

## **Edmonton Composite Assessment Review Board**

**Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2013 ECARB 01545**

**Assessment Roll Number:** 9983307

**Municipal Address:** 9451 49 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**

**Robert Mowbrey, Presiding Officer**

**Howard Worrell, Board Member**

**Judy Shewchuk, Board Member**

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### **Procedural Matters**

[1] Upon questioning by the Presiding Officer, the parties indicated they had no objection to the composition of the Board. In addition, the Board members indicated no bias on this file.

### **Preliminary Matters**

[2] There were no preliminary matters.

### **Background**

[3] The subject property is a 48,370 square foot average quality large warehouse located at 9451-49 Street NW. The subject property is part of the Southeast industrial inventory and was constructed in 1977. The site coverage is 33% and the 2013 assessment is for \$5,006,500.

### **Issue**

[4] What is the market value of the subject property?

### **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 filed this complaint on the basis that the subject property's assessment of \$5,006,500 exceeds the best estimate of market value. In support of this position, the Complainant presented the Board with a 20 page evidence package marked as Exhibit C-.

[7] The Complainant presented the Board with photographs, and maps detailing the subject property [Exhibit C-1 pages 4-7].

[8] The Complainant advised the Board that the assessment for the subject property was prepared using the direct sales comparison approach. The direct sales comparison approach is based on the principle of substitution which maintains that a prudent purchaser would not pay more for a property than what it would cost to purchase a suitable alternative property that exhibits similar physical characteristics, tenancy, location etc. Within this approach, the property being reviewed is compared to properties that have sold recently and are considered to be relatively similar to the subject. "Most commonly, a unit of comparison (i.e. price per square foot, price per suite, etc.), is utilized to facilitate the analysis" [Exhibit C-1 pages 8, 9].

[9] The Complainant further noted that "real estate owner-operators purchase the majority of industrial warehouse buildings in Western Canada. Such owners are most concerned with its particular physical and locational characteristics, rather than the property's income generating abilities. This suggests that the direct comparison approach is a relevant valuation technique for the subject property" [Exhibit C-1 page 10].

[10] The Complainant presented 4 sales comparables to the Board. The 4 sales comparables ranged from 1974 to 1979 in year of construction. The net leasable area ranged from 38,373 square feet to 64,149 square feet and site coverage ranged from 28 to 40%. The sales dates ranged from June 2010 to December 2011 and the price per square foot ranged from \$75.57 to \$109.52. The Complainant notes that the average of the 4 sales is \$88.60 per square foot, and in consideration of the subject's newer construction, an upward adjustment is necessary. The Complainant stated that the subject property's assessment of \$103.50 per square foot is an inaccurate representation of market value for the subject property [Exhibit C-1 page 11].

[11] The Complainant argued that a 9.1% increase in assessment over 1 year is too high, considering that 3.21% is normal [Exhibit C-1 page 2].

[12] In his last word, the Complainant stated his #4 sale at 4900-93 Avenue is a valid sale as there is no evidence of any structural issues.

[13] In addition, the Complainant stated that 3 out of 6 of the Respondent's equity comparables had office finishes and therefore a downward adjustment was necessary for comparability to the subject property.

[14] The Complainant advised the Board the Respondent's #4 sale comparable at 12930-148<sup>th</sup> Street is in a different quadrant of the City making comparability to the subject property difficult.

[15] The Complainant argued that his 4 recent sales supported the reduction in assessment. During the hearing, the Complainant's sales comparables were time adjusted. The time-adjusted sale price per square foot ranged from \$82.62 to \$118.62 with an average of \$95.31. The Complainant therefore adjusted his request from \$4,305,000 to \$4,590,000 based on \$95.00 per square foot.

### **Position of the Respondent**

[16] The Respondent defended the 2013 assessment by providing the Board with a 54 page disclosure package marked as Exhibit R-1.

[17] The Respondent explained that the assessment and similar assessments were prepared using the direct sales comparison methodology. The Respondent advised the Board that "there is ample data from which to derive reliable estimates and only a portion of the inventory is traded based on its ability to generate income. A large percentage of industrial property in Edmonton is owner-occupied, and as such has no income attributable to it" [Exhibit R-1 page 6].

[18] The Respondent advised the Board that sales occurring from January 2008 through June 2012 were used in the model development and testing. Factors found to affect value in the warehouse inventory are as follows: total main floor area (per building), site coverage, effective age (per building), condition (per building), location of the property, main floor finished area, as well as finished area (per building). The most common unit of comparison for industrial properties is value per square foot of building area [Exhibit R-1 pages 7, 8 and 11].

