per a five year lease that had commenced in June 2007.

[14] In support of a \$14.00 per sq. ft rate, the Complainant referenced two neighbouring comparable leases and the recent rent renewal from within a comparable property that was the subject in the complainant's previous hearing and carried forward evidence. The following chart identifies the comparables used in support of the requested rental rate.

Property	Net Leasable Area (sq. ft.)	Start Date	Term(yrs)	Rate (\$/sq. ft.)
Sprucewoods Bus. Pk.	11,303	July 2011	5	\$12.00
Weber Centre	1,500	February 2011	5	\$15.00
Springwood Court	2041	January 2011	1.5	\$14.00

[15] The Complainant argued that the comparable office leasing at the Sprucewoods, Weber, and Springwood Court locations, showed that the requested rental rate of \$14.00 per sq. ft. was typical for the subject property.

Position of the Respondent

[16] The Respondent presented the Board with a 127-page brief (Exhibit R-1), including the City's Law and Legislation brief, in support of the City's assessment of \$8,227,500.

[17] The Respondent submitted a Suburban Office summary for the 2012 tax year, which projected a rental rate of \$16.00 per sq. ft. for the net rentable area of the subject property, plus \$100 per month for the 15 underground parking stalls. In addition, this summary showed a 7% vacancy rate, 2% allowance for structural, a vacancy shortfall allowance of 2% and a cap rate of 7.5%.

[18] The Respondent submitted that the Board should give little consideration to the lease on the subject property, as the property is 100% owner-occupied, and the lease is non-arm's length.

[19] The Respondent presented a chart showing 16 rental rates, in Southside Area “B” class buildings, similar to the subject. The chart indicated a median \$15.89 per sq. ft. and an average of \$15.96 per sq. ft., which supported the \$16.00 per sq. ft. rate applied in the subject property’s 2012 assessment.

[20] The Respondent provided a chart to show that all 2012 Suburban Offices identified as SSA “B” class buildings were valued with a \$16.00 per sq. ft. rental rate. In addition, the Respondent provided an Equity Comparable chart of all 40 properties within the SSA with “B” class office buildings to demonstrate equity in the treatment of these properties.

[21] The Respondent asked the Board to place little weight on the \$12.00 per sq. ft. rental rate indicated by the Complainant’s comparable within the Sprucewoods Business Park complex as the lease space was not comparable to the subject. The Respondent argued that the Sprucewoods property was not truly comparable to the subject as portions of its space were used for warehouse storage and industrial purposes. These could be observed by the rear overhead doors and the numerous roof top venting stacks. In addition, the Respondent indicated that the Weber Centre lease was not comparable to the subject, as it was a 121,000 sq. ft. “A” class high rise office building, compared to the subject property, which is a 43,934 sq. ft two-storey B class building.

[22] The Respondent provided information in the Law and Legislation portion of the brief, as it would affect the assessment complaint.

[23] The Respondent stressed the importance of giving weight to only truly comparable properties considered by either party and provided the Board with two CARB and two MGB decisions. These decisions confirmed the importance of using typical rents, rather an actual in the assessment, fairness and equity of assessments, and comparability of data to the subject property.

Complainant’s Rebuttal

[24] The Complainant presented the Board with a 9-page rebuttal document (Exhibit C-2), which included repeats of the first six pages from Exhibit C-1.

[25] The Complainant presented the Respondent’s Suburban South Side Class B chart of comparable rents, and complained that no details had been presented with the chart to identify the buildings. Further, only six of the 16 leases commenced within 2011. The Complainant contended that the final two leases on the chart were for the exact same price on the same floor of the same building, which cast doubt on the credibility of the \$18.00 per sq. ft. rate suggested.

[26] The Complainant also objected to the Respondent using a Colliers marketing brochure for Sprucewoods Business Park, one of the comparable properties, as it was post facto, having been published in July 2012.

[27] In summary, the Complainant requested that the Board place most weight on the Springwood Court lease comparable as this rate was supported by the similar lease rates for two comparable locations similar to the subject. Changing the \$16.00 per sq. ft. rental rate used in the City’s calculations to \$14.00 per sq. ft. would result in an assessment of \$7,160,000.

Decision

[28] The Board confirms the assessment at **\$8,227,500.**

Reasons for the Decision

[29] The Board finds that the lease space identified within the Sprucewoods Business Park complex is not comparable to the subject as a large percentage of leased space is of a warehouse/industrial nature and not that of “B” class office space. The Weber “A” class high rise space of 1,500 sq. ft. is neither similar nor comparable to the typical space within the subject property.

[30] Both Parties presented the lease renewal in the Springwood Court property. The Board accepts that the rate indicated by the renewal lease is within the range provided by the Respondent’s chart of 16 leases analysed in the development of the typical rental rate of for SSA “B” class office buildings.

[31] The Board accepts the statement set out in the Respondent’s Law and Legislation Brief relative to the burden of proof or onus of the Parties portion:

The onus of proving the incorrectness of an assessment is on the individual alleging it. The onus rests with the Complainant to provide sufficiently convincing evidence on which a change to the assessment can be based. The Complaint’s evidence needs to be sufficiently compelling to allow the Board to alter the assessment.

[32] Given that two of the leases provided by the Complainant are not comparable to the subject property, the Complainant has failed to establish a typical lease rate for the subject. Accordingly, the Board is not adjusting the rental rate on the strength of one indicator.

Heard September 21, 2012.

Dated this 18 day of October, 2012, at the City of Edmonton, Alberta.

Don Marchand, Presiding Officer

Appearances:

Greg Jobagy

Stephen Cook

for the Complainant

John Ball

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.