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 2225

Assessment Roll Number: 9554601
Municipal Address: 4704 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 is a multi-bay warehouse property located at 4704 76 Avenue NW in the Weir Industrial neighborhood. It comprises two buildings of 38,439 square feet (sf) and 50,598 sq ft. Both buildings have an effective year built 1973 and are in average condition. The 252,194sf lot has site coverage of 35%. The subject assessment has a negative 10% adjustment applied to building #2 because it is a rear building without direct street access.

Issue

[3] Is the subject 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 assessment of $7,676,000 is above market value.

[6] The Complainant argued that sales of similar property indicate a reduction in the assessment is warranted. In support of this position, the Complainant presented four sales that occurred between January 1, 2010 and July 1, 2011. The Complainant pointed to the fact that the City recognized that there were no time adjustments necessary during this time period, thereby reducing the need for adjustments and resulting in a more accurate comparative analysis.

[7] The Complainant's sales comparables sold for an average sale price of $80.68/sf compared with the subject assessment of $86.20/sf. The sales were similar in age, parcel size and site coverage. The building sizes of the comparables ranged from 76,372sf to 162,860sf. Based on the average sale price of the comparables, the indicated value for the subject is $7,213,455 or $7,213,000, truncated.

[8] In addition, the Complainant applied a 10% reduction in recognition of the lack of exposure for the rear building. This adjustment resulted in a value of $6,803,505 or $6,803,500, truncated.

[9] The Complainant submitted that the majority of industrial properties are bought and sold by user-operators, and thus, utilizing the income approach is less reliable than a direct comparison valuation in determining the correct assessment for a property. However, this method is a good test of reasonability for assessment purposes.

[10] The Complainant prepared an estimate of value based on the income approach using a $6.50/sf rental rate, a 3% vacancy rate, a $2.00/sf vacancy shortfall and a capitalization rate of 7.75%. The income approach yielded a value of $7,103,500, which was similar to the value arrived at using the direct sales approach.

[11] The Complainant provided evidence supporting the basis for the factors used in the income approach. The rent roll for building #1 of the subject property had rental rates ranging from $6.25/sf to $8.00/sf with the most recent lease commencing July 1, 2010 at $8.00/sf. The capitalization rate of 7.75% was the highest capitalization rate published by Colliers International for the second quarter of 2011 for this type of property. This rate was chosen because the subject property was an older property, constructed in 1973.

[12] In consideration of the above value indications, the Complainant requested the Board reduce the subject assessment to $6,850,000.

Rebuttal

[13] The Complainant criticized the Respondent's sales comparables in several respects. First, the Complainant stated that sales #1, #2, #3, #4 and #5 were dated sales because they transacted three or more years prior to the valuation date of July 1, 2011. Second, the building sizes of the Respondent's comparables were considerably smaller than the subject. Third, sales #3 and #5 were in a superior location to the subject property.

Position of the Respondent

[14] The Respondent submitted that the subject assessment was correct. In support of this position, the Respondent presented seven sales comparables that had an average sale price of $98.56/sf compared with the subject assessment of $86.21/sf. The comparables were similar in age, site coverage and building size. The Respondent used comparables that were similar in size to each of the subject buildings; building #1 was 38,439sf and building #2 was 50,598sf.

[15] The Respondent explained that sales occurring from January 2008 through June 2011 were used in model development and testing. To this end the comparables used to defend the assessment were from this same time period.

[16] The Respondent disagreed with the Complainant's position that the Respondent's sales #1, #2, #3, #4 and #5 were dated sales. An adjustment is made if general property values have appreciated or depreciated since the transaction dates due to inflation or deflation or a change in investor's perceptions of the market over time. The Respondent had adjusted the sales that required adjustment.

[17] The Respondent submitted that there were problems with two of the Complainant's sales. Complainant's sale #1 had a total building area of 71,598sf for a selling price of $71.23/sf. Sale #2 had lease rates considered 20% to 25% below market, indicating an upside at the time of sale. Further, sales #1 and #2 had significantly higher site coverage than the subject's 35% which would require an upward adjustment in the sale price. Site coverage was a key factor that affected value in the warehouse inventory.

[18] The Respondent also questioned the factors used by the Complainant in the income approach. For example, the Complainant used a rental rate of $6.50/sf, however, Colliers International published $9.51/sf and $8.78/sf as the average asking rental rates.

Decision

[19] The property assessment is confirmed at $7,676,000.

Reasons for the Decision

[20] In determining whether the subject property is assessed correctly, first, the Board reviewed the Complainant's evidence and argument.

[21] The Board considered the Complainant's argument with respect to dated sales. Ideally, there would be several sales of similar property that sold close to the valuation date. However, when there are few sales of similar property, 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. The time adjustment factors were not challenged by the Complainant.

[22] The Board finds the Complainant's sales #1 and #2 to be inferior to the subject property because they have much greater site coverage than the subject. As well, sale #2 has a building that is twice the size of the total area of the two subject buildings and cannot reasonably be compared. The Complainant's sales #3 and #4 are good comparables; together, they support the subject assessment.

[23] With respect to the Complainant's income approach, the Board finds insufficient evidence to support the use of a $6.50/sf rental rate because the Complainant did not establish that the subject's rental rates are typical rental rates. Therefore, the estimate of value may not reflect the market value of the subject property.

[24] Next, the Board reviewed the Respondent's evidence and argument. The Board finds the Respondent's #2, #6 and #7 to be good indicators of value for the subject property. These sales are similar to the subject in age, site coverage and building area for each of the subject buildings. The average time adjusted sale price for these comparables is approximately $92.00/sf which supports the assessed value of $86.21/sf.

[25] Accordingly, the assessment is confirmed at $7,676,000.

Heard commencing September 5, 2012.
Dated this 27 day of September, 2012, at the City of Edmonton, Alberta.

Peter Irwin, Presiding Officer

Appearances:

Greg Jobagy
Stephen Cook
for the Complainant

Steve Lutes
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.