

## **Edmonton Composite Assessment Review Board**

**Citation: 10310-102 Ave (Revillon Boardwalk Building) Inc., as represented by Mathew Pierson, DuCharme, McMillen & Associates Canada, Ltd. v The City of Edmonton, 2014 ECARB 00272**

**Assessment Roll Number:** 3165289  
**Municipal Address:** 10310 102 Avenue NW  
**Assessment Year:** 2014  
**Assessment Type:** Annual New  
**Assessment Amount:** \$64,061,500

Between:

**10310-102 Ave (Revillon Boardwalk Building) Inc., as represented by  
Mathew Pierson, DuCharme, McMillen & Associates Canada, Ltd**

Complainant

and

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

Respondent

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**DECISION OF**  
**Larry Loven, Presiding Officer**  
**Taras Luciw, Board Member**  
**Dale Doan, Board Member**

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### **Procedural Matters**

[1] Upon questioning by the Presiding Officer the parties indicated they did not object to the Board's composition. In addition, the Board members stated they had no bias with respect to this file.

### **Preliminary Matters**

[2] At the outset of the hearing, and upon the Respondent's request, the parties were sworn in.

### **Background**

[3] The subject property consists of two buildings on assessment roll number 3165289, known as the Boardwalk Building, located at 10220 103 Street, and the Revillon Building, located at 10310 102 Avenue. The buildings were assessed as subclass BH for a final market value of \$64,061,500.

### **Issues**

- a) Is the classification of the subject buildings correct?

- b) Is the office lease rate of the subject buildings correct?
- c) Is the net rentable area of the buildings correct?

### **Position of the Complainant**

[4] The Complainant submitted a 38 page document, Exhibit C-1 (“C-1”), containing summary of testimonial evidence, assessment details, current assessments, subject photographs, subject leasing and market comparables, net rentable area, and proposed assessment. C-1 also contains information from the Allied REIT website, outlining the attributes of “Class I [“Industrial”] office space”.

[5] The Complainant submitted the high-rise office 2014 assessment *pro formas* for the two buildings located on the subject property. The Revillon Building has a 2014 market value estimate of \$33,356,500, based upon 131,616 square feet of office space assessed at a market rent of \$18.50 per square foot, less 5% vacancy rate, 2% structural expenses, and a vacancy shortfall of \$15.00 per square foot, capitalized at 6.5%. 78,115 square feet of office space in the Boardwalk Building was similarly assessed with the addition of the following CRU space:

|                        | Area (ft2) | Rental Rate (/sf) |
|------------------------|------------|-------------------|
| CRU<1,000ft2           | 1,964      | \$19.57           |
| CRU 1,001 to 3,000ft2  | 1,150      | \$18.50           |
| CRU 5,001 to 10,000ft2 | 18,768     | \$14.75           |
| CRU - Restaurant       | 23,347     | \$19.75           |

The Boardwalk Building has a 2014 market value estimate of \$30,705,000 (C-1, pp. 14-18).

[6] The Complainant provided photographs showing the facades of the buildings located on the subject property (C-1, pp. 19-21).

[7] The Complainant provided the rent rolls, each dated December 1, 2013, for both buildings located on the subject property. Regarding the Boardwalk Building, the Complainant directed the Board to the 63,355 square foot lease for suite #200, #300 and #400 at \$13.00 per square foot, and the 1,018 square foot lease for suite #410 at \$7.60 per square foot. The Complainant next directed the Board’s attention to the totals for the Boardwalk Building showing vacancy of 1,518 square feet and total square footage of 111,723. Regarding the rent roll for the Revillon Building, the Complainant directed the Board’s attention to the 16,562 square foot lease for suite #200 at \$13.00 per square foot (C-1, pp. 22-27).

[8] The Complainant submitted a table containing nine recent leases within the subject property, commencing from May 1, 2012 to October 1, 2013 and ranging from \$13.00 to \$18.79 per square foot, showing a mean of \$15.53 and a median of \$16.00 per square foot. The Complainant argued that these lease rates support a reduction of the office portion of subject property to \$15.00 per square foot. The Complainant further provided two recent leases for a property located at 10190 104 Street, known as the Metals Building, commencing April 1, 2012 and November 1, 2013, both at \$15.00 per square foot. Combining the two tables, the Complainant showed the mean and the median of all nine leases are \$15.44 and \$15.00 per square foot. The Complainant argued that these recent leases supported their requested rate of \$15.00 per square foot (C-1, pp. 28-29).