[19] The Respondent provided the Board with maps, photographs and assessment details of the subject property [Exhibit R-1 pages 12-18].

[20] In support of the City of Edmonton's assessment, the Respondent presented 4 sale comparables to the Board. The comparables ranged in year built from 1969 to 1998, and ranged in site coverage from 28 to 40%. The total building size ranged from 39,663 to 44,887 square feet and time-adjusted sale price per square foot of total building area ranged from \$94.84 to \$152.00 [Exhibit R-1 page 29].

[21] The Respondent presented 6 equity assessment comparables to the Board. The equity comparables ranged in effective age from 1973 to 1978 and site coverage ranged from 31 to 37%. The total building size ranged from 40,399 to 53,751 square feet. The assessment per square foot of total building area ranged from \$101.00 to \$105.00 [Exhibit R- page 35].

[22] The Respondent advised the Board regarding law and legislation issues as follows:

- a. Market value within a range. "The MGB has ruled on a number of occasions that market value encompasses a range of values and the issue is whether the assessment falls within that range of values" [Exhibit R-1 page 36].

- b. The 5% Range. "Both the ARB and MGB have ruled on numerous occasions that it would not alter an assessment if the requested change to the assessment, or if the evidence indicates a change to the assessment within 5%" [Exhibit R-1 page 37].
- c. Burden of Proof or Onus of the Parties. "The onus rests with the Complainant to provide sufficiently convincing evidence on which a change to the assessment can be based. The Complainant's evidence needs to be sufficiently compelling to allow the Board to alter the assessment" [Exhibit R-1 page 39].

[23] During argument and summation, the Respondent argued that the Complainant and Respondent had 2 common sales and these common sales support the assessment (#2 at 4115-101<sup>st</sup> Street for \$94.84 and #3 at 8210 McIntyre Rd for \$118.63). The common sales average is \$106.73, which supports the 2013 assessment of \$103.50 per square foot.

[24] The Respondent requested that the Board confirm the 2013 assessment of \$5,006,500.

### **Decision**

[25] The Board confirms the 2013 assessment of \$5,006,500.

### **Reasons for the Decision**

[26] The Board was persuaded by the 2 common sales of the Complainant and the Respondent. Obviously, both parties selected these common sales to defend their position. The 2 common sales produce an average time adjusted selling price of total building square footage of \$106.73, which supports the assessment of \$103.50.

[27] The Board was somewhat persuaded by the equity comparables presented by the Respondent. All of the equity comparables were in group 18, similar in site coverage, and similar in total building area. The equity comparables ranged from \$101.00 per square foot to \$105.00 per square foot and the subject property at \$103.50 fits within the range.

[28] Although the Complainant raised the issue of higher office finish on some of the equity comparables, the Board put more weight on equity #2 at 7708-69<sup>th</sup> Street for \$101.00 per square foot and equity #3 at 6704-78<sup>th</sup> Avenue for \$104.00 per square foot.

[29] The Board did not dispute the fact the Complainant's #4 sale at 4900-93<sup>rd</sup> Avenue was in fact a valid sale. The Board agrees with the Complainant there was no evidence to support the assertion of extensive structural damage. However, the Board notes from the Complainant's evidence that this sale comparable is a 4 building complex, consisting of 3 freestanding office/restaurants and a multi-bay warehouse. The Board believes this fact alone would make comparability with the subject property difficult.

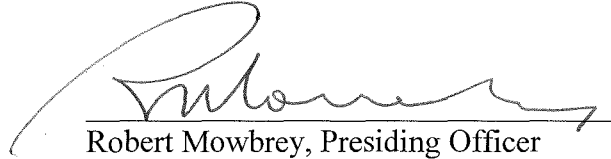
[30] Regarding the issue of an excessive increase in assessment year over year, the Board is mindful that each year's assessment is independent of previous assessments, and the mere fact of a large percentage increase without more evidence is not enough information to draw the conclusion that an assessment is too high.

**Dissenting Opinion**

[31] There was no dissenting opinion.

Heard October 11, 2013.

Dated this 29<sup>th</sup> day of October, 2013, at the City of Edmonton, Alberta.



Robert Mowbrey, Presiding Officer

**Appearances:**

Stephen Cook  
for the Complainant

Cherie Skolney  
Suzanne Magdiak  
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.*