

## **Edmonton Composite Assessment Review Board**

**Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2013 ECARB 00664**

**Assessment Roll Number:** 9975121  
**Municipal Address:** 11120 178 Street NW  
**Assessment Year:** 2013  
**Assessment Type:** Annual New

Between:

**Colliers International Realty Advisors Inc**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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### **DECISION OF**

**George Zaharia, Presiding Officer**

**Lillian Lundgren, Board Member**

**Darryl Menzak, Board Member**

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### **Procedural Matters**

[1] The parties indicated they had no objection to the composition of the Board. In addition, the Board members indicated they had no bias on this file.

### **Preliminary Matters**

[2] There were no preliminary matters.

### **Background**

[3] The subject property is a 1-storey, subclass A, office building located at 11120 – 178 Street NW in the West Edmonton Area (WEA) District. Built in 1992, the building is 53,000 square feet in size.

[4] The subject property was valued on the income approach resulting in a 2013 assessment of \$10,847,500.

### **Issue(s)**

[5] The issues are as follows:

- i) Is the \$16 per square foot typical market rent applied to the subject property too high, considering that 1) suburban office rental rates determined by industry analysts for the WEA range from \$14 to \$16.50 per square foot, and 2) recent lease rates charged in similar properties range from \$11.10 to \$14 per square foot?
- ii) Is the 6.5% vacancy rate applied to the subject property too low compared 1) to vacancy rates determined by industry analysts averaging 10.11%, and 2) a typical vacancy rate of 9.5% applied to a comparable property?

### **Legislation**

#### **[6] The *Municipal Government Act*, RSA 2000, c M-26, reads:**

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] In support of its position that the 2013 assessment of the subject was excessive, the Complainant presented a 29-page brief to the Board (Exhibit C-1). The Complainant submitted that the current year’s assessment of the subject property represented a 21.6% increase over the previous year (Exhibit C-1, page 3).

[8] The Complainant submitted that the Respondent had used the income approach in valuing the subject for assessment purposes and that the Complainant had no issue with this method of valuation. However, the Complainant took issue with the \$16 per square foot typical market rent, and the 6.5% typical vacancy rate used by the Respondent to arrive at the 2013 assessment for the subject.

[9] The Complainant argued that a current rent in comparable properties ranging from \$11.10 to \$14.00 per square foot suggested that the \$16 per square foot rent applied to the subject is too high. He also submitted information derived from studies completed by industry analysts that showed office rental rates for WEA properties range from \$14 to \$16.50 per square foot. Based on the foregoing evidence, the Complainant requested that the rent applied to the subject property be reduced from \$16 to \$15 per square foot (Exhibit C-1, page 9).

[10] In support of his position that the vacancy rate of 6.5% applied to the subject property was too low, the Complainant submitted vacancy rates determined by industry analysts ranging from 9.2% to 11.2% for WEA properties, and submitted an equity vacancy rate of 9.5% applied to another property in the same district. The Complainant requested that the vacancy rate for the subject property be increased from 6.5% to 9.5% (Exhibit C-1, page 10).

[11] The Complainant requested the Board reduce the 2013 assessment of the subject property from \$10,847,500 to \$9,902,500.

### **Position of the Respondent**

[12] The Respondent stated that the 2013 assessment of the subject was fair and equitable. To support its position, the Respondent presented to the Board a 73-page assessment brief (Exhibit R-1) that included the law and legislation brief.

[13] In the assessment brief, the Respondent included responses to the Complainant's concerns regarding rental rates and vacancy rates.

- a) The Respondent advised the Board that for the purposes of mass appraisal, typical rental rates, not actual rents in place, are used to determine the assessed value of a property at the valuation date. The Respondent found the comparable rental rates submitted by the Complainant problematic because one comparable was a neighbourhood shopping centre subclass, another was a B subclass, and the third, although an A subclass property, all lease information was not available. Additionally, rental rates provided by third party sources should not be directly relied upon. MGB Board Order 054/10 states that "the market data used to construct the reports was not in evidence, without which the MGB cannot determine the reliability or applicability of these reports to the subject property." (Exhibit R-1, page 40)
- b) In terms of the vacancy rate, the Respondent acknowledged that the Complainant requested an increase in the vacancy rate based upon one equity comparable, and third party sources. The one equity comparable was a different subclass from the subject, and third party information should not be relied upon based on the reasoning stated in the previous paragraph (Exhibit R-1, page 10).

[14] The Respondent submitted a "Suburban Rental Rates WEA 'A' Rents" that included sixteen lease rates. The resulting time-adjusted median of \$16.04 and average of \$16.09 per square foot support the \$16 typical market rent applied to the subject (Exhibit R-1, page 15).

[15] The Respondent submitted a Vacancy Study of Suburban "A" subclass buildings that resulted in a 6.58% weighted average vacancy rate. The Board was advised that there was limited information from the RFIs, necessitating the Respondent to rely upon vacancy rates from all the city districts.

[16] The Respondent submitted a chart showing the rates applied to all suburban WEA "A" class office buildings. The chart confirmed that the \$16 per square foot rental rate and the 6.5% vacancy rate that had been applied to the subject property were also applied to all the other similar properties in the district (Exhibit R-1, page 17).

[17] In argument, the Respondent stated that the Complainant has the onus of proving that the assessment is incorrect and referred the Board to MGA s. 467(3) which states the following:

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.

[18] The Respondent concluded by requesting that the Board confirm the 2013 assessment of the subject at \$10,847,500.

### **Decision**

[19] The decision of the Board is to confirm the 2013 assessment of the subject property at \$10,847,500.

### **Reasons for the Decision**

[20] The Board placed less weight on the Complainant's evidence because rental information was presented from subclass properties different from the "A" subclass of the subject property, and from properties in districts other than the WEA District where the subject is located. As well, the Board concurred with the Respondent's position, and a decision of the MGB, that questioned the reliability of third party information without knowing the basis from which the conclusions were derived.

[21] The Respondent provided the rent roll for the subject property's main tenant that showed the lease rate to be \$17 per square foot, supporting the \$16 per square foot typical market rent applied to the subject.

[22] The Board placed greater weight on the vacancy information submitted by the Respondent because it was derived from RFIs of suburban "A" subclass buildings as is the subject. The one equity comparable submitted by the Complainant was from a "B" subclass building, and vacancy rate information submitted by the Complainant was taken from third party sources, which the Board questions its reliability.

[23] The Respondent demonstrated that the rental rate and the vacancy rate applied to the subject were the same as the rates applied to all other similar properties in the district.

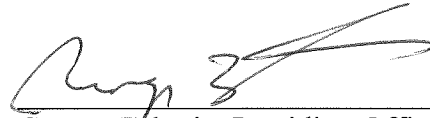
[24] The Board is persuaded that the 2013 assessment of the subject property at \$10,847,500 is fair and equitable.

### **Dissenting Opinion**

[25] There was no dissenting opinion.

Heard commencing June 25, 2013.

Dated this 11<sup>th</sup> day of July, 2013, at the City of Edmonton, Alberta.

A handwritten signature in black ink, appearing to read 'George Zaharia', is written over a horizontal line.

George Zaharia, Presiding Officer

**Appearances:**

Greg Jobagy, Colliers International Realty Advisors Inc  
Stephen Cook, Colliers International Realty Advisors Inc  
for the Complainant

James Cumming, City of Edmonton  
Tania Smith, City of Edmonton  
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.*