Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc. v The City of Edmonton, 2012 ECARB 2116

Assessment Roll Number:	1523349
Municipal Address:	16504 117 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
George Zaharia, Board Member
Howard Worrell, Board Member

Preliminary Matters

[1] At the outset of the hearing, the parties indicated that they had no objection to the composition of the Board. The Board members indicated that they had no bias with respect to this complaint.

[2] There were no preliminary matters.

Background

[3] The subject property is a multi-tenant medium warehouse located in the Norwester Industrial neighbourhood of northwest Edmonton. There are three buildings on the site, each in average condition, and all built in 1977. Building 1 is 54,509 square feet in size, of which 7,282 square feet is main floor office space. Building 2 is 48,469 square feet in size, with 6,960 square feet of main floor office. Building 3 is 24,564 square feet in size, of which 1,287 square feet is

finished mezzanine space. The lot size is 314,521 square feet (7.22 acres) with site coverage of 40%. The subject is zoned IM.

[4] For the 2012 assessment, the subject has been valued by the direct sales approach resulting in a value of $10,127,000 or $79.40 per square foot.

Issue

[5] Is the 2012 assessment of the subject property too high based on sales of similar properties?

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 provided a 28-page brief marked as exhibit C-1, arguing that the 2012 assessment of the subject property at $10,127,000 or $79.40 per square foot was too high. His position was that sales of similar properties indicated that a value of $70.00 per square foot should be applied to the subject (Exhibit C-1, page 7).

[8] In support of this position, the Complainant submitted six sales comparables of similar properties located in northwest Edmonton. The sales occurred between January 2010 and May 2011 with prices ranging from $43.59 to $81.71 per square foot. The comparable properties ranged in size from 73,000 to 137,062 square feet and were zoned IM, IB, and IH. The year of construction of the comparables ranged from 1952 to 1978 and the site coverage ranged from 9%

to 58% (Exhibit C-1, page 6). The average value of these six sales comparables was $64.05 per square foot.

[9] The Complainant stated that sales comparables #'s 2, 5, and 6 were the best, however, they required adjustment. The Complainant argued that zoning had an effect on the value of land, and, since sales comparables #'s 2 and 6 were zoned IB, their sales prices would have to be adjusted downwards. Based on a study of Network reports, the Complainant stated that IB zoned land sold for 10.67% more than IM zoned land (Exhibit C-1, page 12). Consequently, the Complainant repeated the sales comparable chart, adjusting the IB lands downwards by 10.67%, which resulted in an adjusted average of $58.64 per square foot. Recognizing adjustments would have to be made in consideration of age and building size, the Complainant requested that a value of $70.00 per square foot be applied to the subject property (Exhibit C-1, page 7).

[10] The Complainant provided a chart entitled "Edmonton Industrial Sales by Zoning" based on sales reported by the Gettel Network that occurred between January 1, 2010 and July 1, 2011. The bar graph was as a result of 88 IB zoned properties with an average sale price of $178.65 per square foot, 154 IM zoned properties with an average sale price of $159.60 per square foot, and 14 IH zoned properties that sold for an average sale price of $121.21 per square foot (Exhibit C-1, page 12). Based on this chart, the Complainant stated that IB zoned properties sold for 10.67% more than IM zoned properties.

[11] In support of the reduced assessment using the direct sales approach, the Complainant also provided information using the income approach. Ten leases of current tenants were supplied, showing rates from a low of $5.05 per square foot with a start date of November 1, 2006, to a high of $8.75 per square foot with start date of May 1, 2011 (Exhibit C-1, page 8).

[12] The Complainant provided 11 lease rate comparables with start dates ranging from June 2010 to August 2011 with rates ranging from $4.25 to $8.75 per square foot and an average of $6.32 per square foot. From a review of the lease rates in the subject property and the comparable lease rates, the Complainant opined that a lease rate of $6.50 per square foot was reasonable in the market place (Exhibit C-1, page 8).