[9] The Complainant next argued the Respondent erred in the net rent area for the Boardwalk Building. The Complainant provided table showing the net rentable areas as follows:

|                                    | Area (sq ft)   |
|------------------------------------|----------------|
| Office Space                       | 71,156         |
| CRU<1,000ft <sup>2</sup>           | 1,964          |
| CRU 1,001 to 3,000ft <sup>2</sup>  | 1,400          |
| CRU 5,001 to 10,000ft <sup>2</sup> | 7,200          |
| CRU - Restaurant                   | 28,485         |
| <b>TOTAL</b>                       | <b>110,205</b> |

[10] Based on these revised square footages with all CRU space at the assessed rates and office space at the requested \$15.00 per square foot, the Complainant determined a market revenue of \$1,800,808. Then applying the assessed vacancy rate of 5%, operating costs of \$15.00 per square foot, the non-recoverable cost of 2%, and a capitalization rate of 6.5%, the Complainant determined a value of \$24,521,512 for the Boardwalk Building. Similarly, changing only the assessed market rate of the office space of the Revillon Building from \$18.50 to \$15.00 per square foot, and applying the assessed net rentable area, vacancy rate, operating costs, non-recoverable costs, and capitalization rate the Complainant determined a value of \$26,758,545 (C-1, pp. 34-35). Using these figures, the total assessment for the roll number would be \$51,280,000.

[11] The Complainant provided information from the Allied REIT website describing the characteristics of Class I office properties and outlining its acquisition criteria for these types of properties. The Complainant argued that this supported the re-classification of the subject property to Class I (C-1, pp. 37-38).

[12] In response to the Respondent's disclosure, the Complainant submitted into evidence a 167 page rebuttal, Exhibit C-2 ("C-2").

[13] The Complainant provide a table of the quantitative and qualitative attributes of the subject property, highlighting the effective year built as 1910, gross leasable area as 134,115 square feet with lease rates ranging from \$10.00 to \$18.79 per square foot. The Complainant stated the subject has offsite parking, no view, no LRT access and no pedway access (C-2, p. 4).

[14] C-2 also contained several decisions, namely: Calgary CARB 70517/P-2013, Calgary CARB 70162P-2013; MGB 140/01 (regarding 1999 Calgary office rental rate supporting a rental rate of \$14.00 per square foot (C-2, pp. 37-43)); *Mountain View (County) v, Alberta (Municipal Government Board)*, [2000] A.J. No. 1042, 2000 ABQB594 [*Mountain View*] (regarding the value of similar property (C-2, pp. 51-52)); MGB 145/07; *Bentall Retail Services Inc., BTC Properties Inc., 654529 BCP Ltd. V. Assessor of Area 09 – Vancouver*, 2006 BCSC 495 [*Bentall*]; MGB DL 055/11; Calgary ARB 0789-2010-P; Calgary CARB 70160/P-2013; and MGB Board Order 140/01.

[15] In summary, the Complainant argued that the property should be assessed at \$51,280,000 for a variety of reasons. Firstly, the subject property is a turn of the century downtown warehouse that is typical of Class I, not BB. Secondly, the Complainant argued that a rental rate of \$15.00 per square foot should be applied. The Complainant also cited: MGB 140/01 (C-2, p. 43) regarding derivation of market rentals from range of attributes of the property; *Mountain*

*View* para 14, 21, 25 and 29 (C-2, pp. 50-52) regarding mass appraisal; and *Bentall* (C-2, pp. 92-115) regarding a range of values.

### **Position of the Respondent**

[16] The Respondent submitted a brief, Exhibit R-1 (“R-1”) containing 120 pages. The document contained a testimonial statement, 2014 downtown office brief, aerial photographs and maps, pictures, *pro formas*, complaint issues, request for information, valuations rates, fairness and equity charts, board orders and a 2014 law brief.

[17] The Respondent referred the Board to its mass appraisal procedures and its chart of qualitative and quantitative attributes used in determining the classification of downtown office properties (R-1, pp. 4, 9).

[18] The Respondent next referred the Board to maps showing the location of the subject property in the downtown sector and photographs of the subject property (R-1, pp. 20-22, 23-24).

[19] The Respondent provided a table of the 2014 downtown valuations rates, showing the valuation for Subclass BH properties located in sector F, were assessed at \$18.50 per square foot for office space (R-1, p. 26).

[20] The Respondent provided the *pro formas* for the subject property, showing both buildings on the subject property assessed as Subclass BH. Both buildings are assessed at a 2014 market value of \$30,705,000 and \$33,356,500 for a 2014 final market value estimate of \$64,061,500. (R-1, pp. 25-26).

[21] The Respondent provided a table of the 2014 downtown valuations rates of each subclass of building. This table showed that office space in Subclass BH properties located in Financial sector (“F”) are assessed at \$18.50 per square foot (R-1, p. 27).

[22] The Respondent submitted commercial rent roll for the subject property, dated 07/09/2013 (R-1, pp 37-52). The Respondent also provided the 2012 and 2011 requests for information for the subject property (R-1, pp. 53-82).

