

Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2013 ECARB 01547

Assessment Roll Number: 8635005
Municipal Address: 5809 98 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

DECISION OF
Robert Mowbrey, Presiding Officer
Howard Worrell, Board Member
Judy Shewchuk, Board Member

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 7,547 square foot average quality medium warehouse located at 5809-98th Street NW. The subject property is part of the Southeast industrial inventory and was constructed in 1974. The site coverage is 16% and the 2013 assessment is \$1,528,000.

Issues

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

[5] Is the subject property equitably assessed compared to similar properties?

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] The Complainant filed this complaint on the basis that the subject property's assessment of \$1,528,000 exceeds the best estimate of market value. The Complainant also stated that the 2013 assessment was 9.1% higher than the previous year. In support of this position, the Complainant presented the Board with a 30 page evidence package marked as Exhibit C-1. In addition, the Complainant presented the Board with a 13 page rebuttal package marked as Exhibit C-2.

[8] The Complainant presented the Board with photographs and maps detailing the subject property [Exhibit C-1 pages 3-5].

[9] 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 6-8].

[10] 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 7].

[11] The Complainant presented 7 sales comparables to the Board. The 7 sales comparables ranged in year of construction from 1972 to 1991. The net leasable area ranged from 8,000 square feet to 15,243 square feet and site coverage ranged from 8 to 28%. The sales dates ranged from March 2010 to April 2011 and the price per square foot ranged from \$88.19 to \$180.90. The Complainant notes that the average of the 7 sales equals \$140.43 per square foot. The Complainant utilized the time-adjustment factors obtained from the City. Considering factors such as the size of the subject, and the low site coverage, an upward adjustment must be made to

the overall unit average to account for the slightly lower size of the subject property [Exhibit C-1 page 9].

[12] Therefore, the Complainant contends that a unit value around \$180.00 per square foot is appropriate and reasonable [Exhibit C-1 page 9].

[13] The Complainant presented 7 equity assessment comparables to the Board. The 7 equity comparables ranged in year of construction from 1972 to 1991 and the net leasable area ranged from 8,000 to 15,243 square feet. The site coverage ranged from 8 to 28% and the assessments per square foot ranged from \$120.47 to \$163.50 [Exhibit C-1 page 10].

[14] The Complainant reviewed a 13 page rebuttal evidence package with the Board. The Complainant advised the Board that the City's 6 sales comparables had an average assessment to sales ratio [ASR] of 0.83% and therefore the subject has been assessed inequitably. The Complainant stated that only the first 2 "comparables are located in the same group 18 (core south), and they are assessed at \$189.10 and \$175.66 per square foot, which amply supports the requested value of \$180.00 per square foot" [Exhibit C-2 page 4].

[15] During cross-examination, the Complainant stated that his sale comparable #4 at 9405-58th Avenue for a time adjusted selling price per square foot of \$88.19 should not be used, as it could be considered an outlier. This would increase the average of the remaining sales comparables to \$165.00 per square foot.

[16] During argument and summation, the Complainant stated that both the direct sales comparison and the equity approach to value both support a reduction in the assessment.

[17] During argument and summation, the Complainant advised the Board that the sale comparable at 9405-58 Avenue should clearly not be used as it is an obvious outlier.

[18] With his last word, the Complainant commented that the Respondent's sales comparables were dated and the assessments all lower than the subject's. The Complainant stated that the best comparables are number's 1-3, which support the \$180.00 per square foot requested.

[19] The Complainant requests that the Board reduce the 2013 assessment of \$1,528,000 to \$1,358,000.

Position of the Respondent

[20] The Respondent defended the 2013 assessment by providing the Board with a 60 page disclosure package marked as Exhibit R-1.

[21] The Respondent explained to the Board that the subject's 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].

[22] 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].

