

Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2013 ECARB 01549

Assessment Roll Number: 8482432

Municipal Address: 9451 45 Avenue 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 74,978 square foot average quality large warehouse located at 9451-45th Avenue NW. The subject property is part of the Southeast industrial inventory and was constructed in 1998. The site coverage is 38% and the 2013 assessment is for \$8,208,000.

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 \$8,208,000 exceeds the best estimate of market value. The Complainant also stated that the 2013 assessment was 7.1% higher than the previous year. In support of this position, the Complainant presented the Board with a 20 page evidence package marked as Exhibit C-1. In addition, the Complainant presented a 20 page rebuttal evidence package marked as Exhibit C-2.

[8] The Complainant presented the Board with photographs and maps detailing the subject property [Exhibit C-1 pages 4-6].

[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 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 7, 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 9].

[11] 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 noted 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 was necessary. The Complainant stated that the assessment of \$109.47 per square foot is an inaccurate representation of market value for the subject property [Exhibit C-1 page 10].

[12] The Complainant presented 2 equity assessment comparables to the Board. The 2 equity comparables ranged in year of construction from 1977 to 1998, and the net leasable area ranged from 97,743 to 162,860 square feet. The site coverage ranged from 43 to 54% and the assessment per square foot ranged from \$82.70 to \$100.71 [Exhibit C-1 page 11].

[13] During cross-examination the Complainant advised the Board of the following:

- a. the Complainant's sales on page 10 were not time-adjusted.
- b. although the Complainant's #2 equity assessment is a retail plaza, it is nonetheless zoned industrial.

[14] The Complainant reviewed a 20 page rebuttal evidence package with the Board. The Complainant advised the Board that the City's 5 sales comparables had an average assessment to sales ratio (ASR) of 0.88% and therefore the subject had been assessed inequitably. The Complainant stated that only 2 of the City's sales are remotely similar in size, with 3 of the sales comparables in the 39,000 to 45,000 square foot range. The Complainant stated that the closest sales comparable in terms of size to the subject property is 89,449 square feet and is assessed at \$87.16 per square foot, which "ably demonstrates that the principles of economies of scale are working" [Exhibit C-2 page 5].

[15] During argument and summation, the Complainant advised the Board that the Complainant looked at the market value, sizes of properties, age and location and determined that the subject property's assessment of \$110.00 per square foot is not equitable.

[16] In addition, with upward adjustments to the Complainant's comparables, \$100.00 per square foot is fair and reasonable.

[17] In his last word, the Complainant noted that the time-adjustment factor issue raised by the Respondent is appropriate, and even when time-adjusting the Complainant's sales comparables, the sales support the \$100.00 per square foot assessment request for the subject property.

[18] The Complainant stated the range of the Respondent's 5 sales comparables (\$91.78 per square foot to \$183.73 per square foot) is too large for comparability. In addition, the Complainant advised the Board that 3 of the Respondent's sales comparables had low site coverages and 2 had higher office finishes.

[19] The Complainant requested that the Board reduce the 2013 assessment of \$8,208,000 to \$7,497,500.

Position of the Respondent

[20] The Respondent defended the 2013 assessment by providing the Board with a 58 page disclosure package marked as Exhibit R-1.

[21] 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].

[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 12-17].

[24] In support of the City of Edmonton's assessment, the Respondent presented 5 sale comparables to the Board. The comparables ranged in year built from 1961 to 1998, and ranged in site coverage from 27% to 45%. They also ranged in total building area from 38,859 square feet to 91,507 square feet, and in time-adjusted sale price per square foot from \$91.78 to \$183.73 [Exhibit R-1 page 29].

[25] The Respondent presented 5 equity assessment comparables to the Board. The equity comparables ranged in effective age from 1985 to 2010 and site coverage ranged from 34% to 46%. The total building size ranged from 72,278 to 92,762. The assessments per square foot ranged from \$95.59 to \$124.74 [Exhibit R- page 37].

