

Edmonton Composite Assessment Review Board

**Citation: COLLIERS INTERNATIONAL REALTY ADVISORS INC v The City of
Edmonton, ECARB 2012-002318**

Assessment Roll Number: 10005504
Municipal Address: 10130 112 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
Dean Sanduga, Presiding Officer
Brian Carbol, Board Member
John Braim, Board Member

Preliminary Matters

[1] When asked by the Presiding Officer, the parties indicated no objection to the composition of the Board. The Board members indicated they had no bias in the matter before them.

Background

[2] The Subject property known as the Stantec Technology Tower located at 10130 112 Street, was constructed in 1978 on a lot size of 67,580 square feet. The building has two eight storey office towers and a three storey annex for a total size of 186,716 square feet. It also has 310 underground parking stalls and 37 surface parking stalls. The subject assessment has been based on the income approach to value.

Issue(s)

[3] **Issue #1:** Is the proposed reclassification for the subject property within the Government district of downtown Edmonton correct?

[4] **Issue # 2:** What is the appropriate rental rate for the subject property?

[5] **Issue #3:** Is the Net Rentable Area (NRA) used for assessment of the subject property correct?

[6] **Issue #4:** Does a post facto sale of the subject property represent the best evidence of its market value at the valuation date?

Legislation

[7] 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.

s 293(1) In preparing an assessment, the assessor must, in a fair and equitable manner, Apply the valuation standards set out in the regulations, and

Follow the procedures set out in the regulations.

The *Matters Relating to Assessment and Taxation Regulation* reads:

Matters Relating to Assessment and Taxation Regulation, Alta Reg 220/2004

s 2 An assessment of property based on market value

- a) must be prepared using mass appraisal,
- b) must be an estimate of the value of the fee simple estate in the property, and
- c) must reflect typical market conditions for properties similar to that property.

s 6(1) When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvements is market value unless (2) or (3) applies.

Position of the Complainant

[8] The Complainant presented to the Board an evidence package comprising 60 pages (Exhibit C-1), and a 19-page rebuttal (Exhibit C-2), arguing that the lease comparables indicate lower rents in 124 District, and that the subject property is located within this district.

[9] The Complainant requested that no change to the location classification of the subject property from the 124 Street District to Governmental District be made

[10] The Complainant submitted third party data from Colliers International (Exhibit C-1, pages 28-33), Cushman & Wakefield (Exhibit C-1, pages 34--42), and Avison Young (Exhibit C-1, pages 43-53) arguing that the reports indicate lower lease rates of \$13.00 to \$15.00 per square foot, with a high of \$16 per square foot in 124 district. The Complainant requested that the lease rate be reduced from \$17.00 per square foot to \$14.00 per square foot.

[11] The Complainant advised the Board that the subject property has been assessed at \$48,607,000, based on a Net Rentable Area of 186,716 square feet (C-1 page 9), which the Complainant submits is the correct area for the assessment.

[12] Based on the above, the Complainant requests that 2012 assessment be reduced from \$48,607,000 to \$40,837,500.

[13] The Complainant agreed with the Respondent that the most appropriate approach to assessing the subject is the income approach.

Position of the Respondent

[14] The Respondent submitted a 135-page assessment brief (Exhibit R-1) and argued that the subject property is an 'AL' high quality office complex and the rental rate is correct, as these were derived from the Mass Appraisal process through multiple regression analysis. This methodology is consistent with Provincial Quality Standards, and has been tested by the audit, as set out in the *Matters Relating to Assessment and Taxation Regulation*.

[15] The Respondent submitted downtown 'AL' Class office buildings rental rate comparables, noting a weighted average time adjusted rental rate of \$17.36 per square foot (Exhibit R-1, page 39), which supports the subject rental rate of \$17.00 per square foot .

[16] The Respondent suggested that the Income Approach is the approach of choice, as it best reflects typical actions of buyers and sellers when purchasing income-producing properties. The Respondent further stated that ample information provided by the Complainant with regard to value and quality of the subject reinforced this suggestion.

