

Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2012 ECARB 2298

Assessment Roll Number: 10098893
Municipal Address: 3710 69 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. Each of the Board members indicated that they had no bias with respect to this complaint.

[2] During the course of the hearing, the parties indicated that some evidence and argument would be carried forward from Roll Number 9573122.

Background

[3] The subject property is a single-tenant medium warehouse located in the Pylypow Industrial neighbourhood of southeast Edmonton. Built in 1993, the subject improvement (in average condition) is 8,000 square feet in size, of which 679 square feet is main floor office space. The lot size is 133,613 square feet (3.07 acres) with site coverage of 6%. The subject is zoned IH.

[4] For 2012, the subject has been valued by the direct sales approach resulting in an assessment of \$2,523,000 or \$315.42 per square foot.

Issue(s)

[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 26-page brief marked as exhibit C-1, arguing that the 2012 assessment of the subject property, at \$2,523,000 or \$315.42 per square foot, was too high. His position was that sales of similar properties indicated that a value of \$195.00 per square foot should be applied to the subject (Exhibit C-1, page 10).

[8] In support of his position, the Complainant submitted four sales comparables of similar properties located in southeast Edmonton. The sales occurred between January 2011 and June 2011, with sales prices ranging from \$154.42 to \$177.17 per square foot. The comparable properties ranged in size from 11,615 to 17,160 square feet and were zoned IM and IH. The year of construction of the comparables ranged from 1958 to 1979 and the site coverage ranged from 7% to 13%. The average value of these four sales comparables was \$164.07 per square foot, but recognizing adjustments would have to be made for age and size, the Complainant requested that a value of \$195.00 per square foot be applied to the subject property (Exhibit C-1, page 10).

[9] The Complainant stated that “*there is a lack of perfect comparable properties which would have the same low site coverage and small total building size. Therefore, we must examine the most comparable properties and make the appropriate adjustments during the analysis of the market value for the subject property.* The Complainant further stated: “*Since it is difficult to find an exact quantitative adjustment for age and size, it is common place to adjust the unit valuation upwards or downwards within the specified range of sale values in order to account for these differences*” (Exhibit C-1, page 10).

[10] The Complainant submitted exterior pictures of the four sales comparables (Exhibit C-1, pages 11 to 14).

[11] 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 compiled with data from 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 17). Based on this chart, the Complainant stated that IH zoned properties sold for 32% less than IB properties, and 24% less than IM properties. The Complainant argued that to compare the differently zoned properties “*a downward adjustment must be made to IB and IM properties*”.

[12] The Complainant submitted a 26-page rebuttal document critiquing the Respondent’s five sales comparables, raising concerns that included dated sales, location, zoning, building size, and lot size (Exhibit C-2, pages 10 to & 12).

- i. Sales comparables 1 and 2 with sale dates of 2008 are dated sales.
- ii. Sales comparable 2, located in the northwest vs. the subject’s southeast location is 182 blocks away, and sales comparable 3, located in the northeast vs. the subject’s southeast location.
- iii. Sales comparables 1 to 5 have superior zoning of IB and IM compared to the IH zoning of the subject.
- iv. Sales comparable 4 with a building size of 3,882 square feet is 49% of the size of the subject, while the lot size of 0.77 acres is 25% of the size of the subject.

[13] The Complainant raised concerns about the Respondent’s sales comparable 5 located at 9801 51 Avenue NW with regards to “motivation” since the purchaser of this property had purchased an adjoining property. The Complainant stated “*Motivation of purchaser is evident as this is the oldest building (1966) and in the poorest condition (Fair vs. Average) which sold for the second highest unit valuation*” (Exhibit C-2, page 13).

[14] 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 14).

[15] The Complainant re-introduced the chart entitled “Edmonton Industrial Sales by Zoning” (Exhibit C-2, page 17)

[16] The Complainant provided an assessment report for the Respondent’s sales comparable 5 located at 9801 51 Avenue NW that showed that the 2012 assessment of this property was \$1,733,500 or \$233.22 per square foot, while the time-adjusted sale price was \$378.61 per square foot. In his summation the Complainant suggested that due to the large variation in values no weight should be placed on this comparable (Exhibit C-2, page 18).