[13] The Complainant submitted a pro-forma utilizing a rental rate of $6.50 per square foot, a vacancy rate of 5%, a structural allowance of 2%, and a capitalization rate of 7.5%. This resulted in a value of $8,919,880, thus supporting the requested reduced assessment of $8,830,000 based on the direct sales approach (Exhibit C-1, page 9). The Complainant stated that the 5% vacancy rate and the 2% structural allowance were typical values, and that the 7.5% cap rate was supported by a Colliers International cap rate study that showed Edmonton industrial multi-tenant property cap rates ranged from 6.75% to 7.75% (Exhibit C-1, page 20).

[14] The Complainant submitted a 16-page rebuttal document challenging the appropriateness of all eight of the Respondent's sales comparables. The Complainant raised concerns about dated sales, building size, zoning, and location (Exhibit C-2, pages 5 & 6).

[15] The Complainant addressed the issue of 'economies of scale' by quoting information from *The Appraisal of Real Estate, Second Canadian Edition*, Chapter 17.6, which stated, "*appraisers should try to select comparables in the same size range as the subject so that economies of scale do not enter the process*" (Exhibit C-2, page 7).

[16] The Complainant rebutted the Respondent's concerns regarding the Complainant's sale #3, located at 14345 – 123 Avenue NW, that major roof repairs were required with an estimated

cost of $850,000 not reflected in the sale price. The Complainant argued that the Respondent had not provided any evidence of the required repair cost, or a statement from the purchaser. As well, the Complainant stated that the Respondent had not provided any evidence that an appraisal of that property had been completed showing an appraised value of $4,800,000. It was the position of the Complainant that, given these unknown circumstances, the appraisal for financing purposes could not be considered as fact (Exhibit C-2, page 8).

[17] The Complainant stated that his sales comparables were more current, having occurred between January 2010 and May 2011. This was important since the sales prices needed no or minimal time-adjustments. In the rebuttal document, the Complainant included a decision of a Composite Assessment Review Board dated September 23rd, 2010, which state, "*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 required significant time adjustment*" (Exhibit C-2, page 16).

[18] In conclusion, the Complainant requested the Board to reduce the 2012 assessment of the subject property from $10,127,000 to $8,830,000 based on $70.00 per square foot.

Position of the Respondent

[19] The Respondent submitted a 41-page brief marked as Exhibit R-1, arguing that the original $10,127,000 assessment of the subject property was fair and equitable. The Respondent also submitted a 44-page Law and Legislation brief.

[20] In support of the position that the assessment was fair and equitable, the Respondent submitted eight sales comparables, all located in northwest Edmonton. Sales comparables #'s 1 to 6 were single building properties while sales comparables #'s 7 and 8 were two-building properties. The sales occurred between June 26, 2009 and May 6, 2011, for time-adjusted prices ranging from $71.84 to $95.24 per square foot. The result was an average of $81.62 per square foot, supporting the $79.40 per square foot assessment of the subject property. The Comparables' improvements ranged in size from 25,201 to 135,566 square feet. The site coverage of the subject, at 40%, fell within the comparables' range of 34% to 50% (Exhibit R-1, page 19).

[21] The Respondent highlighted mass appraisal information that supported the direct sales comparison approach. Excerpts from two real estate publications were read out (Exhibit R-1, page 6).

i. *When sufficient valid sales are available, this approach tends to be the preferred valuation method*. IAAO, *Standard on Mass Appraisal of Real Property*, Chicago, Illinois, 2002, section 4.3.

ii. *The Direct Comparison approach is applicable to all types of real property interests when there are sufficient recent, reliable transactions to indicate value patterns or trends in the market. For types that are bought and sold regularly, the direct comparison approach often provides a supportable indication of market value. When data are available, this is most straightforward and simple way to explain and support value opinion*. Appraisal Institute of Canada, *The Appraisal of Real Estate, Second Canadian Edition*, Vancouver, British Columbia, 2002, page 17.3.