[23] The Respondent submitted a table containing 81 BH Subclass office leases in the downtown sectors, Financial (“F”) and Government (“G”), ranging in effective date from January 1, 2012 to April 1, 2013. They included 38 new leases and 43 renewals, ranging in net rent from \$12.00 to \$20.00 per square foot. The Respondent highlighted three leases in support of the assessment, one for 1,000 to 3,000 square feet at \$18.79 per square foot, a second at more than 10,000 square feet at \$18.00 per square foot, and a third at 0 to 1,000 square feet at \$18.00 per square foot. The Respondent then applied a time adjustment factor ranging from 1.0460 to 1.2151 to the lease rates, and determined time adjusted rent rates ranging from \$13.41 to \$25.65 per square foot. The average time adjusted lease rate was given to be \$18.98 per square foot, and the median \$18.57 per square foot. The Respondent also showed the net rent for the last 6 months averaged \$18.52 per square foot, with a median of \$19.00 per square foot. Based on this information the Respondent applied a rate of \$18.50 per square foot to the subject property’s office space (R-1, pp. 83-84). The Respondent excluded 4 valid leases that it deemed atypical.

[24] The Respondent provided a table containing the 11 lease comparables submitted the Complainant. The Respondent indicated that only three of these leases were used in the rental

rate study, of the remainder three were considered to be post facto, four not included in the 2013 RFI received and one an old lease (R-1, p. 85).

[25] The Respondent submitted a 2014 vacancy study for downtown Class B properties showing vacancy rates ranging from 0.00% to 23.07%. These vacancy rates were shown to have a weighted average of 2.73% (R-1, p. 86).

[26] The Respondent provided a 2014 fairness and equity chart for downtown Class BH . The Chart contained 30 Class BH buildings (including the subject property) showing all except 6 assessed at the same factors as the subject property. All the remaining 30 properties were assessed at \$253.82 per square foot, the same rate as the subject property.

[27] The Respondent submitted copies of Board Orders, MGB 038/06 and DL 046/05 in regards to building classification and typical rental rates. .

[28] The Respondent stated that it is impossible for the subject property to be classified as a Class I property, as downtown office buildings are assessed in subclasses ranging from AAA to CL and it does not have a Class I. Converted warehouse buildings, such as the subject property, are categorized within the Respondent's system based upon how their attributes compare to other downtown properties.

The Respondent summarized their position as follows: the class of the subject property is correctly assessed as BB, and not Class I as claimed by the Complainant; the office rental rate applied is within the time adjusted range. Further, the sale of the subject property supports the assessed value and does not support the 20% vacancy request. Regarding the assessment generally, the Respondent stated that assessments are based on the fee simple value of the property, not the leased fee value; that *Bentall*, para 98 (C-2, p. 108) supports the 'correctness' of a range of values; and MGB 145/07 (C-2, pp. 83-84) supports the assessed classification system.

### **Decision**

[29] It is the decision of the Board to reduce the 2014 assessment of the subject property from \$64,061,500 to \$56,551,500.

### **Reasons for the Decision**

[30] The issues in this appeal are the rental rate applied to the subject's office space, the classification of the subject and the net leasable area. The Board heard no argument or evidence regarding the assessed rental rates of CRU spaces, nor the assessed vacancy rates of 5%, structural expenses of 2% and office and retail vacancy shortfalls of \$15.00 per square foot, and the capitalization rate of 6.50%.

[31] The Board finds some merit in the Complainants' argument regarding the creation of a Class I, and the attributes of the subject property may typify this proposed class; however, the Board accepts the Respondent's statement that such a class does not exist, and that former downtown warehouse buildings changed to office use are assessed with the attributes of downtown office subclasses.

[32] The Complainant agreed with the allocation of tenant's space as assessed for the Revillon Building. The Complainant's determination of the allocation of tenants space for the Boardwalk Building varies from the assessment as follows:

|                        | Assessed       | Complainant    |
|------------------------|----------------|----------------|
| Tenant Space           | Area (ft2)     |                |
| Office Space           | 78,115         | 71,156         |
| CRU<1,000ft2           | 1,964          | 1,964          |
| CRU 1,001 to 3,000ft2  | 1,150          | 1,400          |
| CRU 3,001 to 5,000ft2  |                |                |
| CRU 5,001 to 10,000ft2 | 18,768         | 7,200          |
| CRU - Restaurant       | 23,347         | 28,485         |
| <b>TOTAL</b>           | <b>123,344</b> | <b>110,205</b> |

The Board finds, based on its examination of the commercial lease summary, dated December 31, 2010, that the assessed total and office space areas most closely matches that shown to be 77,178 (net of vacancy) and 123,787 square feet respectively. Therefore, as the Board was given no further information on which to rely regarding the correctness of the areas, the Board concludes the subject property was correctly assessed with respect to area.