[17] The Complainant stated that his sales comparables were more current, all having occurred in 2011 and that this was important since the sale prices needed no or minimal time-adjustments. In the rebuttal document, the Complainant included a decision of a Composite

Assessment Review Board dated September 23, 2010 that 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 21).

[18] The Complainant also provided an excerpt from the Appraisal of Real Estate, Second Canadian Edition where it stated: “*Historical sales may be valuable to retrospective valuations and may assist in time sensitive analysis. However, changes in market conditions make their use less reliable for current valuations with long term adjustments for market conditions*” (Exhibit C-2, page 23)

[19] In conclusion, the Complainant requested the Board to reduce the 2012 assessment of the subject property from \$2,523,000 to \$1,560,000 based on \$195.00 per square foot.

Position of the Respondent

[20] The Respondent submitted a 33-page brief marked as Exhibit R-1 arguing that the original \$2,523,000 assessment of the subject property was fair and equitable. The Respondent also submitted a 44-page Law and Legislation brief.

[21] In support of the position that the assessment was fair and equitable, the Respondent submitted five sales comparables, three located in southeast Edmonton, as is the subject, one located in northwest Edmonton and one located in northeast Edmonton. The sales occurred between January 11, 2008 and June 22, 2011, selling for time-adjusted sale prices ranging from \$285.57 to \$391.60 per square foot, resulting in an average of \$345.77 per square foot, supporting the \$315.42 per square foot assessment of the subject property. The comparables’ improvements ranged in size from 3,882 to 10,220 square feet. Site coverage of the subject, at 6%, fell within the comparables’ range of 5% to 12%.

[22] The Respondent provided information from a report produced by Avison Young for Midyear 2011 showing that serviced land in southeast Edmonton was valued at \$585,322 per acre (Exhibit R-1, page 26). This would seriously impact the value of the subject property in that with a lot size of 3.07 acres but a site coverage of only 6%, the per square foot assessment would reflect the value of the land.

[23] The Complainant had provided a self-constructed chart from the Network’s sales reports that has no details of the sales and, in the Respondent’s view, should not be considered.

[24] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at \$2,523,000.

Decision

[25] The decision of the Board is to confirm the 2012 assessment of the subject property at \$2,523,000.

Reasons for the Decision

[26] In his own disclosure, the Complainant stated that adjustments would have to be made to account for age and size, thereby establishing his requested assessment at \$195.00 per square

foot, despite the average of his sales comparables being \$164.07 per square foot. The Complainant argued that there would have to be adjustments to the Respondent's sales due to building and lot size, zoning, and location. The Board does not agree. It is the position of the Board that the average of the time-adjusted sale prices supports the assessment of the subject property without the necessity of arbitrarily substituting another value.

[27] Regarding zoning, the Board placed 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.

[28] 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.

[29] The Board placed no weight on the pictures of the sales comparables provided by the Complainant since they were not instructive as to the details required to assess comparability to the subject.

[30] The Board reviewed the critiques of both parties on each other's comparable sales. The Board was concerned about the Respondent's sales comparable 5 that had a time-adjusted sale price of \$378.61 but an assessed value of \$233.22, indicating that based on the ASR, this may not be a good comparable. The Board acknowledges that adjustments are required to some of these nine sales but no evidence was provided by either party to show what adjustments might be needed to any of the nine comparables provided by the parties.

[31] The Board placed greatest weight on the Respondent's sales comparables 1 to 4 because the age, site coverage, and building sizes were reasonably reflective of the subject, and the average time-adjusted sales price of these four comparables at \$337.56 per square foot supported the assessment of the subject property

[32] The Board is persuaded that the 2012 assessment of the subject property at \$2,523,000 is fair and equitable.

Dissenting Opinion

[33] There was no dissenting opinion.

Heard November 15, 2012.

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

Peter Irwin, Presiding Officer

Appearances:

Greg Jobagy
Stephen Cook
for the Complainant

Marty Carpentier
Steve Lutes
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.