# Edmonton Composite Assessment Review Board

**Citation: Colliers International Realty Advisors Inc. v The City of Edmonton, 2012 ECARB 2345**

**Assessment Roll Number:** 10042206
**Municipal Address:** 16230 118 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

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**DECISION OF**
**Peter Irwin, Presiding Officer**
**George Zaharia, Board Member**
**Howard Worrell, Board Member**

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## Preliminary Matters

[1] At the outset of the hearing, the parties indicated that they had no objection to the composition of the Board. The Board members indicated that they had no bias with respect to this complaint.

[2] There were no preliminary matters.

## Background

[3] The subject property is a single-tenant medium warehouse located in the Hawin Park Estate Industrial neighbourhood of northwest Edmonton. Built in 1993, the subject improvement (in average condition) is 34,171 square feet in size, of which 1,555 square feet is main floor office space. The lot size is 191,583 square feet (4.4 acres) with site coverage of 18%. The subject is zoned IB.

[4] For 2012, the subject has been valued by the direct sales approach, resulting in an assessment of $5,165,000 or $151.15 per square foot.

## Issue

[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**
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> 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 32-page brief marked as exhibit C-1, arguing that the 2012 assessment of the subject property, at $5,165,000 or $151.15 per square foot, was too high. His position was that sales of similar properties indicated that a value of $120.00 per square foot should be applied to the subject (Exhibit C-1, page 8).

[8] In support of this position, the Complainant submitted seven sales comparables of similar properties located in northwest Edmonton. The sales occurred between September 2010 and April 2011, with prices ranging from $46.49 to $96.31 per square foot. The comparable properties ranged in size from 22,323 to 41,349 square feet and were zoned IM, IB, and IH. The year of construction of the comparables ranged from 1965 to 1981 and the site coverage ranged from 14% to 50% (Exhibit C-1, page 8). The average value of these seven sales comparables was $74.17 per square foot.

[9] The Complainant stated that his best sales comparables were sales #'s 5, 6, and 7. These resulted in an average sales price of $93.00 per square foot. The Complainant recognized that adjustments would have to be made in consideration of age, zoning, and site coverage. Accordingly, the Complainant requested that a value of $120.00 per square foot be applied to the subject property. This value was the result of adding 10% each for site coverage, zoning, and age to the $93.00 average sale price (Exhibit C-1, page 8).

[10] In support of the reduced assessment using the direct sales approach, the Complainant also provided information using the income approach. The Complainant provided six lease rate comparables with start dates ranging from February 2011 to October 2011 (post facto). Rates ranged from $8.75 to $10.50 per square foot, resulting in an average of $9.61 per square foot. The Complainant opined that, upon review of these lease rates from newer properties similarly located as the subject, a rental rate of $10.00 per square foot was "*reasonable in the market place*" (Exhibit C-1, page 9).

[11] The Complainant also provided pictures of the exteriors of five of the six lease comparables (Exhibit C-1, pages 10 to 14).

[12] The Complainant submitted a pro-forma utilizing a rental rate of $10.00 per square foot, a vacancy rate of 5%, a structural allowance of 2%, and a capitalization rate of 7.0%. This resulted in a value of $4,178,500. It was argued that this supported the requested reduced assessment of $4,100,500 based on the direct sales approach (Exhibit C-1, page 15). The Complainant stated that the 5% vacancy rate and the 2% structural allowance were typical values, and that the 7.0% cap rate was supported by a Colliers International cap rate study that showed Edmonton industrial single-tenant property cap rates ranged from 6.5% to 7.5% (Exhibit C-1, page 26).

[13] The Complainant submitted a 21-page rebuttal document challenging the appropriateness of the Respondent's seven sales comparables raising concerns that included dated sales, location, building size, and age (Exhibit C-2, pages 7 to 9).

[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 10).

[15] The Complainant rebutted the Respondent's concerns regarding the Complainant's sale #2, located at 14308 – 118 Avenue NW. The Respondent had stated that the seller was under financial duress at the time of the sale. The Complainant submitted emails with an individual representing the purchaser who stated that "*Yes, we believe this* [sale] *to be representative of the market*" (Exhibit C-2, page 11).

[16] 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 5 sales in the southwest with an average sale price of $120.91 per square foot (Exhibit C-2, page 21). The Complainant argued that

"location" within the four quadrants of the City was a very important factor in establishing the value of a property.

[17] The Complainant stated that his sales comparables were more current, having occurred between September 2010 and April 2011. This was important since the sales prices needed minimal time-adjustments, if any. 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 18).

