

Edmonton Composite Assessment Review Board

**Citation: COLLIERS INTERNATIONAL REALTY ADVISORS INC v The City of
Edmonton, 2012 ECARB 2226**

Assessment Roll Number: 9952053
Municipal Address: 9403 51 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
Robert Mowbrey, Presiding Officer
Brian Frost, Board Member
Reg Pointe, Board Member

Preliminary Matters

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

Background

[2] The subject property is a medium warehouse with two buildings located at 9403 51 Avenue NW. The buildings were constructed in 1975/1977. One building has 30,999 square feet and the second building has 29,119 sf. The site coverage for the two buildings is 32% and the buildings are assessed in average condition. The 2012 assessment is \$6,684,500.

Issue(s)

[3] What is the market value of the subject property?

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 \$6,684,500 is in excess of market value. In support of this position, the Complainant submitted a 23-page evidence package marked as Exhibit C-1 and a 21-page rebuttal evidence package marked as Exhibit C-2.

[6] The Complainant provided the Board with a map and photographs of the subject property (Exhibit C-1, pages 4, 5, and 6).

[7] The Complainant advised the Board about assessment and valuation and how the subject property was evaluated by the Complainant. The Complainant indicated that real estate Owner – Operators purchase the majority of industrial warehouse buildings in Western Canada. Such owners are most concerned with its particular physical and locational characteristics, rather than the property’s income generation. This suggests that the Direct Comparison Approach is a relevant valuation technique for the subject property. However, to further support a reduced assessment, the Complainant also presented an income approach to value. The overall income capitalization method is the Income Approach, utilized due to its dominant usage by investors for properties similar to the subject. The Income approach is sometimes referenced as a secondary measure of value for industrial warehouse buildings. It is therefore utilized as a supporting method in valuation, as it is a good test for market value.

[8] The Complainant presented six sale comparables to the Board that were within approximately 18 months of valuation. The sales comparables were all medium warehouses which ranged in size from 38,373 to 162,860 sf and the site coverage ranged from a low of 25% to a high of 54%. By incorporating this time frame, there was no necessity for time-adjustments as the City of Edmonton’s City Assessor’s chart shows that from June 2010, there is 0.0 % adjustment. The first and sixth sale are zoned IM and the second sale to the fifth sale inclusive are zoned IB, as is the subject property.

[9] The Complainant advised the Board that the Complainant’s sales comparables ranged from a low of \$75.57 to a high of \$110.62 per square foot of total building area (Exhibit C-1, page 10).

[10] The Complainant submitted a rebuttal evidence package to the Board that refuted the Respondent's evidence regarding the Complainant's sale comparable #5 (4900 93 Avenue). Therein, the Complainant's evidence showed the purchase price reflected the market value at the time of sale and the repair cost did not reduce the sale price of the subject property (Exhibit C-2, pages 3-21).

[11] The Complainant advised the Board that when the factors of age, total lot size, total building size and zoning are taken into consideration, a concluded unit valuation of \$100.00 per square foot is appropriate for the subject property. The resulting total property value is \$5,711,000 (Exhibit C-1, page 10).

[12] The Complainant presented a chart to the Board that outlined the rationale for the difference in Edmonton industrial sales by zoning between IB and IM (Exhibit C-1, page 13).

[13] During cross-examination by the Complainant regarding the Respondent's evidence, the Complainant noted that sale comparables #1 and #2 were vacant at the time of sale (Exhibit R-1, pages 18-19).

[14] The Complainant also questioned the Respondent's sale comparable #6 which is a vendor take-back mortgage (Exhibit R-1, page 23).

[15] The Complainant asked the Respondent if any adjustments have been made to the Respondent's sale comparables regarding land size and age and the Respondent answered in the negative.

[16] During argument and summation, the Complainant argued that it had six sales that were similar to the subject property in terms of size, location and zoning.

