

Edmonton Composite Assessment Review Board

**Citation: COLLIERS INTERNATIONAL REALTY ADVISORS INC v The City of
Edmonton, ECARB 2012-002049**

Assessment Roll Number: 3528403
Municipal Address: 11340 120 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
James Fleming, Presiding Officer
Dale Doan, Board Member
Petra Hagemann, Board Member

Preliminary Matters

[1] Neither party objected to the composition of the Board. The Board Members confirmed that they had no bias with respect to this matter.

Background

[2] The subject property is a large warehouse originally constructed in 1952 and upgraded in 1974. It is located in the Prince Rupert subdivision of Edmonton. The building is 79,188 square feet (sq. ft.), is situated on a parcel of land with a total of 198,423 sq ft (4.56 acres), and has site coverage of 30%. The property is zoned IM – Medium Industrial and is assessed on the Direct Sales Comparison approach (DSC). The time adjustment calculations were not in dispute.

Issue(s)

[3] The reasons for the Complaint were not included in the evidence from either party, but at the outset of the hearing, the Complainant advised that they were contesting the value based on three approaches to valuation.

[4] What method yields the best valuation for the property: Is it the Sale of the property, the Capitalized Income approach (IAV), or the DSC?

[5] Once the best method is established, what are the best attributes to use to establish a value?

Legislation

[6] 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

[7] The Complainant advised they had investigated three methods of valuation for the subject, all of which generally supported their requested assessment.

[8] First, they noted that the property had sold in Jan 2010 for a time adjusted price (TASP) of \$3,400,171, and they went on to say that the Courts had determined that the sale of a subject was an important determinant of value for assessment purposes (Ex. C1, pg. 11). The Complainant indicated the property sold for a below average unit value price due to its below average condition, its location close to a residential area and its older age (1952/1974).

[9] The Complainant provided five sales that they asserted were comparable in support of their analysis of the DSC valuation. They noted that all of the sales were from the year 2010, and the size of the improvements varied from 29,201 sq. ft. to 84,832 sq. ft (the subject is 79,188 sq. ft.). The zoning ranges from IH to IB, with three of the five comparables having IM zoning, the same as the subject. The value per sq. ft. ranged from \$46.49 to \$66.78, and the average was \$55.24 per sq. ft.

[10] The Complainant made adjustments of -10% for the older age of the property and a further -10% for the larger size of the property which resulted in a value of \$44.19 per sq. ft. (\$55.24 Average, minus 20%). This resulted in a (truncated) value of \$3,499,000.

[11] The Complainant also provided an IAV. The rent was selected by adjusting the rate for four lease comparables from the average of \$4.11 per sq. ft. to \$3.50 per sq. ft. to account for the age and condition (Ex. C1, pg. 19).

[12] The capitalization rate at 7.50% was taken (at the high end of the range of Edmonton cap rates) from a nationwide Colliers Cap Rate study (Ex. C1, pg. 39). No support was provided for other selected attributes for the income calculations. The value based on the income approach was calculated at \$3,485,000.

[13] The Complainant concluded by summarizing the four values (which included the unadjusted sales price), all of which were within \$100,000 of **\$3,400,000**, the value requested for the revised assessment.

Position of the Respondent

[14] The Respondent provided four sales they asserted were comparable. The site coverage of the comparables were all higher than the subject from 34% to 46%. The land area varied from 102,260 sq. ft. to 263,079 sq. ft., and the total building area ranged from \$68.56 per sq. ft. to \$95.24 per sq. ft. The Complainant said that this provided good support for their assessed value at \$73.04 per sq. ft.

[15] The Respondent raised criticisms for a number of the Complainant's arguments. First with respect to the sale of the subject, in following up on the sale, the City had determined that the subject transferred as part of a larger sale of businesses (Ex. R1, pg 25). They argued that this was not a valid sale because it was not a true real estate transaction because of the possible additional terms unknown and unlisted on the sale details sheet.

