

Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2012 ECARB 2347

Assessment Roll Number: 9573122
Municipal Address: 3908 69 Avenue 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. Each of the Board members indicated that they had no bias with respect to this complaint.

[2] There were no other preliminary matters.

Background

[3] The subject property is a single-tenant medium warehouse located in the Pylypow Industrial neighbourhood of southeast Edmonton. Built in 1981, the subject improvement (in average condition) is 17,743 square feet in size, of which 2,955 square feet is main floor office space. The lot size is 70,553 square feet (1.6 acres) with site coverage of 25%. The subject is zoned IH.

[4] For 2012, the subject has been valued by the direct sales approach resulting in an assessment of \$2,403,500 or \$135.46 per square foot.

Issue(s)

[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 23-page brief marked as exhibit C-1, arguing that the 2012 assessment of the subject property, at \$2,403,500 or \$135.46 per square foot, was too high. His position was that sales of similar properties indicated that a value of \$105.00 per square foot should be applied to the subject (Exhibit C-1, page 9).

[8] In support of his position, the Complainant submitted four sales comparables of similar properties located in southeast Edmonton. The sales occurred between July 2010 and May 2011, with sales ranging from \$75.13 to \$116.55 per square foot. The comparable properties ranged in size from 13,788 to 23,596 square feet and were zoned IM and IB. The year of construction of the comparables ranged from 1967 to 1978 and the site coverage ranged from 37% to 44%. The average value of these four sales comparables was \$101.36 per square foot, but recognizing adjustments would have to be made in consideration of age, size, and site coverage, the Complainant requested that a value of \$105.00 per square foot be applied to the subject property (Exhibit C-1, page 9).

[9] The Complainant stated that *“there is a lack of perfect comparable properties which would have the same age, zoning, site coverage and total building size. Therefore, we must examine the most comparable properties and make the appropriate adjustments during the analysis of the market value for the subject property.* The Complainant further stated: *“Since it is difficult to find quantitative adjustments for age and size, it is common place to adjust the unit valuation upwards or downwards within the specified range of sale values in order to account for these differences”* (Exhibit C-1, page 9).

[10] The Complainant submitted exterior pictures of the four sales comparables (Exhibit C-1, pages 10 to 13).

[11] 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 compiled with data from 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 16). Based on this chart, the Complainant stated that IH zoned properties sold for 32% less than IB properties, and 24% less than IM properties. The Complainant submitted that from the chart it can be seen that IH zoned land, like the subject, sold for \$121.21 per square foot.

[12] The Complainant submitted a 26-page rebuttal document critiquing the Respondent's eight sales comparables, raising concerns that included dated sales, zoning, age, and building size (Exhibit C-2, pages 9 & 10).

- i. Sales comparables 1 to 5 with sale dates of 2008 and 2009 are dated sales.
- ii. Sales comparables 1 and 3 have superior zoning of IB compared to the IH zoning of the subject.
- iii. Sales comparable 2 with an age of 1998 is much newer than the subject's 1981 age.
- iv. Sales comparables 5 to 8 with building sizes from 57% to 68% of the subject are much smaller than the subject.

[13] In the rebuttal, the Complainant responded to the Respondent's critique of the sales comparable located at 9719 63 Avenue, stating that there was no proof of costs, extent/existence of damages, or motives for the upgrades by the purchaser of this property (Exhibit C-2, page 11).

[14] The Complainant re-introduced the chart entitled "Edmonton Industrial Sales by Zoning" (Exhibit C-2, page 14)

[15] The Complainant stated that his sales comparables were more current, having occurred between July 2010 and May 2011, and that 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 that 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 17).

[16] The Complainant also provided an excerpt from the Appraisal of Real Estate, Second Canadian Edition where it stated: "*Historical sales may be valuable to retrospective valuations and may assist in time sensitive analysis. However, changes in market conditions make their use less reliable for current valuations with long term adjustments for market conditions*" (Exhibit C-2, page 19)

[17] In conclusion, the Complainant requested the Board to reduce the 2012 assessment of the subject property from \$2,403,500 to \$1,863,000 based on \$105.00 per square foot.

Position of the Respondent

[18] The Respondent submitted a 34-page brief marked as Exhibit R-1 arguing that the original \$2,403,500 assessment of the subject property was fair and equitable. The Respondent also submitted a 44-page Law and Legislation brief.

[19] In support of the position that the assessment was fair and equitable, the Respondent submitted eight sales comparables, all located in southeast Edmonton. The sales occurred between July 10, 2008 and August 17, 2010, selling for time-adjusted sale prices ranging from \$127.94 to \$216.93 per square foot, resulting in an average of \$150.32 per square foot, supporting the \$135.46 per square foot assessment of the subject property. The comparables' improvements ranged in size from 10,062 to 25,530 square feet. Site coverage of the subject, at 25%, fell within the comparables' range of 17% to 48% (Exhibit R-1, page 17).

[20] The Respondent critiqued the Complainant's sales comparable # 2, stating that it should not be considered a valid sale as the building was vacant at sale date, and required significant repairs to the roof, windows and electrical systems (Exhibit R-1, page 26).

[21] The Complainant had provided a self-constructed chart from the Network's sales reports that has no details of the sales and, in the Respondent's view, should not be considered.

[22] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at \$2,403,500.

Decision

[23] The decision of the Board is to confirm the 2012 assessment of the subject property at \$2,403,500.

Reasons for the Decision

[24] In his own disclosure, the Complainant stated that adjustments would have to be made to account for age, building size, and site coverage variations, thereby establishing his requested assessment at \$105.00 per square foot, despite the average of his sales comparables being \$101.36 per square foot. The Complainant argued that there would have to be adjustments to the Respondent's sales due to building size, age, and zoning. The Board does not agree. It is the position of the Board that the average of the time-adjusted sale prices supports the assessment of the subject property without the necessity of arbitrarily substituting another value.

[25] Regarding zoning, the Board placed 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.

[26] The Board placed 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.

[27] The Board placed no weight on the pictures of the sales comparables provided by the Complainant since they were not instructive as to the details required to assess comparability to the subject.

[28] The Board reviewed the critiques of both parties on each other's comparable sales and could find no evidence that would lead it to disregard any of the sales. The Board acknowledges that adjustments are required to some of these twelve sales but no evidence was provided by either party to show what adjustments might be needed to any of the twelve comparables provided by the parties.

[29] The Board therefore used all the sales comparables provided by both parties and noted that all were located in the southeast. Also, the ages, site coverages, and building sizes, although not ideal, were reflective of the subject. The average of all of these comparables is \$134.00 per square foot, supporting the assessment of the subject's \$135.46 per square foot.

[30] The Board is persuaded that the 2012 assessment of the subject property at \$2,403,500 is fair and equitable.

Dissenting Opinion

[31] There was no dissenting opinion

Heard November 15, 2012.

Dated this 6th day of December, 2012, at the City of Edmonton, Alberta.

Peter Irwin, Presiding Officer

Appearances:

Greg Jobagy
Stephen Cook
for the Complainant

Marty Carpentier
Steve Lutes
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.