[18] In conclusion, the Complainant requested the Board reduce the 2012 assessment of the subject property from $5,165,000 to $4,100,500, based on $120.00 per square foot.

**Position of the Respondent**

[19] The Respondent submitted a 42-page brief marked as (Exhibit R-1) arguing that the original $5,165,000 assessment of the subject property was fair and equitable. The Respondent also submitted a 44-page Law and Legislation brief.

[20] In support of the position that the assessment was fair and equitable, the Respondent submitted seven sales comparables, five located in northwest Edmonton and two located in southeast Edmonton. The sales occurred between July 17, 2008 and August 25, 2010, with time-adjusted prices ranging from $142.24 to $178.28 per square foot. This resulted in an average of $154.74 per square foot, which supported the subject's $151.15 per square foot assessment. The comparables' improvements ranged in size from 10,050 to 40,020 square feet. Site coverage of the subject, at 18%, fell within the comparables' range of 12% to 39% (Exhibit R-1, page 17).

[21] The Respondent highlighted mass appraisal information included in Exhibit R-1 that supported the direct sales comparison approach. Excerpts from two real estate publications were read (Exhibit R-1, page 6):

i. *"When sufficient valid sales are available, this approach tends to be the preferred valuation method."* IAAO, *Standard on Mass Appraisal of Real Property*, Chicago, Illinois, 2002, section 4.3.

ii. *"The Direct Comparison approach is applicable to all types of real property interests when there are sufficient recent, reliable transactions to indicate value patterns or trends in the market. For types that are bought and sold regularly, the direct comparison approach often provides a supportable indication of market value. When data are available, this is most straightforward and simple way to explain and support value opinion."* Appraisal Institute of Canada, *The Appraisal of Real Estate, Second Canadian* Edition, Vancouver, British Columbia, 2002, page 17.3.

[22] The Respondent stated that sales occurring from January 2008 through June 2011 were utilized in model development and testing. Factors that affected value in the warehouse inventory were location, lot size, age and condition of the building, main floor space, and the amount of finished main floor space as well as developed upper area (Exhibit R-1, page 7).

[23] The Respondent stated that there were few low site coverage properties selling, which necessitated using sales comparables from other quadrants of the City.

[24] The Respondent offered criticisms of two of the Complainant's sales comparables:

i. Sale # 1, located at 15715 – 121A Avenue NW, was not a market value transaction. It was a multiple parcel purchase that included one property with four warehouse buildings and another property with one warehouse building. The sale price of $1,539,731 was not close to the combined assessment of these properties of $5,920,500 (Exhibit R-1, pages 32 and 33).

ii. Sale # 2, located at 14308 – 118 Avenue NW, was sold by a seller under financial duress. The Respondent submitted that conversations had taken place with both the vendor and purchaser with the suggestion that the seller was under duress. That particular property had long term vacancies and below-market rents (Exhibit R-1, page 34).

[25] The Respondent provided several excerpts from *The Appraisal of Real Estate, Second Canadian Edition*, addressing approaches to value, time adjustments, and comparability of factors used to determine value:

i. *Typically, the direct comparison approach provides the best indication of value for owner-occupied commercial and industrial properties* (Exhibit R-1, page 27).

ii. *An adjustment for market conditions is made if general property values have appreciated or depreciated since the transaction dates due to inflation or deflation or a change in investors' perception of the market over time* (Exhibit R-1, page 28).

iii. *Data on each property's sale price , income, expenses, financing terms, and market conditions at the time of sale is needed* (Exhibit R-1, page 29).

iv. *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 30).

[26] In response to the Complainant's use of the income approach to support its direct sales comparison conclusion, the Respondent argued that there was not sufficient information provided to justify the values used by the Complainant in his suggested pro-forma.

[27] In conclusion, the Respondent requested the Board to confirm the 2012 assessment of the subject property at $5,165,000.

## **Decision**

[28] The decision of the Board is to confirm the 2012 assessment of the subject property at $5,165,000.

**Reasons for the Decision**

[29] The Board acknowledges that the Complainant provided sales comparables which are all within one and one-half years of the valuation date. However, the Board places less weight on the Complainant's sales comparables because of their age discrepancies compared to the subject, and site coverage that vary significantly from the subject's. The Board is also concerned about the actual per unit cost of one of the Complainant's comparables, sale # 1. In the Complainant's disclosure brief, the Network reported the building to be 33,116 square feet in size, while in the Respondent's disclosure brief, Bourgeois and Company reported the building size to be 27,520 square feet.

