Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc. v The City of Edmonton, 2012 ECARB 2231

Assessment Roll Number: 4874053
Municipal Address: 12607 82 Street 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. Each of the Board members indicated that they had no bias with respect to this complaint.

[2] The parties indicated that some evidence and argument presented would carry forward to roll numbers 4994919 and 4995304.

Background

[3] The subject property is a single-tenant, small warehouse-type property located along Yellowhead Trail in the Yellowhead Corridor East neighborhood of northeast Edmonton. There are three buildings on the site, all in fair condition, built in 1953, and comprising a total of 10,296 square feet of space. The lot size is 197,196 square feet (4.527 acres) with site coverage of 5%. The subject is zoned IM.

[4] For 2012, the subject has been valued by the cost approach for a total assessment of $2,276,500. The improvements on site are assessed at $114,156, an amount that is not in dispute. The land is assessed at $2,162,707 or $10.96 per square foot and is the subject of this complaint.

Issue

[5] Is the 2012 land assessment of the subject property too high compared to sales of comparable industrial 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 24-page brief marked as Exhibit C-1, arguing that the land value of the 2012 assessment of the subject property, at $2,162,707 or $10.96 per square foot, was too high. His position was that sales of similar land indicated that a value of $425,000 per acre, or $9.76 per square foot, should be applied to the subject (Exhibit C-1, page 8).

[8] The Complainant did not dispute the depreciated Replacement Cost New of $114,156 that was applied to the three buildings on site.

[9] In support of the position that the land value should be $425,000 per acre, the Complainant submitted six land sale comparables of similar properties; four located in northeast Edmonton, one located in northwest Edmonton, and one located in southeast Edmonton. The sales occurred between January 2010 and June 2011, with prices ranging from $132,020 to $450,000 per acre, resulting in an average of $333,791 per acre. The comparable properties ranged in size from 1.0 to 5.78 acres and were zoned IM and IB (Exhibit C-1, page 8).

[10] The Complainant provided an Avison Young report for Midyear 2011 that showed serviced land cost in northeast Edmonton, where the subject property is located, was $351,918 per acre (Exhibit C-1, page 21).

[11] The Complainant stated that all of his land sale comparables were similarly located with respect to Yellowhead Trail, with the exception of comparable #5. This comparable was located at 1235 70 Avenue NW in southeast Edmonton. Comparable # 6, located on Yellowhead Trail, was considered the most comparable due to its location and, along with comparable # 2, also

located on Yellowhead Trail, provided substantial weight to the analysis as they had similar exposure to the Yellowhead Trail (Exhibit C-1, page 8).

[12] The Complainant also commented on sale comparable # 4, located at 12350 Meridian Street, as a good comparable. However, since it did not have exposure to the Yellowhead Trail, there would have to be an upward adjustment applied to the sale price of this comparable (Exhibit C-1, page 8).

[13] Despite the average value of these six land sales comparables being $333,791 per acre, the Complainant requested that a value of $425,000 per acre be applied to the land of the subject property (Exhibit C-1, page 8). The Complainant recognized that adjustments would have to be made due to location. Further, this gave consideration to the Avison Young report, which showed serviced land costs in the northeast Edmonton to be $351,918 per acre.

[14] The Complainant submitted a 19-page rebuttal document critiquing the Respondent's five sales comparables, including comparable # 5, used by both parties. The Complainant raised concerns about location (Exhibit C-2, page 9):

i. The first, second, and fifth comparable properties were located in the superior southeast quadrant vs. the northeast quadrant where the subject was located.

ii. The third comparable property was located in the superior northwest quadrant vs. the northeast quadrant where the subject was located.

iii. Comparable sale # 4 had no third party report and the Title Transfer Document did not state any comments regarding the validity or terms of the sale. Selling in January 2009, it was a dated sale that occurred 2.5 years prior to the July 1, 2011 valuation date.

[15] The Complainant submitted a bar graph entitled "Edmonton Industrial Sales" showing the average sale per square foot for the four quadrants of the city. This was based on Gettel Network reports of sales that occurred between January 1, 2010 and July 1, 2011. There were 109 sales in the northwest with an average sale price of $157.54 per square foot; 17 sales in the northeast with an average sale price of $115.71 per square foot; 128 sales in the southeast with an average sale price of $180.60 per square foot, and five sales in the southwest with an average sale price of $120.91 per square foot (Exhibit C-2, page 14). The Complainant argued that "location" within the four quadrants of the City was a very important factor in establishing the value of a property. This chart that showed northeast values to be the lowest was supported by the Avison Young report that also indicated that the northeast quadrant had a lower average price per acre than the other quadrants of the city.

[16] The Complainant stated that his sales comparables were more current, having occurred between January 2010 and June 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 stated "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 19).

[17] In conclusion, the Complainant requested the Board reduce the land component of the 2012 assessment of the subject property from $2,162,707 to $1,923,975 based on $425,000 per acre. When combined with the non-disputed building assessment of $114,156, the new total requested 2012 assessment would be $2,038,000.

Position of the Respondent

[18] The Respondent submitted a 90-page brief marked as Exhibit R-1 arguing that the original $2,276,500 assessment of the subject property was fair and equitable. Included in the brief were 44-pages addressing Law and Legislation.

