Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2012 ECARB 2336

Assessment Roll Number:	4071122
Municipal Address:	10450 178 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
Robert Mowbrey, Presiding Officer
Brian Carbol, Board Member
John Braim, 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 advised the parties that the Board had no bias on this file.

Background

[2] The subject property is a large warehouse located at 10450-178 Street. The building has an effective year built of 1985 and is comprised of 78,606 square feet (sf) of main floor space and 12,295 of mezzanine space for a total building area of 90,902 sf. The site coverage is 27% and the 2012 assessment is $8,871,000. The assessment methodology applied to the subject property and other similar properties is the direct sales comparison approach.

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 assessment of $8,871,000 is in excess of market value. In support of this position, the Complainant submitted a 31 page evidence package marked as Exhibit C-1. In addition, the Complainant submitted a 20 page rebuttal package marked as Exhibit C-2.

[6] The Complainant provided the Board with property details, maps and photographs of the subject property (Exhibit C-1, pages 4-7).

[7] The Complainant advised the Board about assessment and valuation and how the subject property was evaluated by the Complainant. Excerpts from the Complainant's evidence package regarding the valuation methodology utilized by the Complainant are as follows:

- The income approach recognizes that for many market participants, the primary purchase criteria are the property's ability to generate income. In this approach, the potential income the property is capable of generating is analyzed and then converted into an expression of market value by the application of an appropriate technique. The income capitalization method is based solely upon the conversion of current earnings directly into an expression of market value in much the same way that stocks are valued through the use of price-to-earnings multiplier. In this method, the net operating income for the forthcoming year is capitalized by an overall capitalization rate which represents a typical investor's expectations as witnessed in the sales and listings of similar properties.

- The direct comparison approach examines the cost of acquiring equally desirable and valuable substitute properties, indicated by comparable properties, within the market area. Most commonly, a unit of comparison (i.e. price per square foot, price per suite, etc.) is utilized to facilitate the analysis.

- The direct comparison approach is a relevant valuation technique for the subject property and therefore will be employed to value the subject property.

- The income approach is sometimes referenced as a secondary measure of value for industrial warehouse buildings. It will therefore be utilized as a supporting method in the valuation, as it is a good test for market value (Exhibit C-1, pages 9- 10).

[8] The Complainant presented six sales comparables to the Board that were all sold approximately within 18 months of valuation day. The sales comparables are all large warehouses which range in size from 73,000sf to 137,062sf, and with site coverage ratios ranging from a low of 9% to a high of 58%. The Complainant stated the three best comparables in terms of age and size were numbers 2, 5, and 6. These three comparable sales were the most recent so no time-adjustment factors were warranted; however, sales 2 and 6 are zoned IB, which is superior to the subject property that is zoned IM. The average selling price per square foot of the six sales based on total building area is $64.05. The Complainant stated that if one made adjustments for the different zoning, the resultant average would be $58.64psf.

[9] In addition, the Complainant advised the Board that with the subject property's significantly larger size, the typical economies of scale would affect the market value of the subject which would necessitate a downward adjustment for the subject property by at least 20%.

[10] Therefore, the Complainant advised the Board that when the factors of age, site coverage, zoning and size are considered, the resulting market value would be $7,950,000 (Exhibit C-1, page 20). The Complainant notes that the figure of $7,950,000 is almost identical to the 2011 assessment and there has been no justifiable reason within the Edmonton market-place for the City assessor to increase the 2012 assessment by 11% year over year.

[11] The Complainant presented 6 market leases to the Board. The leases ranged from $6.25 psf to $8.75 psf with an average of $7.43 psf. The Complainant provided photographs that showed the warehouses from which the rental lease rates were derived (Exhibit C-1, pages 13-18).

[12] Using the income approach to value, the Complainant provided the Board with a proposed assessment utilizing the lease rate of $8.00 psf, a vacancy allowance of 5% and a 7.50% cap rate (Exhibit C-1, page 19). The market value of the subject property according to the income approach is $8,080,500 (truncated).

[13] The Complainant's cross-examination of the Respondent addressed several issues. The most pertinent issues were as follows:

- Historical sales may be valuable to retrospective valuations and may assist in time series analysis. However, changes in market conditions make their use less reliable for current valuations with long-term adjustments for market conditions.

- The direct comparison approach is applicable when sufficient data on recent market transactions is available. Essential information on income-producing properties derived through direct comparison is used in the income and cost approaches (Exhibit R-1, page 34).

- The Respondent’s sale 4 (18403 104 Avenue) is 19 years newer than the subject property.

- The Respondent’s sale 5 (17915 118 Avenue), with a time-adjusted sale price (tasp) of $82.62 psf of total area is actually less than the subject at $97.59 tasp psf of total building area.

- The Respondent’s sale 6 (16304 117 Avenue) at $79.93 tasp psf of total area is actually less than the subject at $97.59 tasp psf of total area. Further, Sales 5 and 6 support the Complainant’s position that a reduction is warranted (Exhibit R-1, page 9).