[17] The Respondent submitted to the Board that the subject property was assessed as AL class property located in Governmental district for 2012 tax year, because it became more comparable to properties located in Governmental district, although it was previously assessed as 124 District AA class property.

The grounds for such conclusion are as follows:

- *It is not appropriate to assign the district for the office property using only the address location of the property since some of the properties of 124 District are located in the center of Governmental district and more of that in Financial district of Edmonton's downtown.*
- *Physical characteristics of the properties and the amount of amenities provided by the properties are one of several factors for grouping.*

The typical office property in Governmental district has description as follows:

- *Net rentable size at median of 134,370 SQFT;*
- *the majority of properties in G. district has 5 or more floor;*
- *has the underground heated parking (76% of properties);*
- *typically has one or two major tenants occupying more than 70% of the total space.*

The typical office property in 124 districts has description as follows:

- *Net rentable size at median 11,476 SQFT;*
- *has one or two floors (71.3% from all properties in 124 district;)*
- *provides the surface parking.*

The location of the subject property is closer to the centre of Governmental district than to the centre of 124 District. (R-1 page 28).

[18] The Respondent further stated that third party information should not be relied on as their inventory reflects only a fraction of the market.

[19] The Respondent requested that the Board confirm the recommended revised assessment at \$49,166,500.

[20] Issue # 1 : Is the proposed reclassification for the subject property within the Government district of Downtown Edmonton correct?

Position of the Complainant :

With regard to the issue of location, the Complainant stated the subject property had been assessed as if it was located in the Governmental district, whereas, in fact it was located between the Governmental district and 124 District. As such the subject property should be assessed on the same basis as other properties within the 124 District.

[21] The Complainant submitted that the subject is located on 112 Street which is outside of the Governmental district and thus, would be unable to achieve the assessed lease rate of \$17.00 per square foot that applies to the Government area. The rental rate that is applicable to the subject property is more in-line with the 124 Street district at \$14.00 per square foot.

[22] In support of this issue, the Complainant provided a copy of an extract of 2011/12 BOMA Commercial Real Estate Guide, which is a Suburban Survey of Major Suburban Office Buildings that grouped the subject property along with 17 other properties that were all in the 124 Street Area (Exhibit C-1, pages 12 & 54). The buildings ranged in size from 28,384 sq ft to 206,000 sq ft, and though primarily located on or within two blocks of 124 Street, included the subject property; the Ironwood Professional Centre, also located on 112 Street but south of Jasper Avenue; and LeMarchand Mansion located on 100 Avenue and 115 Street.

[23] The Complainant stated that the Respondent had, in the past, always treated the Government District as the area bounded by 105 Street in the east; the old CP railroad tracks (109 street) in the west; Jasper Avenue to the north and 97 Avenue to the south. The Complainant had not been notified of any changes to the Government District, in support of which, a rebuttal was provided that included a copy of the 2012 Downtown Hi-Rise Assessment Brief by the City of Edmonton that confirmed the subject property was clearly not included in the Government Sector (Exhibit C-2, page 12). This clearly outlines the district as follows; -

1. Government Sector is the area located from the west side of 105 Street south of 104 Avenue, east of the former CP railway and north of 97 Avenue. (Exhibit C-2, page 12 and Map page 17).

[24] During questioning the Complainant stated that location was the single most important factor that affected the value of real estate, and in the case of the subject property, the geographic location was the major factor. The Complainant agreed that other factors such as quality and size also had some influence, but to a far less extent. In Rebuttal the complainant directed the Board to consider the City of Edmonton guideline on the Downtown High Rise building location:

(1) Government Sector is the area located from the west side of 105 Street south of 104 Avenue , east of the former CP railway (109 Street) and north of 97 Avenue (C-2 , page 12 and Maps (C-2 pages 13-17) .

