

Edmonton Composite Assessment Review Board

**Citation: Colliers International Realty Advisors Inc for Bhui Brothers Commercial Ltd v
The City of Edmonton, 2014 ECARB 00812**

Assessment Roll Number: 1159011
Municipal Address: 3946 76 Avenue NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: \$2,175,000

Between:

Colliers International Realty Advisors Inc for Bhui Brothers Commercial Ltd Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Willard Hughes, Presiding Officer
John Braim, Board Member
Robert Kallir, Board Member

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] There were no preliminary matters.

Background

[3] The subject property contains a 2 tenant industrial warehouse of 10,061 sq ft with 1,587 sq ft finished main floor office space. The 1.3 acre property is located in the Weir Industrial Neighbourhood in southeast Edmonton, within Industrial Group 18 (Core South). The building has an effective year built of 1980, is in average condition, with site coverage of 17%. The land is zoned IM – Medium Industrial. The 2014 assessment is \$2,175,000, or \$216 per sq ft.

Issues

[4] Has the subject property been fairly and equitably assessed?

Position of the Complainant

[5] The Complainant presented evidence to the Board for its review and consideration to support his position that the assessment of the subject property should be reduced from \$2,175,000 to \$1,660,000. The Complainant stated that the 2014 assessment represents a 38% increase from the 2013 assessment of \$1,557,000. The initial 2013 assessment of \$1,906,000 was reduced on appeal to \$1,577,000 (ECARB 01536).

[6] The Complainant also advised that the subject property was purchased on August 17, 2010 for \$1,400,000, as a valid arms-length sale.

[7] Four approaches to determining value for the subject were provided by the Complainant.

[8] Utilizing the Respondent time adjustment factors the time adjusted sales price (TASP) for the the subject property is \$1,814,000 (\$180.29 sq ft). The Complainant stated that the best evidence of market value is the arms-length sale of property. In this regard the complainant referred the Board to *697604 Alberta Ltd. V Calgary (City of)*, ABQB 2005 512 and CARB decisions 01544, 01536 and 0302-10/2011. .

[9] The Complainant used a Direct Sales Approach and presented four comparable sales with recent sale dates and other similar attributes. However, two sites were located outside Group 18, one being in a higher value Neighbourhood group and one being in a lesser value Neighbourhood group. The Complainant stated the best comparable was the first one in the chart, in very close proximity to the subject, and similar in other attributes including building area, year of construction, site coverage, parcel size, and recent sale dates. This comparable has a TASP of \$145.54 per sq ft. Comparable #3 is also in Group 18, with comparable attributes to the subject, and has a TASP of \$171.84 per sq ft. The Complainant concluded that based on an average sale price of \$165.60 per sq ft, that the assessed value should be \$1,660,000.

[10] The Complainant provided four Equity comparables three of which have similar attributes to the subject property, with an average of \$179.61 per sq ft, in support of the assertion that the assessment is too high.

[11] The Complainant provided an Income Approach to value in support of the reduction request of the assessment for the subject property. A table of recent leasing activity was provided. The lease rates ranged from \$5.90/ sq ft to \$12.00/ sq ft with an average of \$11.17/ sq ft from which a rate of \$11.00/ sq ft was applied to the subject property. Utilizing a vacancy rate of 2% and a structural allowance of 2% the net operating income of \$105,293 was capitalized at 6% into a value of \$1,754,880 which indicates the current assessment is too high. The capitalization rate of 6% is based on a market survey completed by Colliers International that Single Tenant Industrial Buildings in Edmonton have a capitalization rate between 5.75% and 6.75% and the chart for the sale of nine properties provided by the Complainant.

[12] As decided in the decision in *British Columbia (Assessor for Area 9 - Vancouver) v. Bramalea Ltd.*, 1990 CanLII 284 (BC CA), it is not proper to sustain an assessment in excess of market value simply because it bears a fair and just relation to assessments on other similar properties.

[13] Having utilized four approaches to value, the Complainant concluded that the Direct Sales approach is the most appropriate method for valuing the property for assessment purposes and requested the Board to reduce the assessed value to \$1,660,000. The Complainant added that

this number is supported by the evidence in the TASP of the subject property, and the Equity and Income approaches.

[14] In summary, the Complainant indicated that best evidence of value is the sale of the subject, as evidenced in prior CARB decisions. Furthermore, the Complainant reiterated that his sales had the most similar attributes and supported a reduced assessment. Further support comes from Equity and Income data. The Complainant added that the City sales comparables required extensive adjustments and were not a reliable indicator of value.

[15] In rebuttal, the Complainant provided a chart of the Respondent's sale comparables and stated that the chart supported the request for an assessment of \$1,660,000. In that regard evidence was provided by the Complainant that the sale of the property at 3849 76 Avenue was not useful as it was a sale/leaseback transaction.