[17] With the Complainant having the last word, the Complainant stated the Respondent's sales were smaller and four of the Respondent's eight sales had higher site coverages than the subject property. In addition, the Complainant stated the Respondent had made no adjustment for age and size differential respecting the Respondent's sales comparables.

[18] The Complainant requested the Board to reduce the 2012 assessment of \$6,684,500 to \$5,711,000 based on the Complainant's evidence.

Position of the Respondent

[19] The Respondent presented the Board with a 42-page assessment brief marked as Exhibit R-1. In addition, the Respondent presented the Board with a 44-page law and legislation package marked as Exhibit R-2. Further, the Respondent provided the Board with a nine-page surrebuttal package marked as Exhibit R-3.

[20] The Respondent explained to the Board that the subject assessment and similar assessments were prepared using the Direct Comparison Assessment methodology. The Respondent stated that sales occurring from January 2008 through June 2011 were used in the model development and testing (Exhibit R-1, page 7).

[21] The Respondent noted that factors found to affect value in the warehouse inventory were: the location of the property; the size of the lot; the age and condition of the buildings; the total

area of the main floor (per building), and; the amount of finished area on the main floor as well as the developed upper area (per building) (Exhibit R-1, page 7).

[22] The Respondent notes that the most common unit of comparison for industrial properties is value per square foot of building area. When comparing properties on this basis, it is imperative that the site coverage be a key factor in the comparison. Properties with a larger amount of land in relation to the building footprint display a higher value per square foot, to account for the additional land value attributable to each unit of the building size (Exhibit R-1, page 8).

[23] The Respondent stated that it is legislatively obligated to use mass appraisal methodology for valuing individual properties. The Respondent employed the sales comparison approach for the 2012 annual assessment of all warehouse properties in Edmonton. The Respondent informed the Board that a large percentage of industrial property in Edmonton was owner occupied and had no income attributable to it, making the sales comparison a more reliable approach in this market place (R-1, page 6).

[24] The Respondent further advised the Board regarding multi-building accounts. The Respondent said industrial accounts which consist of multiple buildings have been valued according to the same mass appraisal model as single building accounts. In doing so, each building has been analyzed for its contributory value to the property. For such accounts, a single assessment has been produced that represents the aggregate market value of that particular property. The Respondent noted that owing to differences in age, condition, type of construction and building sizes, the City assesses each building with its own attributes and combines the individual assessments to arrive at the total assessment for the total property. The Respondent noted that a number of Board decisions have been issued in which assessments of tax rolls containing more than one building have been confirmed. The Board is not bound by these decisions, or those similar cases in which assessments have been altered (Exhibit R-1, page 12).

[25] The Respondent provided the Board with maps and photographs detailing the subject property. The Respondent advised the Board that the City gave the subject property a 10% reduction on the second building due to its apparent lack of exposure (Exhibit R-1, pages 13-15).

[26] To support the City of Edmonton's assessment of the subject property, the Respondent provided the Board with eight sales comparables. The sales comparables ranged in age from 1972 to 2000. The total building area ranged in size from a low of 19,903 square feet to a high of 41,991 sf. The site coverage ranged from a low of 25% to a high of 46% and all the sale comparables were in average condition. Six of the eight sale comparables were not on a major arterial road. Two of the sale comparables were on a major arterial road, the same as the subject property. The time-adjusted selling price per square foot of the total building area ranged from a low of \$97.70 to a high of \$144.14 (Exhibit R-1, page 17).

[27] The Respondent advised the Board regarding the market value within a range and stated that the MGB has ruled on a number of occasions that market value encompasses a range of values and the issue is whether the assessment falls within that range of values. Both the ARB and the MGB have further ruled on numerous occasions that it would not alter an assessment, if the requested change to the assessment, or if the evidence indicates a change to the assessment within 5% (Exhibit R-1, pages 31-32).