[19] In support of her position, the Respondent submitted five sales comparables, three located in the southeast, and one located in each of the northwest and northeast quadrants of the City. The sales occurred between January 9, 2009 and June 28, 2011, with time-adjusted land prices ranging from $10.13 to $16.20 per square foot, resulting in an average of $13.37 per square foot. This supported the $10.96 per square foot assessment of the subject property. The comparable properties ranged in size from 0.92 acres to 1.51 acres and were all zoned IM (Exhibit R-1, page 14).

[20] The Respondent critiqued some of the Complainant's sales comparables:

i. The shape of sale comparable # 2 made it less desirable than the subject. This would be reflected in the sale price (Exhibit R-1, page 20).

ii. Sale comparable # 6 was a non-arm's length sale and should not be considered valid. The Respondent provided a Land Title Certificate and transfer documents showing it was a Ministerial Sale (Exhibit R-1, pages 21 to 26).

iii. With regards to sale comparable # 4, the Respondent's evidence showed that the site was contaminated and should not be considered comparable (Exhibit R-1, pages 27 to 33).

[21] The Respondent stated that the Complainant had not time-adjusted the sale prices in his Comparable Land Transaction chart. The Respondent provided a chart of time adjustment factors (Exhibit R-1, page 34), and then applied these factors to the Complainant's sales comparables. This resulted in a time-adjusted average sales price of $327,604 per acre vs. the Complainant's average sale price of $333,791 (Exhibit R-1, page 35).

[22] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at $2,276,500 that includes $2,162,707 for the land assessment of the subject property plus of $114,156 for the building portion that is not in dispute.

Decision

[23] The decision of the Board is to reduce the land portion of the 2012 assessment to $1,923,975 based on a value of $425,000 per acre. When combined with the non-disputed building assessed value of $114,156, the revised 2012 assessment is $2,038,000.

Reasons for the Decision

[24] The Board placed little weight on the time-adjusted sales prices of the Complainant's sales comparables as calculated by the Respondent. The average time-adjusted sale price, at

$327,603 per acre, was actually slightly less than the average $333,791 per acre provided by the Complainant.

[25] Regarding location, the Board placed little weight on the "Edmonton Industrial Sales" 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.

[26] The Board placed little weight on the Avison Young Industrial report showing a value of $351,918 per acre for serviced land in northeast Edmonton since it lacked any details as to the number of sales and sizes of the parcels sold to arrive at this value.

[27] The Board placed 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. time adjustments to the sale prices of comparable properties is an accepted practice in the assessment complaint process, typically used by both the Respondents and the Complainants.

[28] The Board placed some weight on the Complainant's argument that the Respondent's sales comparables #'s 1, 2, 3 and 5 are in superior quadrants of Edmonton compared to the northeast quadrant where the subject is located. These would therefore require downward adjustments. However, the Board noted that the Respondent's sales comparable # 5 was also used by the Complainant as sales comparable # 5.

[29] The Board placed no weight on the Respondent's sale comparable # 4 as no supporting sales documents were provided to substantiate this sale.

[30] The Board was not convinced by the Respondent's argument that the Complainant's sale # 4 was contaminated. The submitted newspaper documents did not make it clear that contamination was on the subject property. Under questioning by the Board it was confirmed that this property had rural standard servicing, quite different than the subject, and the Board placed no weight on this sale.

[31] The Board placed no weight on the Complainant's sale comparable # 1 as it was in the superior northwest quadrant of Edmonton. It was not located on Yellowhead Trail while the subject was, and Network documents showed a purchase agreement that was dated four years prior to the sale that may have had some influence on the 2010 sale price.

[32] The Board placed some weight on the Complainant's sales comparable # 2 as it was located on the Yellowhead Trail in the same quadrant as the subject. The Board did not accept the Respondent's position that the highly irregular shape of the land would cause the price to be discounted as no evidence was provided to confirm this position. The Network document showed that the City of Edmonton sold the property and, although an outlier at $132,020 per acre, the Board had no reason to discount this sale.

[33] The Respondent raised the issue of a non-arm's length transaction regarding the Complainant's sale comparable # 6, as the Respondent's evidence showed a transfer of the land between two provincial departments. Further, no value was included in the Land Title Transfer Document. The Complainant provided a network document that showed this property was sold to

the Province of Alberta for the purposes of road widening. The Board considered this a valid sale and placed weight on it.

[34] The Board placed greatest weight on the Complainant's sales comparables # 2, 3 and 6 because they were located in the same northeast quadrant of Edmonton as is the subject, and have the same zoning. The mean of the time-adjusted sales prices of the three sales comparables as calculated by the Respondent was $425,313 per acre, virtually identical to the requested reduction by the Complainant at $425,000 per acre.

[35] The Board accepted the Complainant's argument that the 2012 land assessment of the subject property should be reduced from $477,735 per acre to $425,000 per acre. Therefore, based upon a reduced land value of $1,923,975 plus the undisputed building value of $114,156, the total 2012 assessment of the subject property is reduced to $2,038,000.

[36] The Board is persuaded that the reduced 2012 assessment of the subject property at $2,038,000 is fair and equitable.

Dissenting Opinion

[37] There was no dissenting opinion

Heard November 13, 2012.

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

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Peter Irwin, Presiding Officer

Appearances:

Greg Jobagy
Stephen Cook
for the Complainant

Melissa Zayac
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.