Position of the Respondent

[16] The Respondent presented evidence to the Board for its review and consideration and stated that comparable properties set out by the City in its disclosure package provided the necessary evidence to confirm the assessment of the subject property at \$2,175,000.

[17] For the purposes of the 2014 annual assessment, the Direct Comparison approach (also referred to as the Sales Comparison approach) was employed. There is ample data from which to derive reliable value estimates and only a portion of the inventory is traded based on its ability to generate income. A majority of industrial property in Edmonton is owner-occupied and as such has no income attributable to it.

[18] Each year's assessment is independent of previous assessments and the mere fact of a large percentage increase without more evidence is not enough to draw the conclusion that an assessment is too high. Assessments are not based on previous year's assessments. The Complainant did not disclose any evidence to establish that the assessment was too high.

[19] The Respondent provided a Direct Sales approach as the subject had been assessed by that method. Six sales comparables were provided, all located in Grouping 18 with similar attributes such as condition and main floor area. The sales were time adjusted and produced rates between \$196 to \$279 TASP/sq ft of main, whereas the subject was at \$216.

[20] The Respondent also provided a chart of Complainant sales with additional columns indicating variations and adjustments to the information provided by the Complainant. This produced rates between \$164 to \$194 TASP/sq ft main, relative to the subject at \$216.

[21] Upon questioning by the Complainant and the Board, it was noted that significant adjustments were necessary to the Respondent's Sales comparables, in particular with variances in sales dates (older), effective ages (much older), parcel sizes (wide range), and varying site coverage, all of which affect the assessed value of a property.

[22] The Respondent provided five equity comparables in support of the assessment. All five were in Area 18, with a main floor range between \$211 per sq ft and \$217 per sq ft, relative to \$216 per sq ft for the subject. The Respondent critiqued the Complainant's equity comparables but provided no substantive evidence in that regard.

[23] In surrebuttal the Respondent provided a chart of the Respondent's sale comparables and stated that the chart supported the request for an assessment of \$2,175,000.

[24] The Respondent stated that one sale does not constitute a market, and concluded that City Direct Sales comparables support the assessment of 2,175,000.

Decision

[25] The decision of the Board is to reduce the 2014 assessment from \$2,175,000 to \$1,811,000.

Reasons for the Decision

[26] The TASP (utilizing data from the Respondent of the subject) at \$180.20 per sq ft, supported a reduction in the assessment to \$1,814,000.

[27] Sales #1 and #3 provided by the Complainant, both which were in close proximity and in the same Area (18), had recent sales dates, close in age, lot size, site coverage, main floor area, when compared to the subject. These two comparables resulted in a TASP/main floor sq ft of \$164 and \$194, with an average at \$179 /sq ft which is less than the 2014 assessment of \$216/sq ft, but greater than the requested reduction to \$165/sq ft.

[28] While the Complainant's sales comparables provided support for a reduction in the assessment they did not justify a reduction to \$165/sq ft.

[29] The Board was not persuaded by the Respondent's sales comparables. Sale dates were not recent, effective ages had wide range (and generally older), and wide ranges in attributes such as site area and site coverage. All of these sales required considerable adjustments resulting in decreasing assessment precision.

[30] The Equity comparables provided by the Complainant, having many similar attributes and resulting in an average of \$179.61, support the position of the Complainant that the equity approach to the assessed value should be \$180/sq ft. No evidence was provided by the Respondent in support of an equity approach.

[31] The Board places little weight on the Complainant's Income Approach, as the Board finds the Direct Sales approach is the generally accepted method for industrial properties in Edmonton due to the high proportion of owner user properties.

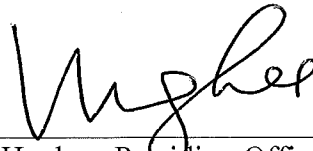
[32] In conclusion, the Board finds that the average price of the Complainant's best sales comparables of \$179 per sq ft, best reflects market value. Such findings are supported by Complainant's TASP of the subject at \$180.29 per sq ft, and the average of Complainant's Equity comparables of \$180 per sq ft. The Board determines the 2014 assessment to be \$179 per sq ft, or a value of \$1,811,000.

Dissenting Opinion

[33] There was no dissenting opinion.

Heard July 10, 2014.

Dated this 5th day of August, 2014, at the City of Edmonton, Alberta.



Willard Hughes, Presiding Officer

Appearances:

James Phelan, Colliers International

Stephen Cook, Colliers International

for the Complainant

Katrina Rossol, Assessor

Luis Delgado, Assessor

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

- C-1 Complainant’s Submission
- C-2 Complainant’s Rebuttal
- R-1 Respondent’s Submissions
- R-2 Respondent’s Surrebuttal