[28] In addition, the Respondent further advised the Board that the burden of proof lies on the party who desires the Board to take action and must prove its case to the Board's satisfaction (Exhibit R-1, page 34).

[29] The Respondent noted that the lead tenant for the Complainant's sale #4 (8210 McIntyre Road) was vacating the space, and the purchaser plans to move into the premises, and plans to occupy other space as it becomes available (Exhibit R-1, page 25).

[30] The Respondent also noted the lease rate for the Complainant's sale #1 (7603 McIntyre Road) was considered below market (Exhibit R-1, page 26).

[31] The Respondent noted that four of the main floor bays for the Complainant's sale #2 (3304 Parsons Road) were leased at rates below market and the mezzanine is also leased at rates below market. The space was acquired based on a future upside (Exhibit R-1, page 27).

[32] The Respondent advised the Board that the Complainant's sale #3 (4115 101 Street) actually has an effective age of 1969 and not 1974 as the Complainant's evidence shows. In addition, the Respondent provided third party information from Anderson Data that confirms the year as 1969 (Exhibit R-1, page 28).

[33] The Respondent advised the Board that the Complainant's sale #5 (4900 93 Avenue) had foundation and plumbing problems at time of sale of which the purchaser was aware. The Respondent had discussions with the purchaser and the purchase price reflects the "fair" condition at the time of sale (Exhibit R-1, page 29).

[34] The Respondent advised the Board that the Complainant's sale #6 (4101/25 84 Avenue) had current leases that were considered to be 20 to 25% below market (Exhibit R-1, page 30).

[35] The Respondent provided the Board with a 9-page surrebuttal package that refuted the Complainant's assertion of the Complainant's sale #5 as being a valid sale. The Respondent provided a land title certificate that indicated a land transfer of \$5,300,000. The Respondent further noted that a mortgage for \$6,000,000 had been taken out in November, 2010.

[36] During argument and summation, the Respondent advised the Board that the Complainant's sale comparables had some sales that had under market leases and some had other issues as well.

[37] The Respondent requested the Board to confirm the 2012 assessment of \$6,684,500.

Decision

[38] The decision of the Board is to confirm the 2012 assessment of \$6,684,500.

Reasons for the Decision

[39] The Board reviewed the Complainant's evidence and oral testimony and the Respondent's evidence and oral testimony and found the Respondent's evidence and oral testimony to be more compelling.

[40] The Board notes that the common sale comparable of the Complainant and the Respondent (8210 McIntyre Road) has a time-adjusted selling price per square foot of total building area of \$109.55, which approximates the subject property's assessment of \$111.19.

[41] The Board was persuaded by the Respondent's sales comparable chart which indicates the median selling price per square foot of total building area is \$126.15. In addition, the Board notes that six of the eight comparable sales were not on a major arterial road. Since the subject property is on a major arterial road, the six sale comparables of the Respondent would have to be adjusted upwards, and thus increasing the selling price per square foot of total building area.

[42] The Board was persuaded by the Respondent's comments detailing the Complainant's sale comparable issues, thus bringing into question the validity of the Complainant's sale comparisons. The Board notes a few of the Complainant's sale comparables leases were below market. In addition, one sale comparable had the incorrect effective age. The Board therefore, could not rely on the Complainant's sale comparables.

[43] The Board notes the Complainant's sale #5 is suspect at best. While the Board has no real issue with the Complainant's rebuttal evidence regarding the repairs being amortized over a period of five years, the Board is persuaded by the Respondent's surrebuttal indicating a much higher figure. The Respondent's evidence states that a mortgage of \$6,000,000 was taken out and the remainder was cash. The Respondent's evidence shows that the consideration was \$5,300,000 plus other good and valuable consideration.

Dissenting Opinion

[44] There was no dissenting opinion.

Heard commencing November 7, 2012.

Dated this 30th day of November, 2012, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

Greg Jobagy

Stephen Cook

for the Complainant

Luis Delgado

Mary-Alice Nagy

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.