- The Respondent’s sales 1, 2 and 4 are much newer than the subject property (Exhibit R-1, page 9).

[14] The Complainant addressed the Respondent’s equity comparables by submitting a rebuttal package of evidence to the Board. The primary issues raised by the Complainant regarding the Respondent’s equity comparables are as follows:

- Equity 1 (11420 170 Street) at $69.49 psf of assessment supports the requested valuation of $87.86 psf.

- Equity 2 (11704 170 Street) at $85.87 psf of assessment supports the requested valuation of $87.86 psf.

- Equity 3 (12708 St. Albert Trail) at $78.84 of psf of assessment supports the requested valuation of $87.86 psf.

- Equity 4 (11103 184 Street) at $87.77 psf of assessment supports the requested valuation of $87.86 of assessment. In addition, the year of construction for this equity comparable is 1998, making it 13 years newer than the subject property.

- Equity 5 (11448 149 Street) at $79.55 psf of assessment supports the requested valuation of $87.86 psf.

- Equity 6 (10235 184 Street) is 13 years newer than the subject property.

- Equity 7 (10405 178 Street) at $70.05 psf of assessment supports the requested valuation of $87.86 psf.

- Equity 8 (18403 104 Avenue) is 19 years newer than the subject property and much smaller than the subject.

[15] The Complainant advised the Board that the Respondent’s equity comparables averaged $87.62 psf and the average of equity comparables 1, 3, 5 and 7 was $74.48 psf (Exhibit C-2, pages 10-11).

[16] During argument and summation, the Complainant advised the Board that the Complainant had presented similar properties to the subject. Further, the Complainant stated that the Respondent’s equity analysis supported a reduction in the subject property’s assessment.

[17] With the Complainant having the last word, the Complainant stated that its sale comparables 2, 5 and 6 were most similar to the subject property.

[18] The Complainant advised the Board that there were two common sales that both parties had in their respective evidence packages and they both supported a reduction in the assessment.

Position of the Respondent

[19] The Respondent presented the Board with a 54-page evidence package marked as Exhibit R-1. The Respondent further presented the Board with a 44-page law and legislation package marked as Exhibit R-2.

[20] The Respondent explained to the Board that the subject assessment and similar assessments were prepared using the direct sales comparison assessment methodology for value. The Respondent advised the Board that the City was mandated to use mass appraisal for assessment purposes. Some of the relevant excerpts from the Respondent's assessment brief are as follows:

- Mass Appraisal Approaches

  Cost Approach
  Sales Comparison Approach
  Income Approach

- All three approaches are applicable to many appraisal problems, but one or more of the approaches may have greater significance in a given assignment (Exhibit R-1, page 33).

- Income capitalization can be particularly unreliable in the market for commercial or industrial property where owner-occupants outbid investors (Exhibit R-1, page 33).

- Typically, the direct comparison approach provides the best indication of value for owner-occupied commercial and industrial properties (Exhibit R-1, page 34).

- An adjustment for market conditions is made if general property values have appreciated or depreciated since the transaction dates due to inflation or a change in investors' perception of the market over time (Exhibit R-1, page 35).

[21] The Respondent advised the Board that for the 2012 annual assessment the sales comparison approach was employed. This was because there is ample data from which to derive reliable value estimates and only a portion of the inventory is traded on its ability to generate income. A large percentage of industrial property in Edmonton is owner-occupied, and as such has no income attributable to it.

[22] When sufficient valid sales are available, the sales comparison approach tends to be the preferred valuation method.

[23] The Respondent's assessment brief also outlines the following:

- Deriving capitalization rates from comparable sales is the preferred technique when sufficient data on sales of similar, competitive properties is available. Data on each property's sale price, income, expenses, financing terms, and market conditions at the time of sale is needed. In addition, the appraiser must make certain that the net operating income of each comparable property is calculated and estimated in the same way that the net operating income of the subject property is estimated (Exhibit R-1, page 36).

- Both the income and expense data should be similar to those of the subject. If the objective of the appraisal is to value the fee simple interest, incomes for the comparables analyzed must be at or around the level of market rent (Exhibit R-1, page 36).

- If there are differences between a comparable property and the subject property that could affect the overall capitalization rate concluded, the appraiser must account for these differences (Exhibit R-1, page 37).

- It is imperative that the appraiser analyze comparable sales and derive their capitalization rates in the same manner used to analyze the subject property and capitalize its income (Exhibit R-1, page 37).

- An overall capitalization rate provides compelling evidence of value when a series of conditions are met:

    - Data must be drawn from properties that are physically similar to the property being appraised and from similar (preferably competing) markets. Where significant differences exist for a given comparable, its indications are afforded less weight or may be discarded entirely.

    - Sale properties used as sources for calculating overall capitalization rates should have current (date of sale) and future market expectations, including income and expense patterns and likely value trends, that are comparable to those affecting the subject property.