[30] The Complainant stated that adjustments would have to be made to his comparables to account for age, zoning, and site coverage variations, thereby establishing his requested assessment at $120.00 per square foot. This is despite the average of his sales comparables being $74.17 per square foot. The Complainant argued that there would have to be adjustments to the Respondent's sales due to building size, age, and superior location. The Board does not agree. The Board finds that the average of the time-adjusted sales prices supports the assessment of the subject property without the necessity of arbitrarily substituting another value.

[31] The Complainant stated that his sales comparables #'s 5, 6, and 7 were the best comparables. However, they have site coverage of 37% and 43%, compared to the subject's 18%. This makes the Board question the comparability. Recognizing that these three comparables are suspect, the Complainant suggested 10% adjustments to account for age, zoning and site coverage variations, confirming the Board's concerns.

[32] The Board places no weight on the Complainant's income approach used to support his derived direct sales approach value. The Complainant did not provide evidence as to how the various values used in the pro-forma were derived. The Board is influenced by the direction given in *The Appraisal of Real Estate, Second Canadian Edition*, which states:

i. *data on each property's sale price, income, expenses, financing terms, and market conditions at the time of sale is needed*; and

ii. *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.*

The aforementioned requirements were not provided to support the values used in the proposed pro-forma. Additionally, the Board does not find the pictures of the buildings used for the lease rate comparables to be instructive or supportive of the indicated lease rates.

[33] The Board considered the Complainant's concerns with the Respondent's sales comparables due to dated sales, location, age, and building size:

i. Regarding dated sales, the Board agrees with the Complainant that sales close to the valuation date would be preferable. However, the Board acknowledges the direction provided in *The Appraisal of Real Estate, Second Canadian Edition*, which states "*An* *adjustment for market conditions is made if general property values have appreciated or depreciated since the transaction dates due to inflation or deflation or a change in investors' perception of the market over time.*" Further, although the Complainant raised time-adjustments as a concern on this file, the practice of time-adjusting sales prices has been accepted by both Complainants and Respondents in the assessment complaint process.

ii. Regarding location and the various quadrants of the City, the Board acknowledges the Respondent's position that properties in the southeast typically sell for more than properties in the northwest. However, the two sales comparables submitted by the Respondent had time-adjusted sales prices below the assessment of the subject.

iii. Regarding the Complainant's concern that the Respondent's sales #'s 4, 5, 6, and 7 building sizes were between 29% and 58% of the subject, the Board acknowledges that the building sizes of the Complainant's comparables are more reflective of the subject. However, even the Respondent's sales comparable that is 29% of the size of the subject has a time-adjusted sale price of $159.55 per square foot, only 5.6% higher than the subject, but 16.4% less than sales comparable # 3 that is 81% of the building size of the subject.

iv. The Complainant raised the concern that age of the Respondent's sales comparable # 3 was 14 years newer than the subject's 1993. However, the Board notes that the Complainant's sales comparable # 3 is 28 years older than the subject.

[34] The Board places 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 a previous CARB decision; and

ii. time adjustments to the sale prices of comparable properties is an accepted practice in the assessment complaint process.

[35] Recognizing the Complainant's 'location' argument, the Board is desirous of establishing a value of northwest sales comparables only. Accordingly, the Board combined the $120 per square foot value proposed by the Complainant, resulting from northwest sales, to the Respondent's five northwest sales comparables. This produces an average value of $152.83 per square foot, supporting the $151.15 per square foot assessment of the subject property.

[36] In recognizing location, site coverage, building size, and age, the Board finds the Respondent's sales comparables #'s 3 and 4, with an average time-adjusted sales price of $162.93 per square foot, to be supportive of the subject's $151.15 per square foot assessment.

[37] The Board is satisfied that the Respondent adhered to the directions provided in *The Appraisal of Real Estate, Second Canadian Edition* with regards to different approaches to value and time adjustments. Data must be drawn from properties that are physically similar to the property being assessed.

[38] The Board is persuaded that the 2012 assessment of the subject property at $5,165,000 is fair and equitable.

**Dissenting Opinion**

[39] There was no dissenting opinion.

Heard commencing November 14, 2012.

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

Peter Irwin, Presiding Officer

**Appearances:**

Greg Jobagy
Stephen Cook
for the Complainant

Suzanne Magdiak
Tanya Smith
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.*