[26] 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 40].
- 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 41].
- 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 43].

[27] During cross-examination, the Respondent advised the Board of the following:

- a. the comparables are color coded to show an upward or downward adjustment.
- b. the total time-adjusted sale price per square foot of \$91.78 to \$183.73 is a wide range.
- c. the Respondent's #2 sale at 7612-17 Street has the fewest adjustments and is considered to be the best comparable. The sale was validated. With a leaseback of 20 years, there is still no reason not to use the sale and the Respondent is familiar with leasebacks. There are 39,050 square feet with no heat, so this part is assessed on the cost approach. In addition, there is 2,160 square feet of re-locatable office based on cost.

- d. the Respondent's #3 sale at 9330-45 Avenue does have 25% office finish.
- e. the Respondent's #4 sale at 10025A-51 Avenue and sale #5 at 4004-99 Street are both on a major arterial road.
- f. the Respondent agreed there was no evidence presented to show the Complainant's #4 sale at 4900 93 Avenue had any structural issues.

[28] The Respondent advised the Board that the Complainant's #1 equity comparable at 4103 84 Avenue is based on the cost assessment methodology and not the direct sales approach [Exhibit R-1 page 37].

[29] The Respondent advised the Board that the Complainant's #2 equity comparable at 4600 99 Street is a retail plaza and as such, the assessment methodology is based on the income approach [Exhibit R-1 pages 38-39].

[30] The Respondent presented a 1 page surrebuttal to the Board. The evidence showed the Respondent's #2 sale at 7612 17 Street was a valid sale. Although the sale is a leaseback, the lease is believed to be at market price, based on the appraised value of land and buildings [Exhibit R-2 page 1].

[31] During argument and summation, the Respondent advised the Board that the Complainant's 4 sales were not time-adjusted.

[32] The Respondent advised the Board that the City time-adjusted its sales, that its sales are stronger and indicate if there should be an upward or downward adjustment.

[33] The Respondent advised the Board the Complainant's #2 equity comparable is a retail plaza and therefore is subject to a different assessment methodology.

[34] The Respondent requested that the Board confirm the 2013 assessment of \$8,208,000.

Decision

[35] The Board confirms the 2013 assessment of \$8,208,000.

Reasons for the Decision

[36] The Board was not persuaded by the Complainant's sales comparables. The Complainant's sales comparables were 19 to 24 years older than the subject property, making comparability difficult. In addition, the total square footage of the Complainant's sales comparables was up to 50% smaller than the subject property.

[37] The Board was not persuaded by the Complainant's equity comparables. The one equity comparable had much higher site coverage and was more than double the square footage of the total building size. The second equity comparable was assessed on the income approach, and as a retail plaza, was not comparable to the warehouse inventory.

[38] The Board was not persuaded by the Respondent's sales comparables. The age of the sales comparables of the Respondent does not lend itself to meaningful comparability. In addition, the time-adjusted sale price per square foot of total building footage offers such a huge range (\$94.84 to \$183.73) as to make the comparability difficult.

[39] The Board was somewhat persuaded by the Respondent's equity comparables. These comparables were similar in age, total building size and assessment per square foot of total building size. The chart outlining the comparability of these properties to the subject supports the assessment.

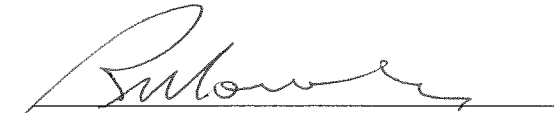
[40] The onus is on the Complainant to provide sufficient and compelling evidence to show the incorrectness on an assessment. The Board is satisfied the Complainant did not provide sufficient nor compelling evidence to allow the Board to conclude the assessment was incorrect.

Dissenting Opinion

[41] There was no dissenting opinion.

Heard commencing October 10, 2013.

Dated this 29th 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.