[22] The Respondent stated that sales occurring from January 2008 through June 2011 were utilized in model development and testing. Factors that affected value in the warehouse inventory were location, lot size, age and condition of the building, main floor space, and the amount of finished main floor space as well as developed upper area (Exhibit R-1, page 7).

[23] The Respondent provided several excerpts from *The Appraisal of Real Estate, Second Canadian Edition,* which addressed approaches to value, time adjustments, and comparability of factors used to determine value.

i. *Typically, the direct comparison approach provides the best indication of value for owner-occupied commercial and industrial properties* (Exhibit R-1, page 32).

ii. *An adjustment for market conditions is made if general property values have appreciated or depreciated since the transaction dates due to inflation or deflation or a change in investors' perception of the market over time* (Exhibit R-1, page 33).

iii. *Data on each property's sale price , income, expenses, financing terms, and market conditions at the time of sale is needed* (Exhibit R-1, page 34).

iv. *It is imperative that the appraiser analyze comparable sales and derive their capitalization rates in the same manner used to analyze the subject property and capitalize its income* (Exhibit R-1, page 35).

[24] The Respondent offered criticisms of some of the Complainant's sales comparables.

i. Sale # 1, located at 11310/11340 120 Street, was part of a larger sale of businesses. It was not a true real estate transaction and therefore should not be used for valuation (Exhibit R-1, page 39).

ii. Sale # 3, located at 14345 – 123 Avenue, involved an improvement that required major roof repairs estimated at $850,000 at the time of purchase and the purchaser confirmed that the property was purchased at a discounted price. Additionally, an appraisal for financing purposes was completed indicating a value of $4,800,000 (Exhibit R-1, page 40).

iii. Sale # 4, located at 11510 149 Street, was a non-arm's length transfer based on a three-year old option to purchase agreement at well below market value.

[25] In response to the Complainant's use of the income approach to support its direct sales comparison conclusion, the Respondent argued that there was not sufficient information provided to justify the values used by the Complainant in his suggested pro-forma.

[26] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at $10,127,000.

Decision

[27] The decision of the Board is to confirm the 2012 assessment of the subject property at $10,127,000.

Reasons for the Decision

[28] Although the Board acknowledges that the Complainant provided sales comparables that were all within one and one-half years of the valuation date, the Board places less weight on the Complainant's sales comparables because of the age discrepancies with some of the comparables compared to the subject, and site coverage that vary significantly from the subject's.

[29] In his own disclosure, the Complainant stated that adjustments would have to be made to account for age and building size variations to establish his requested assessment at $70.00 per square foot. This was despite the average of his sales comparables being $64.05 per square foot, reduced to $58.64 per square foot when the sales prices were adjusted for zoning. The Complainant argued that there would have to be adjustments to the Respondent's sales due to building size and superior location. The Board does not agree. It is the position of the Board that the average of the time-adjusted sales prices supported the assessment of the subject property without the necessity of arbitrarily substituting another value.

[30] The Complainant stated that his sales comparables #'s 2, 5, and 6 were the best comparables due to comparable age and building size. The Board would add site coverage as well. However, the resulting $79.81 per square foot sales price supports the $79.40 per square foot assessment of the subject property.

[31] With reference to the Complainant's sales comparable # 1, the Board notes that there is a size discrepancy shown by the two reporting agencies. In the Complainant's disclosure brief, the Network reported the building to be 79,188 square feet in size with a unit value of $43.58 per square foot, while in the Respondent's disclosure brief, Anderson Data Online reported the building size to be 69,386 square feet with a unit value of $49.74 per square foot.