[25] In summation, the Complainant stated the Respondent had been consistent with the Downtown areas in the past, and the subject was still clearly outside the boundaries as defined in the most recent 2012 Mass Appraisal Assessment Brief published by the City of Edmonton. The Complainant requested that no change to the location classification of the subject property from 124 Street market district to the Governmental district be made.

Position of the Respondent

[26] With regard to the issue of location the Respondent provided a series of maps (Exhibit R-1, pages 12 -17) to demonstrate that the subject property was located in the “Downtown Office Market” (R-1 page 13). The Respondent had revisited the downtown office areas and determined that there were issues other than geographic location that impacted on value and location was not the only factor to take into consideration when determining the appropriate category for any particular property (R-2, page 28/29). The map (Exhibit R-1, page 14) showing the redefined district clearly demonstrated that the subject property is not located in the Suburban 124 Street sector. The other factors that affect value are a combination of size or area (R-1, page 32), a combination of surface and underground parking (R-1, page 33), and building height or the number of floors (R-1, page 34).

[27] The Respondents stated that they had come to the conclusion that there was an overlap of the two areas (Governmental and 124 districts) and three maps were provided to demonstrate the overlap (R-1, pages 15 – 17). The maps demonstrated that office properties located in the 124 District were also geographically located as far east as 104 Street. Conversely, office properties located in the Governmental district were geographically located as far west as the subject property on 112 Street and the subject was not the only property on 112 Street.

[28] Although the Complainant had used third party reports to support their position the Respondent advised that these third party reports had only a fraction of the evidence available to the Respondent who had all the evidence. As a result the Respondent had developed its own methodology to reclassify office properties.

Decision on issue # 1

[29] The Board finds in favour of the Complainant with respect to the issue of the correct classification of the property as within 124 District.

Reasons for the Decision

[30] The Board accepts that the Respondent has the right to classify properties according to the data they have available, and where there is sufficient evidence that clearly demonstrates the property boundaries require re alignment. The subject property was originally located in the 124 Street District, but it is geographically located closer to the Government District, being only two blocks west of the core area boundary as defined by the City's Mass Appraisal Brief. Conversely the subject property lies approximately twelve blocks from the core of the 124 Street District.

[31] The Board also finds that the nature of the subject property is more typical of a Government District building than a 124 Street District building based on the new characteristics adopted by the Respondent. These are building height/number of floors over five storeys, typical rentable area greater than 135,000 square feet, presence of only one tenant, and a combination of indoor and outdoor parking (Exhibit R-1, page 28).

[32] Although the Board finds the Respondent has argued the case for a re alignment of the geographical boundaries pertaining to the Government District, it has also quite clearly defined the boundaries of the Government District in the 2012 Downtown Office High Rise Assessment Brief (Exhibit C-2, page 12). The brief is current and clearly references there are Financial and Government Sectors and continue to restrict the Government Sector to specified boundaries, as noted in paragraph #32 above.

[33] As a result, with regard to the issue of location the Board finds the evidence of the Complainant to be more persuasive.

Issue # 2 : What is the appropriate rental rate for the subject property?

Position of the Complainant

[34] The Complainant produced a table (Exhibit C-1, page 11) outlining recent leasing activity for comparable buildings to the subject property. The leases pertained to the period from June 2009 to November 2011. The rental rates ranged from \$8.00 to \$15.00 per square foot with an average of \$13.42 per square foot. The Complainant argued that these comparable leases are in properties in similar locations with respect to 124 District

[35] The Complainant stressed that the inputs used by the City of Edmonton Assessment Department for typical rental rates were not representative of the market place as of the July 01, 2011 valuation date (Exhibit C-1, pages 10 & 11).

[36] The Complainant submitted third party data from Colliers International (Exhibit C-1, pages 28-33), Cushman & Wakefield (Exhibit C-1, pages 34-42), and Avison Young (Exhibit C-1, pages 43-53) arguing that the reports indicate lower rents in the 124 Street market district ranging from \$13.00 to \$15.00 per square foot with a high of \$16.00 per square foot.