[16] With respect to the Complainant's comparables, the Respondent noted that comparable #1 was acknowledged to need \$850,000 of roof repairs at the time of sale, and that if that amount was added to the price, it increased the price per sq. ft. to \$64.00.

[17] With respect to the second comparable, the Respondent indicated (after talking with the Vendor), that the first sale of the property (used by the Complainant) was based on a three year old option price that was reported to be well below market value. To support that assertion, they produced a two month post facto sale for the same property which sold for almost three times the price. As well, they pointed out that one of the buildings on the site, accounting for over 40% of the total developed area, was actually a metal warehouse which was valued on the cost approach. They argued that clearly, any calculations based on the total developed square footage were invalid because of the quality of the building assessed on cost, and the discrepancy between the two types of buildings. Finally, they highlighted the 20 acre size of the comparable and indicated that it was not comparable with the subject in land area, because it was four to five times the area.

[18] The Respondent highlighted concerns over the Complainant's comparable #4. They indicated that the sale data provided did not accurately reflect the site details, and as well, the property was purchased by a long time tenant which should establish concerns about the motivation of the parties. The Respondent was unable to clarify the details of the sale, but did note that at least two roll numbers were involved (Ex. R1, pg. 33), and the reported sales price bore no relationship to the assessed value (\$1,539,731 Sale Price vs. \$5,920,500 Assessment). They argued that the uncertainty over the details of the site should exclude it as a comparable.

[19] Finally, the Respondent used the Colliers Edmonton Industrial report to show that central/northwest per sq. ft. rents ranged from \$6.50 to \$7.96. They also included an offer to lease sheet for the subject property which quoted \$17.00 per sq. ft. gross (Ex R1, pgs.40 – 42).

All of this information challenged the \$3.50 per sq. ft. rent used by the Complainant in their IAV.

[20] On a different tack, the Respondent pointed out that the picture and location of the property used by the Complainant were incorrect. The subject was not the Sentinel Storage Building located on 119th St. as depicted on the cover page of Exhibits C1 & C2, in spite of the fact that the Complainant said he had personally inspected the site. The Respondent in sur-rebuttal (Ex. R2) also provided a screenshot demonstrating the Sentinel Self Storage was a different building.

[21] The Respondent concluded saying the evidence supported their request for confirmation of the assessment at **\$5,784,000**.

Complainant's Rebuttal

[22] The Complainant's rebuttal continued to highlight the incorrect building. The Complainant focused the rebuttal on a criticism of the Respondent's comparables. (Ex. C2, pg 8).

[23] They criticized Comparable's #1 and #2 for the fact that the sales were 2 and 3 years old. They suggested that comparable's #1 and #3 were much smaller (56% & 60%) than the subject. They also suggested that comparables #1 and #2 and #4 were much newer (1975, 1978 & 1977), and finally they noted that comparable #4 was acquired by the lead tenant, suggesting that that might impair the comparability of the property.

Decision

[24] The complaint is denied and the assessment is confirmed at **\$5,784,000**.

Reasons for the Decision

[25] The CARB considered all of the evidence and argument. First, with respect to the sale of the subject property, the Complainant argued that the sale of a property, prior to the "valuation date", is strong evidence of the value. The CARB accepts this in the case of a valid sale, but the evidence of the Respondent highlights that during the City's normal follow up investigation of the sale details, the Manager of the Vendor indicated that the corporate entity was purchased and all assets were transferred with it. As a result, the CARB accepts the testimony of the Respondent that the sale may not be a valid and true real estate transaction and so puts little weight on the transaction. The CARB also acknowledges that there was no direct evidence to support the City's position, but the CARB accepts that the City's follow up is part of a normal process, which is followed in order to obtain the "best" information on the terms of the sale. In the absence of any evidence to challenge the veracity of this process and resulting information, the CARB accepts the information.

[26] With respect to the IAV, as has been noted by many previous Boards, there is a reluctance to rely on third party surveys for many reasons, but one of the strongest reasons is the "disclaimer" which specifically indicates there are no guarantees or representations about the report's accuracy and reliability (Ex. C1, pg 41). Boards have accepted third party reports where the reports have been used to support other evidence. In this complaint, the Colliers study is the sole evidence for the capitalization rate, and therefore the CARB puts little weight on the information.