[32] The Board places no weight on the Complainant's income approach used to support his derived direct sales approach value. The Complainant did not provide evidence as to how the various values used in the pro-forma were derived. The Board is influenced by the direction given in *The Appraisal of Real Estate, Second Canadian Edition,* which states:

i. *data on each property's sale price, income, expenses, financing terms, and market conditions at the time of sale is needed*; and

ii. *it is imperative that the appraiser analyze comparable sales and derive their capitalization rates in the same manner used to analyze the subject property and capitalize its income.*

[33] The aforementioned requirements were not provided to support the values used in the proposed pro-forma.

[34] In the rebuttal document, the Complainant raised concerns with the Respondent's sales comparables due to dated sales, building size, zoning, and location:

i. Regarding dated sales, the Board agrees with the Complainant that sales close to the valuation date would be preferable. The Board notes, however, that five of the

Respondent's sales comparables occurred within six months of the valuation date, while three of the Complainant's sales occurred in 2010 and three sales occurred in 2011. The Board acknowledges the direction provided in *The Appraisal of Real Estate, Second Canadian Edition*, which states "*An adjustment for market conditions is made if general property values have appreciated or depreciated since the transaction dates due to inflation or deflation or a change in investors' perception of the market over time*".

ii. Regarding building size, the Board noted that the Complainant's sales comparables ranged from 73,000 to 137,062 square feet compared to the size of the subject at 127,547 square feet, and therefore reflective of the large size of the subject. However, three of the Respondent's sales comparables exceed 100,000 square feet in size and are within 12% of the size of the subject. The other comparables submitted by the Respondent are reasonably reflective of the sizes of the individual three buildings of the subject property, and therefore reasonable comparables.

iii. Regarding zoning, the Board places little weight on the "Edmonton Industrial Sales by Zoning" chart provided by the Complainant since the sales were of improved properties with no indication of age, condition of the improvement, and location of the properties.

iv. With regards to location, the Board places some weight on the Complainant's concerns regarding the 118 Avenue and the 149 Street locations of two of the Respondent's comparables. These are on major roadways. However, the 118 Avenue sales comparable, at $82.62 per square foot, is within 4.0% of the subject's $79.40 assessment per square foot. The 149 Street sales comparable, at $93.27 per square foot, is actually less than the 148 Street sales comparable at $95.24 per square foot. This would seem to indicate that although the Complainant had argued that the 149 Street comparable was in a superior location, this did not necessarily result in a higher value.

[35] The Board places little weight on the Complainant's reference to a previous CARB decision that spoke to dated sales for two reasons:

i. this Board is not bound by previous CARB decisions; and

ii. in this case, seven of the Respondent's sales comparables were within the same time period used by the Complainant.

[36] The Board places greatest weight on the Respondent's sales comparables, in particular sales comparables #'s 5, 7, and 8 because the building sizes are all in excess of 100,000 square feet, as is the subject. As well, sales comparables #'s 7 and 8 are also multiple building properties. Furthermore, seven of the Respondent's sales occurred in 2010 and 2011, making them more current than the Complainant's, the comparable's ages are similar, and the site coverage range of 34% to 50% better reflects the 40% site coverage of the subject. Although four of the Complainant's sales comparables have site coverage similar to the subject, two are significantly different at 58% and 9% compared to the subject's 40%. The average time-adjusted sales price of $81.62 per square foot supports the subject's $79.40 per square foot assessment.

[37] The Board is satisfied that the Respondent adhered to the directions provided in *The Appraisal of Real Estate, Second Canadian Edition* with regards to different approaches to value and time adjustments. Data must be drawn from properties that are physically similar to the property being assessed.

[38] The Board is persuaded that the 2012 assessment of the subject property at $10,127,000 is fair and equitable.

Dissenting Opinion

[39] There was no dissenting opinion.

Heard November 13, 2012.

Dated this December 6, 2012, at the City of Edmonton, Alberta.

Peter Irwin, Presiding Officer

Appearances:

Greg Jobagy
for the Complainant

Suzanne Magdiak
Tanya Smith
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.