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

[24] In support of the City of Edmonton's assessment, the Respondent presented 6 sale comparables. The sales comparables ranged in year built from 1957 to 1981, site coverage ranged from 15 to 21%. Total building area ranged from 5,846 square feet to 10,637 square feet and the time-adjusted sale prices per square foot ranged from \$191.00 to \$291.00 [Exhibit R-1 page 31].

[25] The Respondent presented 7 equity assessment comparables to the Board. The equity comparables ranged in effective age from 1971 to 1981, and site coverage ranged from 13 to 17%. The total building size ranged from 5,919 to 9,275 square feet. The assessment per square foot ranged from \$193.00 to \$237.00 [Exhibit R- page 41].

[26] The Respondent made a number of comments regarding the Complainant's sales comparables:

- a. the Complainant's sales comparables #3 at 1431-70th Avenue NW, #6 at 4205-78th Avenue NW and #7 at 6400-30th Street NW, all have cost or partial cost buildings [Exhibit R-1 pages 37, 39 and 40].
- b. the Complainant's sale comparable #4 at 9405-58th Avenue NW had an extremely motivated purchaser [Exhibit R-1 page 39].
- c. four of the Complainant's 7 equity comparables have significantly higher site coverages than the subject property [Exhibit R-1 page 41].

[27] 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 42].
- 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 43].
- 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 44-45].

[28] During cross-examination of the Respondent, the Respondent commented as follows:

- a. the first 4 sale comparables of the Respondent are dated.
- b. sale comparables #4 and #5 of the Respondent are on major arterial roadways.

- c. sale comparable #5 was basically a land sale. The purchaser plans to demolish the building and build a small office. The land fronts 170th Street.
- d. regarding the Complainant's sale #4, there is no evidence to corroborate the assertion that the purchaser was highly motivated.

[29] During argument and summation, the Respondent advised the Board that both the Complainant and Respondent had sale comparables outside the neighborhood group.

[30] The Respondent argued that the City had a much tighter equity range than the Complainant regarding the equity comparables.

[31] The Respondent requested that the Board confirm the 2013 assessment of \$1,528,000.

Decision

[32] The Board reduces the 2013 assessment of \$1,528,000 to \$1,373,500.

Reasons for the Decision

[33] The Board was not persuaded by either the Complainant's or the Respondent's total sales comparables.

[34] The Board disregarded the Respondent's sales comparables #4, #5, and #6 due to their being on major arterial roadways while the subject property is not.

[35] The Board disregarded the Complainant's sales comparables #3, #6, and #7 since portions of their assessments were based on the cost approach. The Board further discarded sale comparable #2 of the Complainant due to the comparable being 22 years newer.

[36] However, the Board was persuaded that the Complainant's sales #1 and #5, along with the Respondent's sales comparables #1, #2, and #3 met the Board's criteria. Using the 5 sales, the average price per square foot is \$182.00.

[37] The Board multiplied the \$182.00 per square foot by the total building square footage of 7,547 and arrived at \$1,373,500 as being fair and reasonable.

[38] The Board placed little weight on the equity analyses of either party as the Board preferred the direct sales comparisons of the market.

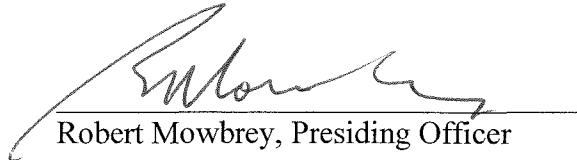
[39] Regarding the issue of an excessive increase in assessment year over year, the Board is mindful that each year's assessment is independent of previous assessments, and the mere fact of a large percentage increase without more evidence is not enough information to draw the conclusion that an assessment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

Dissenting Opinion

[40] There was no dissenting opinion.

Heard commencing October 10, 2013.

Dated this 30th day of OCTOBER 2013, at the City of Edmonton, Alberta.


Robert Mowbrey, Presiding Officer

Appearances:

Stephen Cook
for the Complainant

Cherie Skolney
Marcia Barker
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.