

Edmonton Composite Assessment Review Board

**Citation: COLLIERS INTERNATIONAL REALTY ADVISORS INC v The City of
Edmonton, ECARB 2012-002047**

Assessment Roll Number: 3778743
Municipal Address: 11745 95 STREET NW
Assessment Year: 2012
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
Dale Doan, Board Member
Petra Hagemann, Board Member

Preliminary Matters

[1] Upon questioning by the Presiding Officer, the parties indicated they had no objection to the composition of the Board. Each of the Board Members declared that they had no bias on this matter.

[2] During the hearing, the Respondent advised the Board that the City was recommending the 2012 assessment be reduced to \$2,117,000. The Complainant did not accept the recommendation and the hearing continued.

Background

[3] The subject property is a retail space built in 1942, located in the Alberta Avenue neighborhood of Edmonton. The property has approximately 15,266 square feet of main floor retail and second floor apartment space, situated on a lot .680 acres in size, resulting in a 49% site coverage. The 2012 assessment is for \$2,534,000.

Issue(s)

[4] Is the assessment of the subject property in excess of its market value?

Legislation

[5] The Municipal Government Act reads:

Municipal Government Act, RSA 2000, c M-26

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 assessment of \$2,534,000 was inequitable and in excess of market value. In support of this position, the Complainant presented a 19-page evidence package to the Board (Exhibit C-1).

[7] The Complainant advised the Board that the subject property was sold in December 2009 for a total of \$1,650,000 (Exhibit C-1 page 6). The Complainant advised the Board that the sale was a market transaction between a willing buyer and a willing seller. In addition, the Complainant stated the best evidence of the subject property’s market value is the sale of the subject property itself.

[8] The Complainant referred the Board to a previous composite assessment review board (CARB) decision that stated, “The Board is of the view, as are both parties, that the best comparables are those within the same municipality. In regard, there is insufficient similar sales comparables to establish a typical capitalization rate within Sherwood Park.” (Exhibit C-1 page 12).

[9] In addition, the same CARB decision stated “the Complainant argues that the best indicator of market value is the sale of the subject property at or near the valuation date.” (Exhibit C-1 page 12).

[10] The Complainant presented the Board with an 11-page rebuttal evidence package marked as Exhibit C-2. The Complainant defended the Respondent’s assertion that the sale did not meet the definition of a market transaction. As part of the rebuttal package is an email from the purchaser stating there is no reason the sale price would differ from the market value. In addition, there was a statement signed by the Vendor stating the sale price was at market value (Exhibit C-2 pages 9-11).

[11] The Complainant advised the Board that the subject property was unique and sales comparables were difficult to find.

[12] With the Complainant's rebuttal, the Respondent had stated the owner had spent a total of \$160,000 for repairs. The Complainant showed the Board that the owner spent approximately \$50,000 for repairs (Exhibit C-2 page 8).

[13] During cross examination, the Respondent stated the market was considered flat, since the sale of the subject property; thus, negating the need for a time adjusted schedule from the date of sale to the valuation date.

[14] The Respondent, under cross-examination, admitted although the subject property had not been advertised, the City considered the sale of the subject property a valid sale.

[15] In addition, the Complainant stated the Respondent's comparables were newer as well as smaller, and therefore the Respondent's sales comparables were not remotely comparable.

[16] The Complainant requested the Board to reduce the 2012 assessment from \$2,534,000 to \$1,650,000 as per the sale price of the subject property.

Position of the Respondent

[17] The Respondent defended the City's position in presenting a 30-page assessment brief to the Board marked as Exhibit R-1 and an 88-page law and legislation evidence package marked as Exhibit R-2. In addition, the Respondent advised the Board that the Respondent would be defending the 2012 recommended assessment of \$2,117,000.

[18] The Respondent advised the Board that the sale of the subject property was a private sale and had not been exposed to the market and therefore did not meet the definition of a market sale (Exhibit R-1 page 30).

[19] The Respondent presented the Board with a chart showing retail properties on 118 Avenue with an 8% capitalization rate (Exhibit R-1 page 17).

[20] The Respondent submitted to the Board a chart showing actual rents for the subject property and comparable properties for auto centers and medium commercial retail units (Exhibit R-1 page 18).

[21] The Respondent showed the Board five assessment comparables with the subject property; all being in the same market area (Exhibit R-1 page 19).

[22] The Respondent presented a decision from a composite assessment review board (CARB) that stated; "The sales comparable presented by the Complainant was the only piece of evidence left for the Board to consider, however, the Board was not persuaded by the lone sale to justify a reduction. The Board noted that the sale was to the lessee of the subject and may have been a motivated sale" (Exhibit R-1 page 29).

[23] During summation, the Respondent advised the Board the City was legislated to use mass appraisal techniques and typical variables for the valuation of properties.

[24] During summation, the Respondent requested the Board to confirm the 2012 recommended assessment of \$2,117,000.

Decision

[25] The decision of the Board is to reduce the 2112 recommended assessment of \$2,117,000 to \$1,650,000.

Reasons for the Decision

[26] The Board believes that the best indicator of market value of a property is the sale of the subject property itself.

[27] The Board is cognizant of the fact that the sale of the subject property does not meet the definition of a market sale, in that; the subject property was not listed on the open market. However, the Board takes some comfort that the Complainant provided written evidence from both the seller and the buyer indicating the transaction was based on market value. In addition, the Respondent indicates the sale was considered a valid sale.

[28] The Board was not persuaded by the Respondent's sales comparables as they were generally newer and smaller than the subject property.

Dissenting Opinion

[29] There was no dissenting opinion.

Heard commencing September 24, 2012.

Dated this 28th day of September, 2012, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

Greg Jobagy, Colliers International Realty Advisors Inc.

Stephen Cook, Colliers International Realty Advisors Inc.
for the Complainant

Gail Rookes, Assessor
for the Respondent