[33] The Board gives consideration to the recent leasing comparables in the subject property and similar nearby property, submitted by the Complainant, supporting a market rent rate of \$15.00 per square foot; however, the Board accepts that the Respondent is obligated to use typical rental rates to properly assess the fee simple estate, rather than the subject's actual rental rates.

[34] The Board heard little argument or evidence to support a time adjustment factor, ranging from 18.9% for lease with an effective date of January 1, 2012 to 4.6% for a lease with an effective date of April 1, 2013, used by the Respondent to determine an assessed lease rate of \$18.50 per square foot for class BH located in downtown districts F and G. The Board's examination of the 81 leases given by the Respondent in its 2014 rental rate study, without the application of time adjustment factors applied by the Respondent, support a rental rate in the range of \$16.30 to \$16.00 per square foot, based on the average and median values, respectively. Similarly the average and median of the last six month's rental rates give \$16.76 and \$16.75 per square foot respectively. Therefore, the Board is unable to place weight on the assessed office rate of \$18.50 per square foot as determined by the Respondent, and resultingly on its fairness and equity chart with respect to the assessed office rate.

[35] Based on the above reasons, the non-(time)adjusted office lease rates provided by the Respondent, support an office rate of \$16.00 per square foot.

[36] In summary, based on a an office rental rate of \$16.00 per square foot and the assessed tenant spaces, the Board finds the value of the subject property as follows:

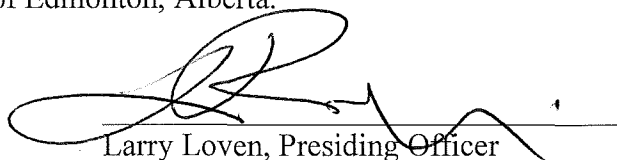
|                                     | BOARDWALK  |                 |                      | REVILLON   |                 |               |
|-------------------------------------|------------|-----------------|----------------------|------------|-----------------|---------------|
| Tenant Space                        | Area (ft2) | Market Rent/ft2 | Total                | Area (ft2) | Market Rent/ft2 | Total         |
| Office                              | 78,115     | \$ 16.00        | \$ 1,249,840         | 131,616    | \$ 16.00        | \$ 2,105,856  |
| CRU<1,000 ft2                       | 1,964      | \$ 19.75        | \$ 38,789            |            |                 | \$ -          |
| CRU 1,001 to 3,000 ft2              | 1,150      | \$ 18.50        | \$ 21,275            |            |                 | \$ -          |
| CRU 5,001 to 10,000 ft2             | 18,768     | \$ 14.75        | \$ 276,828           |            |                 | \$ -          |
| CRU Restaurant                      | 23,347     | \$ 19.75        | \$ 461,103           |            |                 | \$ -          |
| Storage                             |            |                 |                      | 2,499      | \$ -            | \$ -          |
| Total                               | 123,344    |                 | \$ 2,047,835         | 134,115    |                 | \$ 2,105,856  |
| Vacancy                             |            |                 |                      |            |                 |               |
| Office                              | 5%         |                 | \$ 62,492            | 5%         |                 | \$ 105,293    |
| Retail                              | 5%         |                 | \$ 39,900            | 5%         |                 | \$ -          |
| Effective Gross Income              |            |                 | \$ 1,945,443         |            |                 | \$ 2,000,563  |
| Less Structural                     | 2%         |                 | \$ 38,909            | 2%         |                 | \$ 40,011     |
| Less Vacancy                        |            |                 |                      |            |                 |               |
| Office                              | \$ 15.00   | 3906            | \$ 58,586            | \$ 15.00   | 6580.8          | \$ 98,712     |
| Retail                              | \$ 15.00   | 2261            | \$ 33,922            | \$ 15.00   | 0               | \$ -          |
| Net Operating Income                |            |                 | \$ 1,814,027         |            |                 | \$ 1,861,840  |
| Capitalization Rate                 | 6.50%      |                 | \$ 27,908,102        | 6.50%      |                 | \$ 28,643,691 |
| 2014 Estimate of Value              |            |                 | \$ 27,908,000        |            |                 | \$ 28,643,500 |
| <b>2014 Final Estimate of Value</b> |            |                 | <b>\$ 56,551,500</b> |            |                 |               |

### **Dissenting Opinion**

[37] None.

Heard June 3, 2014.

Dated this 4<sup>th</sup> day of July, 2014, at the City of Edmonton, Alberta.

  
Larry Loven, Presiding Officer

### **Appearances:**

Adam Farley

Christopher Hartley

for the Complainant

Cameron Ashmore

Darren Davies

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.*

## Appendix

### Legislation

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.

### Exhibits

C1 - Complainant Disclosure – 38 pages

C2 – Complainant Rebuttal – 167 pages

R1 – Respondent Disclosure – 120 pages