[37] The Complainant requested the rental rate be reduced from \$17.00 per square foot to \$14.00 per square foot, which when applied to the 186,176 square foot used in the 2012 assessment results in the requested assessment of \$40,837,500.

Position of the Respondent

[38] The Respondent submitted a 135-page assessment brief (Exhibit R-1) and argued that the subject property is an 'AL' high quality office complex and the rental rate is correct, as these were derived from the Mass Appraisal process through multiple regression analysis. This methodology is consistent with Provincial Quality Standards, and has been tested by the audit, as set out in the *Matters Relating to Assessment and Taxation Regulation*.

[39] The Respondent suggested that the Income Approach is the approach of choice, as it best reflects typical actions of buyers and sellers when purchasing income-producing properties. The Respondent further stated that ample information provided by the Complainant with regard to value and quality of the subject reinforced this suggestion.

[40] In support of the office lease rate, the Respondent submitted downtown 'AL' Class office buildings rental rate comparables, noting a weighted average time adjusted rental rate of \$17.36 per square foot (Exhibit R-1, page 39), which supports the subject rental rate of \$17.00 per square foot .

Decision on issue # 2

The decision of the board is to confirm the rental rate at \$17.00 per square foot.

Reasons for the Decision

[41] In the Colliers Report for the second quarter of 2011 (Exhibit R-1, page 61), the rental rates for class AL in the Government / Financial market area were \$19.00-\$21.00 per square foot; whereas the subject lease rate is \$17.00 per square foot .

[42] The Board is persuaded by the Respondent's Downtown Rental Rates AL Class office buildings rental rate comparables, which supports the subject rental rates of \$17.00 per square foot .

[43] The Board accepts the Respondent's evidence that the typical lease rates applied on all 'AL' buildings is \$17.00 per square foot (R-1 page 41).

[44] The Board places little weight on the lease rates for the Complainant's comparables because the spaces were much smaller than the subject and there was no evidence with respect to their classifications (R-1 page 11).

[45] As a result of the above findings, the Board confirms a \$17.00 rental rate for the subject is appropriate.

Issue # 3 : Is the Net Rentable Area (NRA) used for assessment of the subject property by the City correct?

Position of the Complainant

[46] The Complainant agreed with the Respondent that the most appropriate approach to assessing the subject is the income approach.

[47] The Complainant referred to the square footage of the subject property at 186,716 square feet as stated on the original 2012 assessment (C-1, page 9). The Complainant used this size in developing the requested assessment for 2012. (C-1, page 23)

[48] The Complainant noted that the tenant is currently leasing the entire 189,304 square feet for office space in the subject property, and noted that as a sole tenant, some space that might otherwise be common to several tenants would be useful to the tenant (C-1, page 10)

[49] The Rent Roll submitted by the Respondent to the City which indicates a Gross Leasable Area (GLA) of 189,304 square feet formed part of the Complainant's submission (C-1, page 26)

[50] The Complainant's brief also contained information from the Edmonton Commercial Real Estate Guide showing the size of the subject property is 206,000 square feet (C-1, page 12)

[51] In summary, the Complainant contended that the Gross Leasable Area of 189,304 square feet is not correct for assessment purposes, but rather the Net Leasable area of 186,716 provided by the City in the original 2012 assessment notice (C-1 page 9) for the subject property is correct and should be used in the 2012 assessment.

Position of the Respondent

[52] Based on a review of the Net Rentable Area (NRA) for the subject property, the Respondent requested that the NRA be increased from 186,716 square feet to 189,304 square feet for the 2012 assessment of the subject property.

[53] This change was based on information contained in the Complainant's submission i.e. the 2012 Tenant Roster (C-1 page 10) and the 2011 Rent Roll for the subject property (R-1, page 36), both of which show the subject property at 189,304 square feet.