[27] As well, the lease comparable analysis does not provide support for any of the adjustments used to develop a \$3.50 per sq. ft. lease rate, particularly in light of the higher market rental rates demonstrated by the Respondent (Ex. R1, pgs 40 & 41).

[28] Accordingly, for the two reasons outlined, the CARB puts little weight on the Income approach.

[29] Turning to the DSC method, the CARB considered the nine comparables presented by both parties. The CARB accepted the criticism of the Complainant's sale #1 that it needed a new roof which would increase the effective price to \$64.00 per sq. ft. The Complainant noted that this was still below the assessed value of the subject, but they also expressed concern that no "proof" for the necessity of the repair or costing was provided. The CARB accepts the City's explanation for the same reasons as outlined in the paragraph above on sales validation.

[30] The CARB also accepted the criticism of the Complainant's sale #2 on the basis that the terms of the initial sale were dated and reflected an under market value option to purchase. This conclusion was supported by the following points. The CARB acknowledged that the existence of the building valued on the cost approach would distort the per sq. ft. calculations for the buildings. In addition, they noted the vast difference in land area between the sale property and the subject, and were also persuaded that the first sale may not be a valid transaction, by the significant increase in value of the second (but post facto) sale.

[31] Finally, the CARB also accepted the criticisms of the Complainant's comparable #4 that the details were unclear and the value of the sale is very inconsistent with the assessment (\$1,539,731 sale vs. \$5,920,000 assessment). In the absence of an adequate explanation, the CARB put less weight on this information.

[32] Turning to the Respondent's comparable sales, the CARB acknowledged the Complainant's arguments concerning the ages of the comparables compared to the subject, and they also acknowledged the arguments concerning economies of scale. In the final analysis, neither party provided much evidence to assist in adjusting the comparables to the subject.

[33] The CARB also noted the adjustments applied to the subject by the Complainant in arriving at the requested assessment. The Complainant took the average selling price of their comparables and deducted 20% to obtain the \$44.19 per sq. ft. requested assessment per sq. ft. (Ex. C1, pg. 13). The CARB noted that there was no evidence to confirm the value of the deductions and as well, the initial \$55.24 per sq. ft. (the starting value) was based on an average of five comparables, where the CARB excluded three of those comparables as noted above. So, little weight was put on that calculation.

[34] Accordingly, while the CARB noted that the comparables from both parties were not persuasive, it is the Complainant's responsibility to demonstrate that the assessment is wrong. After eliminating the three Complainant's comparables noted above, the CARB was left with two comparables, both of which demonstrated the same deficiencies (size and age) which the Complainant said was lacking in the Respondent's comparables.

[35] Based on this, the CARB concludes that there was no compelling or sufficient evidence to challenge the assessment.

[36] The CARB noted the Complainant's argument in rebuttal based on the average selling price of IB zoned property versus (vs.) IM (\$178.65 per sq. ft for IB vs. \$159.60 per sq. ft. for

IM). This evidence (Ex. C2, pg. 13) was general in nature and did not necessarily reflect the facts of this particular complaint. In addition, the \$159.60 per sq. ft. sales value for IM (the subject's zoning), more than adequately supported the \$73.04 per sq. ft. assessed value of the subject.

Dissenting Opinion

[37] There was no dissenting opinion.

Heard commencing September 10, 2012.

Dated this 27th day of September, 2012, at the City of Edmonton, Alberta.

James Fleming, Presiding Officer

Appearances:

Greg Jobagy, Colliers International Realty Advisors Inc.

Carol Paulson, Colliers International Realty Advisors Inc., observing
for the Complainant

Luis Delgado, Assessor, City of Edmonton
for the Respondent

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Appeal Type	Property Type	Property Sub- Type	Issue	Sub-Issue
CARB	Warehouse	Warehouse Single Tenant	Cost/Sales Approach	Land and Improvement Comparables