EDMONTON
Assessment Review Board

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Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2012 ECARB 2106

Assessment Roll Number:	9562778
Municipal Address:	3819 76 Avenue 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
Peter Irwin, Presiding Officer
Lillian Lundgren, Board Member
Ron Funnell, Board Member

Preliminary Matters

[1] Upon questioning by the Presiding Officer, the parties indicated that they had no objection to the composition of the Board. In addition, the Board members indicated that they had no bias in this matter.

Background

[2] The subject property is a 13,500 square foot (sf) warehouse located at 3819 76 Avenue NW in the Weir Industrial neighborhood. It has an effective year built of 1978 and is in average condition. The lot size is 72,333sf with 21% site coverage.

Issue

[3] Is the subject property assessment correct?

Legislation

[4] 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

[5] The Complainant filed this complaint on the basis that the subject property assessment of $2,032,000 is incorrect.

[6] The Complainant argued that sales of similar property support a reduction in the assessment. The Complainant presented six sales comparables located in the southeast quadrant that transacted between January 2010 and August 2011. The comparables had an average sale price of $105.07/sf compared with the subject assessment of $150.52/sf.

[7] The Complainant submitted that each of the comparable properties was similar to the subject in location, age and building size. The Complainant highlighted sale #5, located at 3946 76 Avenue NW, as the best comparable. It was located within one block of the subject property, had a smaller building and a lower site coverage, and therefore, the sale price of $139.13/sf should be adjusted downward. The Complainant concluded that an approximate downward adjustment of 10% seemed reasonable and, with all the other sales considered, this would result in $125.00/sf. The resultant market value of the subject would be $1,687,500, based on this $125.00/sf.

[8] The Complainant submitted that industrial properties within the City of Edmonton were assessed by the Direct Comparison Approach. Thus, the Income Approach was less reliable than a direct comparison valuation in determining the appropriate assessment for a property. However, this method was a good test of reasonability for assessment purposes.

[9] To this end, the Complainant prepared an estimate of value based on the income approach using a $9.50/sf rental rate, a 3% vacancy rate, a $2.00/sf vacancy shortfall and a 7.75% capitalization rate. The indicated value for the subject property was $1,578,500. The Complainant noted that this value was reasonably similar to the value arrived at using the Direct Sales Approach.

[10] The $9.50/sf rental rate used in the income approach was based on four comparable leases that ranged from $9.00/sf to $9.50/sf. The 7.75% capitalization rate was selected from the capitalization rates published by Colliers International for the second quarter of 2011 for multi-tenant properties. The Complainant explained that even if he had used the 7.5% capitalization rate for single tenant buildings, the resultant value would be $1,360,000, lower than the

assessment. The Complainant did not provide any supporting evidence for the other factors used in the income analysis.

[11] In conclusion, the Complainant requested the Board to reduce the assessment to $1,687,500.

Rebuttal

[12] The Complainant stated that the Respondent's sales #1, #2, #3 and #4 were dated sales. The Complainant argued that the Respondent's dated sales should be given less weight because of the reasons in Assessment Review Board decision No. 0098 252/10. This decision stated that

> "The Board places less weight on the sales comparables provided by both the Complainant and the Respondent as they date back to 2006 and 2007 and require significant time adjustment. None of these sales were contaminated properties, as is the subject."

[13] Further, the Respondent's sales #1, #4 and #5 were smaller in building size than the subject property, which would require adjustments to be comparable.

[14] As well, the Complainant questioned the Respondent's statement with respect to the sale at 9719 63 Avenue NW, stating,

> Purchaser stated that the building was vacant at sale date and required significant repairs to the roof, windows and electrical systems.

The Complainant stated that the Respondent had provided no proof of this statement. This was solely a statement from the assessment department with no proof of costs, extent/existence of damage or motives for the upgrades. The Complainant contended that these were typical repairs.

[15] The Complainant stated that the sale of the subject property was irrelevant because it was a post facto sale and part of a multi-parcel transaction.

<u>Position of the Respondent</u>

[16] The Respondent submitted that the subject property assessment is correct. In support of this position, the Respondent presented seven sales comparables located in the southeast quadrant of the city that transacted between January 2008 and August 2010. The average sale price was $166.64/sf compared with the subject assessment of $150.52/sf.

[17] In summary, the Respondent requested the Board to confirm the assessment at $2,032,000.