[54] When asked by the Complainant if the Gross Building Area was used, the Respondent indicated that the Gross Leasable Area was used in the assessment.

[55] The Respondent also cited the sale advertisement for the subject property by Colliers International posted prior to the sale which indicated a size of 189,304 square feet (net leasable area) for the subject property (R-1, pages 43, 44 and 46).

[56] In response to a question from the Complainant the Respondent indicated that no verification (measurement) had been done to verify the size. The Respondent added that measurement had not been necessary as the requested size fell within the 90% efficiency rate for such buildings (Gross Building Area/Net Leasable Area).

[57] The Respondent suggested that the Income Approach is the approach of choice, as it best reflects typical actions of buyers and sellers when purchasing income-producing properties. The

Respondent further stated that ample information provided by Complainant with regard to value and quality of the subject reinforced this suggestion.

Decision on issue # 3

[58] It is the decision of the Board that 186,716 square feet is the correct Net Leasable Area of the subject property for the purpose of the 2012 assessment.

Reasons for the Decision

[59] The Board gave little weight to the arguments of the Respondent to use 189,304 square feet as the correct size for assessing the subject property for the following reasons:

- i. The information provided on the Tenant Roster is unclear as to whether the figure used is Gross Leasable Area or Net Leasable Area.
- ii. The information provided on the Rent Roll provides the Gross Leasable Area with no indication of what the Net Leasable Area might be.
- iii. The Respondent did not provide any verification i.e. measuring the subject property, to support 189,304 square feet as the correct size for the assessment of the subject property.
- iv. The 2012 Assessment notice from the City indicated an area for the building of 186,716 square feet.

[60] Furthermore, the Board is of the opinion that because there were three different sizes for the subject property along with varying descriptions of these sizes (GLA, GBA, NLA), and no evidence presented to validate one size as being correct, it is fair and equitable to retain the size used by the City of Edmonton in developing the original 2012 assessment for the subject property.

Issue # 4 : Does the post facto sale of the subject property support the 2012 assessment of the subject property?

Position of the Complainant

[61] Although the Complainant had not raised the sale as evidence, they stated in argument that it was a post facto sale and no time adjustment factors had been applied by the Respondent. Furthermore, the sale brochure had been produced for marketing purposes and may have contained some forward looking statements.

Position of the Respondent

[62] In support of their position the Respondent provided a detailed sale brochure relating to the subject property. The sale was completed on October 14, 2012 approximately four months after valuation day, at a reported sale price of \$49,250,000. Although the sale could not be used in connection with the 2012 assessment, it provided additional support for not only the 2012 assessment, but also for the request to increase the assessment to \$49,166,500. In spite of the post facto date, the Respondent had validated the sale as bona fide which enabled it to be used in the overall assessment model.

Decision on issue # 4

[63] The Board finds the sale price of \$49,250,000 supports the current assessment of \$48,607,000. The Board accepts there may be some variation due to the time adjustment but no adjustment factors were provided by either party.

Reasons for the Decision

[64] The Board notes that the Respondent has stated (2011 Property Assessment Law and Legislation) that *A sale transaction which occurs close to the July 1 valuation date, resulting from reasonable exposure in the market place, is the best single indicator of market value.* The Board notes that the bid closing date for the sale of the subject was June 30, 2011 the day prior to valuation date. The Board finds that this is very close and as such considers it represents the best evidence of value, particularly as it was validated by the Respondent.

Final decision

[65] For the reasons stated above, and based on the sale price of the subject property, the decision of the Board is to confirm the 2012 assessment at \$48,607,000.

Dissenting Opinion

[66] There was no dissenting opinion.

Heard commencing October 1, 2012.

Dated this 23rd day of October, 2012, at the City of Edmonton, Alberta.

Dean Sanduga, Presiding Officer

Appearances:

Vasily Kim
for the Complainant

Brennan Tipton
Greg Jobagy
Steve Lutes
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.