

## **Edmonton Composite Assessment Review Board**

**Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2013 ECARB 00917**

**Assessment Roll Number:** 4041125

**Municipal Address:**

**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**

**Harold Williams, Presiding Officer**

**Dale Doan, Board Member**

**Brian Hetherington, Board Member**

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### **Procedural Matters**

[1] Upon questioning by the Presiding Officer the parties before the Board indicated no objection to the Board's composition. In addition, the Board Members indicated no bias with respect to this file.

### **Preliminary Matters**

[2] There were no preliminary matters.

### **Background**

[3] The subject property is a parking lot located directly east of, and adjacent to, Hotel Macdonald in downtown Edmonton. It does not show a street address but shows a legal location of Plan: 8522037 Lot: 3. The property size is listed as 22,709 square feet.

### **Issue(s)**

[4] Is the 2013 assessment of the subject property fair and equitable when considering assessments of comparable properties?

### **Legislation**

[5] *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**

[6] The Complainant provided an evidence brief (Exhibit C-1, 170 pages) in support of a requested change to the 2013 assessment of the subject property from \$1,951,500 to \$1,021,500.

[7] The complainant explained that the subject sold in 2009 as part of a larger sale involving adjoining lands.

[8] The Complainant provided a quote (Exhibit C-1, page 10) from Board Order 0098 570/11 that indicated that the subject showed deficiencies in access/egress, shape and topography resulting in a 25% reduction in assessment. The Complainant further indicated that the subject had numerous encumbrances, encroachment agreements, and caveats affecting it.

[9] The Complainant provided a chart (Exhibit C-1, page 11) of assessment equity comparables involving properties in close proximity to the subject. The chart showed three properties with an assessed value range of \$43.51 to \$52.97 per square foot, compared to the assessed value of the subject at \$85.62 per square foot. Also provided was an aerial photo showing the subject and the three comparable properties.

[10] The Complainant explained that these adjacent properties were given a 60% reduction from their assessment by the City in order to compensate for deficiencies in shape, access/egress, topography, and other encumbrances. The large discrepancy between the assessment of these properties and the subject results from a 60% reduction in the case of the adjacent comparables, and only a 25% reduction for the subject. The Complainant argued this was inequitable and that the subject should have similar adjustments made to its assessment.

[11] The Complainant provided another chart (Exhibit C-1, page 12) of three different assessment equity comparables in the downtown area but not in close proximity to the subject. The Complainant argued that if these properties were adjusted by 25% like the subject, then it would result in a comparable assessed value of \$72.62 per square foot.

[12] The Complainant also provided within the evidence brief property detail sheets for the listed comparables, land titles documents including the subject property, mortgage documents including the subject property, and a land title certificate. It was discovered during the hearing

through questioning by the Respondent that the land title certificate was for a different property than the subject.

[13] After speaking to the evidence provided, the Complainant requested that the Board change the 2013 assessment of the subject property from \$1,951,500 to \$1,021,500.

[14] This request was based on the adjacent comparables given in the chart on C-1, pg 11. The average of these comparables was \$49.10/sqft. The Complainant then made a downwards adjustment to this average to compensate for the fact that the subject was larger than the average of the comparables. The Complainant suggested \$45/sqft or \$1,021,500 would be an equitable assessment based on the comparables closest to the subject.

### **Position of the Respondent**

[15] The Respondent provided an evidence brief (Exhibit R-1, 118 pages) in support of a request to confirm the 2013 assessment of the subject property.

[16] The Respondent provided a number of photos of the subject (Exhibit R-1, pages 4 to 10) with emphasis on a large Gazebo and walkway situated on the subject property and belonging to Hotel Macdonald, next door to the subject.

[17] The Respondent provided a copy of the land title certificate for the subject (Exhibit R-1, pages 11 to 13) and argued that the certificate showed only one significant encumbrance being an encroachment agreement for the use of the Gazebo by the adjacent Hotel Macdonald, which the Respondent further argued is compensated for by an assessment adjustment for property shape.

[18] The Respondent explained that other caveats shown on the certificate of title for the subject did not restrict development.

[19] The Respondent explained (Exhibit R-1, page 37) that the Complainant's assessment equity comparables in close proximity to the subject were adversely affected by rights of way for items such as an underground pedway entrance and Hotel Macdonald right of way access to Jasper Avenue and 100<sup>th</sup> Street. As a result a 60% assessment adjustment was applied to these properties. The Respondent also provided a chart (Exhibit R-1, page 46) showing a summary of registration of the aforementioned rights of way.

[20] The Respondent provided a chart (Exhibit R-1, page 59) showing assessment equity comparables to the subject property. The assessed value of these comparables was shown at a value range of \$128.87 to \$130.18 per square foot. The Respondent argued that if the subject property were adjusted so as to remove the allowances for topography, shape and access then the resulting \$125.00 assessment per square foot value would align with the provided comparables.

[21] The Respondent further provided within the evidence brief (Exhibit R-1 pages 60 to 118) property information detail on comparables, mass appraisal approach information, application of mass appraisal including listings of property value adjustments, market study area groupings and a law and legislation brief concerning the 2013 property assessments.

[22] After speaking to the evidence provided, the Respondent requested that the Board confirm the 2013 property assessment for the subject property.

### **Decision**

[23] The decision of the Board is to reduce the 2013 assessment of the subject property to \$1,021,500.

### **Reasons for the Decision**

[24] The Board noted that the subject parcel sold in 2009 but was included as a larger package sale of a number of properties within close proximity.

[25] After reviewing the assessment equity comparables provided by both parties the Board did not place great weight on these comparables because they were in very differing locations within the downtown area and did not show the same issues as the subject such as access, topography and encumbrances.

[26] The Board preferred to rely on the comparables (Exhibit C-1, page 11) directly adjacent to the subject. The Board regarded these comparables more reliable as they showed similar issues to the subject such as shape, topography and encumbrances. The Board viewed the 60% adjustment to these comparable properties as significant. However the 25% adjustment to the subject property for some similar issues to the comparables appeared to be much less significant and the Board was therefore convinced that there is an equity issue between the subject property and these comparables.

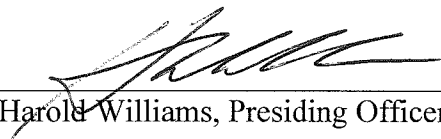
[27] The Board placed greatest weight on the proximal comparables (C-1, page 11) and accepted the Complainant's analysis of these comparables to determine an equitable assessment as explained in paragraph 14. The Board therefore reduces the assessment of the subject to \$45 per square foot or \$1,021,500.

### **Dissenting Opinion**

[28] There was no dissenting opinion.

Heard commencing August 6, 2013.

Dated this 26<sup>th</sup> day of August, 2013, at the City of Edmonton, Alberta.

  
Harold Williams, Presiding Officer

### **Appearances:**

Stephen Cook, Colliers International  
for the Complainant

Keivan Navidikasmaei, Assessor, 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.*