

Edmonton Composite Assessment Review Board

**Citation: Colliers International Realty Advisors Inc. v The City of Edmonton, 2012
ECARB 2214**

Assessment Roll Number: 9564386
Municipal Address: None
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
Mary Sheldon, Board Member
Jasbeer Singh, Board Member

Preliminary Matters

[1] At the outset of the hearing, the Presiding Officer advised the parties that he had worked with the Complainant's representative, Stephen Cook, at the MGB, but that this relationship would not cause him to be in conflict. Upon being asked, the parties indicated that they had no objection to the composition of the CARB. The members of the CARB did not indicate any bias with respect to this matter.

[2] Evidence, submissions and arguments will be carried forward, so far as applicable, to this file from file #10142586.

Background

[3] The subject property is a parcel of undeveloped land located in the southeast quadrant of Edmonton. It is 2.174 acres in size and is zoned IM. The current assessment, based on the direct sales comparison approach to value, is \$1,277,000 or \$587,397 per acre. There was no dispute as to the use of the Respondent's time adjustment calculations.

Issue

[4] Is the 2012 assessment of the subject, based on the direct sales comparison approach to value, correct?

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] In support of the position that the current assessment of the subject is excessive, the Complainant presented a chart of five sales of properties which, in the opinion of the Complainant, were similar to the subject. The Complainant submitted that all were located in the southeast quadrant of Edmonton and were all zoned either IB or IM. The sizes of the comparable parcels ranged from 1.33 acres to 3.00 acres. The sale prices per acre ranged from \$451,570 to \$575,916 (C-1, page 8). All comparables were serviced to full municipal standard, similar to the subject. The time adjustments derived by the Respondent were accepted by all parties.

[7] The Complainant also noted that all of its sales were dated within 13 months of the valuation date, while the Respondent's sales were primarily from 2010. The Complainant made the point that more recent sales were better for establishing value.

[8] The Complainant argued that this evidence demonstrated that a reasonable value per acre for the subject would be \$500,000 and that the current assessment per acre of \$587,397 was excessive.

[9] The Complainant submitted that a value of \$500,000 per acre for the subject would translate into a total 2012 value for the subject of \$1,087,000.

[10] During questioning, the Complainant acknowledged that the consideration paid for the sale of comparable #4, at 6104 72A Avenue, was a land exchange which might have been a motivating factor or might have meant that a premium was paid. The Complainant also stated that the location of comparable #5, a corner lot fronting Roper Road, would be more advantageous than the location of the subject.

[11] The Complainant requested that the CARB reduce the 2012 assessment of the subject to \$1,087,000.

Position of the Respondent

[12] The Respondent argued that the 2012 assessment of the subject was correct, fair and equitable.

[13] In support of this position, the Respondent presented 12 sales of properties which, in the opinion of the Respondent, were similar to the subject. It was noted that the Respondent's comparable #12, at 5803 Roper Road, was the same as the Complainant's comparable #5 (R-1, page 13).

[14] The Respondent submitted that all the comparables were in the Pylypow neighborhood of Edmonton. All were zoned IB, IL or IM. All were fully serviced lots. The Respondent advised the CARB that properties zoned IB or IM sold for similar amounts, depending on the location of the property.

[15] The Respondent noted that the size of these comparables ranged from 1.42 acres to 4.889 acres and the time adjusted sale price per acre ranged from \$560,392.72 to \$658,006.34. The Respondent argued that this evidence supported the assessment per acre of the subject at \$587,316.18.

[16] The Respondent also provided to the CARB details of various documents and orders of foreclosure and orders for sale and vesting title for some properties in the Maple Grove area of Edmonton (R-1, pages 27-80). The Respondent argued that this evidence cast doubt on the validity of the Complainant's comparables #1, #2 and #3 from the same subdivision, as the vendor in each case was the same as the defendant in the various foreclosure and sale orders.

[17] The Respondent requested that the CARB confirm the 2012 assessment of the subject at \$1,277,000.

Decision

[18] The Complaint is denied and the assessment is confirmed at **\$1,277,000**

Reasons for the Decision

[19] The CARB considered all of the evidence and argument.

[20] The CARB reviewed the foreclosure documents and court ordered sales evidence (R-1 pages 27 – 81). Three of the Complainant's sales (#1, #2 & #3) were in the vicinity of a number of foreclosures and court ordered sales, many of which involved the same vendor as the sales comparables. While the foreclosures seem to have occurred later than the comparable sales, the Respondent argued that the vendor may have been anxious to get rid of the property at a reduced

price rather than lose it in foreclosure. With no evidence one way or the other from either party, the CARB concludes that this may be a plausible argument. In any event, together with the limitations of a forced sale of the comparables (as far as a willing buyer and a willing seller), it is enough to cast doubt on the validity of the first three of the Complainant's sales.

[21] The Complainant's fourth sales comparable was shown to be a land exchange, casting doubt on the validity of the valuation in that transaction. The final sale was in a better location, but the impact of an irregular lot was not determined, so while it may have been a valid sale, the CARB concluded it was not comparable to the subject.

[22] So, in the final analysis, the CARB put little weight on four of five of the Complainant's sales comparables because of lack of confidence in the validity of one or more of the terms of sale. In the case of the fifth and final comparable, the CARB concluded that location and irregular shape meant that it was not comparable to the subject. As a result, the CARB felt there was insufficient evidence to disturb the assessment.

Dissenting Opinion

[23] There was no dissenting opinion.

Heard commencing October 15, 2012.

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

James Fleming, Presiding Officer

Appearances:

Greg Jobagy

Stephen Cook

for the Complainant

Darren Nagy, Assessor

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.