[18] Although the Respondent did not request the Board to place any weight on the sale of the subject property, the Respondent submitted an Assessment and Taxation Sales Validation Questionnaire form that stated the subject property sold February 1, 2012 for the appraised value of $4,000,000. The Respondent advised the Board that it was part of a multi-parcel sale.

[19] In addition, the Respondent stated that there were problems with the Complainant's sales comparables:

- The Network sales data sheet for the Complainant's sale #1, located at 8135 Wagner Road NW, indicated that the below-market lease rate influenced the marketability of the property in a negative fashion.

- The Bourgeois & Company Ltd. sales data sheet stated that sale #2, located at 9405 58 Avenue NW, was vacant at the time of sale and did not have a heating system.

- The Network document stated that sale #3 located at 5820 96 Street NW should be used with caution because the parties may have been related. Further, the Respondent provided a copy of the corporate searches for this property showing that one of the directors was involved in both the vendor and purchaser of the property.

- The Respondent submitted a photograph taken in September 2010 of the Complainant's sale #4 located at 9719 63 Avenue NW which depicted the building undergoing significant exterior changes. According to the Respondent, the purchaser stated that the building was vacant at sale date (July 2010) and required significant repairs to the roof, windows and electrical systems.

[20] The Respondent disagreed with the Complainant's interpretation of the reasons in CARB No. 0098 252/10. The Respondent interpreted the reasons to mean that less weight was placed on the comparable sales than the sale of the subject property. The subject property, which was contaminated, sold for $785,000 and the CARB reduced the assessment to the sale price.

[21] Finally, the Respondent noted that the Complainant's requested value was based on sale #5 and there was no reason for the 10% adjustment.

Decision

[22] The property assessment is confirmed at $2,032,000.

Reasons for the Decision

[23] In determining this matter, the Board reviewed the Complainant's evidence and argument.

[24] First, the Board reviewed the Complainant's sales comparables and finds that five of the six sales are not good indicators of value for the subject property. Sale #1 reportedly sold below market value owing to the fact that the lease rate was well below market. Sale #2 was vacant at the time of sale and did not have a heating system. Sale #3 is a non-arms length transaction that involved the same party in the vending and the purchase of the property. Sale #4 required significant repairs to the roof, windows and electrical systems that may have had a negative influence on the sale price. Sale #6 requires a considerable upward adjustment because it has site coverage of 36% compared with the subject site coverage of 21%.

[25] The Board finds the remaining sale #5 to be a good comparable because it is similar in location, age, building area and site coverage. However, this one sale is not sufficient evidence to establish that the subject assessment is incorrect. Furthermore, the 10% negative adjustment applied by the Complainant is without foundation.

[26] Second, the Board reviewed the Complainant's income approach proforma and finds that the resultant value is not reliable. There is insufficient evidence to establish that the $9.50/sf

rental rate and the 7.75% capitalization are typical factors for this type of property. It is not known what income stream was used to derive the capitalization rate. Furthermore, it is not known if the sales used to derive the capitalization rate have similar characteristics that affect value.

[27] The Board also considered the Complainant's argument with respect to some of the sales used by the Respondent that the Complainant considered dated sales. The Board finds that it is not unreasonable for the Respondent to use sales of similar property that transacted approximately three years prior to the valuation date of July 1, 2011, provided they are adjusted for changes in the marketplace between the sale date and the valuation date. In this case, the Complainant's sales comparables are recent but they are not useful indicators of value for the subject property because they are not similar.

[28] With respect to the reasons in CARB decision No. 0098 252/10, this Board is unable to comment on the reasons because this Board did not hear the evidence and argument presented at that hearing. The facts of that case appear to be different than this case. Furthermore, this Board is not bound by previous decisions of the ARB.

[29] The Board also reviewed the Respondent's evidence and argument. The Board finds that the Respondent's best indicators of value for the subject property are sales #3, #4, #5 and #6 because they are similar to the subject in location, age, building area and site coverage. The comparables range in sale price from $144.63/sf to $185.06/sf with an average sale price of approximately $160/sf. This supports the subject's assessment of $150.52/sf.

[30] In conclusion, the Board confirms the assessment at $2,032,000.

Heard commencing September 5, 2012.
Dated this 2 day of October, 2012, at the City of Edmonton, Alberta.

Peter Irwin, Presiding Officer

Appearances:

Stephen Cook
Greg Jobagy
for the Complainant

Cameron Ashmore
Will Osborne
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.