    - Income and expenses must be estimated on the same basis for the subject property and all comparable properties (Exhibit R-1, pages 38).

[24] The Respondent also provided the Board with photographs and maps detailing the subject property (Exhibit R-1, pages 5-7).

[25] The Respondent advised the Board the subject property and other similar properties were assessed under the direct sales assessment methodology. The subject property was built in 1985, is in average condition, and has site coverage of 27%. The Respondent asked the Board to confirm the 2012 assessment of $8,871,000 (Exhibit R-1, page 8).

[26] To support the City of Edmonton's assessment of the subject property, the Respondent provided the Board with six sales comparables. The sales comparables ranged in effective year built from 1977 to 2007. The total building areas of the sales comparables ranged from 68,815 sf to 135,566 sf. The site coverage ranged from 34% to 46% and all the sales comparables were in average condition. The time-adjusted selling price per

square foot, based on total building area, ranged from $71.84 to $139.31 (Exhibit R-1, page 9). The Respondent stated that sales comparables 3, 5 and 6 were the best comparables as they were in the same quadrant of the City as the subject property and were similar in terms of age and size.

[27] The Respondent provided eight equity comparables to the Board (Exhibit R-1, page 16). The equity comparables ranged in age from 1974 to 2004 for effective year built and the site coverage ranged from 33% to 50%. The total building size for the equity comparables ranged from 72,856 sf to 107,481 sf. The assessment psf of total building area ranged from $70.05 to $120.11. Detailed sheets analyzing the equity comparables are found on pages 17-24 of Exhibit R-1.

[28] The Respondent advised the Board that the Complainant's first sale comparable (11340 120 Street) should not be considered by the Board as the building was part of a larger sale of business. As such, it is not a true real estate transaction and should not be used for valuation purposes (Exhibit R-1, page 25).

[29] The Respondent advised the Board that the Complainant's third sale comparable (14345 123 Avenue) should not be considered by the Board as discussions with the purchaser indicated that $850,000 was required for major roof repairs at the date of sale. The purchaser advised the City that the property was purchased at a discount as a result of the major roof repairs that were necessary (Exhibit R-1, page 26).

[30] During argument and summation, the Respondent advised the Board that the Complainant only relied on three properties. The Respondent advised the Board that the Complainant was asking the Board to take a leap of faith.

[31] The Respondent noted that the 10% upwards zoning adjustment by the Complainant was not supportable.

[32] The Respondent advised the Board that the Complainant's Exhibit C-1, page 12 was not an analysis, but just a chart that does not have the required evidence for the Board's consideration.

[33] The Respondent stated it is the Complainant's responsibility to provide evidence in support of its requested reduction.

[34] The Respondent requested confirmation of the 2012 assessment of $8,871,000.

Decision

[35] The decision of the Board is to reduce the 2012 assessment of $8,871,000 to $7,950,000.

Reasons for the Decision

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

[37] The Board was persuaded by the two common sales comparables put forth by both parties. The comparables at 17915 118 Avenue and 16304 117 Avenue had an average time adjusted price per square foot of total building area of $88.05, which approximates the Complainant's request of $87.79 tasp psf of total building area.

[38] The Board was persuaded by the Respondent's equity analysis, but not for the reasons intended by the Respondent. The Respondent's equity analysis actually supported the Complainant's contention that a reduction in the 2012 assessment of the subject property was warranted. The average assessment per square foot of total area for the 8 equity comparables was $87.62 and the median assessment psf of total area was $79.19. Both the mean and the median equity assessment psf of total area clearly support the Complainant's request of $87.79 psf.

[39] The Board did not agree with the Complainant's upward adjustment of the zoning without evidence to support such an adjustment. The Respondent advised the Board that the zoning difference had no impact on the zoning issue.

[40] The Board did not agree with the Complainant's downward adjustment of the size based on the economies of scale. While the Board agrees with the notion of economies of scale, the Complainant did not provide any evidence to show how the downward adjustment is warranted.

[41] The Board was not persuaded by the Complainant's income approach. The Board recognizes the income approach appraisal/assessment methodology is an accepted valuation approach. The Complainant utilized the rent roll from the subject property, but the capitalization rate appeared to be from third party reports. The third party reports stated that the Edmonton capitalization rate for the industrial market ranged from 6.75% to 7.5% and the Complainant chose 7.5%. The Board does not agree that the cap rates are homogeneous throughout the industrial market in Edmonton.

[42] The Board therefore finds the Complainant's best comparables (numbers 2, 5 and 6) average $79.81 tasp psf for total building area and this supports the Complainant's request of $87.79 psf of total building area.

Dissenting Opinion

[43] There was no dissenting opinion.

Heard commencing October 4, 2012.

Dated this 29 day of October, 2012, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

Greg Jobagy

Stephen Cook

for the Complainant

Bonnie Lantz
Luis Delgado, 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.