

Edmonton Composite Assessment Review Board

**Citation: COLLIERS INTERNATIONAL REALTY ADVISORS INC v The City of
Edmonton, 2012 ECARB 2346**

Assessment Roll Number: 2192599
Municipal Address: 14308 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

DECISION OF
Robert Mowbrey, Presiding Officer
Brian Frost, Board Member
Reg Pointe, Board Member

Preliminary and Procedural 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.

[2] The witnesses giving testimony were either sworn in or affirmed, the choice being that of the individual witness.

[3] During the hearing, the Respondent requested that each of the Respondent's two witnesses should be excluded from the hearing room, when the other witness was giving testimony. The Board recessed, deliberated and rendered a decision. The decision was the witnesses would be excluded from the hearing room when the other was giving evidence. In arriving at this decision the Board referred to the Assessment Review Board Policy B20-Exclusion of Witnesses which states: "at the request of one of the parties or at its own discretion a Board may order that witnesses other than the witness currently testifying be excluded from the hearing room to avoid the testimony of one witness from affecting the testimony of others."

[4] During the Complainant's rebuttal, the Respondent objected to a number of the pages being presented. The Complainant did not object to removing the pages and therefore only page 4 of C-1 was entered into evidence.

Background

[5] The subject property is a medium warehouse located at 14308 118 Avenue NW. The subject building was constructed in 1967. The subject property has main floor space of 22,400 square feet and is considered in average condition. The site coverage is 38% and the 2012 assessment is \$2,138,000. The 2012 assessment methodology for the subject property is by the direct sales approach.

Issue(s)

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

Legislation

[7] 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

[8] The Complainant filed this complaint on the basis that the subject property assessment of \$2,138,000 was in excess of market. In support of this position, the Complainant submitted a 27-page evidence package marked as Exhibit C-1. In addition, the Complainant further submitted a 5-page evidence rebuttal package marked as Exhibit C-2.

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

[10] The Complainant advised the Board regarding the sale of the subject property. The subject property was sold on April 19th 2011 for a total consideration of \$1,350,000. The subject was sold two months prior to the valuation date. The sale of the subject property was validated by a third party source (Exhibit C-1, pages 9 and 14).

[11] The Complainant referred to CARB 0302-10/2011 detailing that the best indicator of market value was the sale of the subject property itself. Excerpts are as detailed:

- The Board is of the opinion that the arms length sale of the subject property is the best indicator of market value.
- The Board looked to past decisions in regard to the sale of a subject property in determining assessed value, as well as Alberta Court of Queen's Bench, 697604 Alberta Ltd. vs. Calgary "24". In my view, the Municipal Government Board (MGB) failure to rely on the evidence of value provided by the recent sale of the property fails to meet the test of reasonableness. Board Orders 068104, 046106 and 025105 all indicate a valuable sale of the subject near or at the assessment date is the best indicator of value (Exhibit C-1 page 10, 18-21).

[12] The Complainant presented three sale comparables to the Board that were within approximately 18 months of valuation. The sale comparables were all medium warehouses which ranged in size from 17,309 square feet to 41,349 square feet and the site coverage ranged from a low of 33% to a high of 58%. By incorporating the time frame, there was no necessity for time-adjustments, as the City of Edmonton's chart showed that from June 2010 there was a 0.0% adjustment. All three of the sale comparables had an IM zoning, whereas the subject property is zoned as IB. The selling price per square foot of total building area ranges from a low of \$61.67 to a high of \$66.78; the average of the three was \$64.00 per square foot (Exhibit C-1 page 11).

[13] The Complainant advised the Board that the average of the sale prices provide a range for the market value within this area. The adjustments that need to be made within the list of comparables are the location, total building size and total lot size. After accounting for these, the Complainant advised the Board that an appropriate unit value for the subject property was \$65.00 per square foot, which would result in a market value of \$1,456,000 (Exhibit C-1 page 11).

[14] During rebuttal, the Complainant provided the Board with a series of e-mails between the Complainant and the purchaser. The purchaser stated there were problems with parking and the purchaser believed the purchase price was representative of the market value of the property (Exhibit C-2 page 4).

[15] During summary, argument and last word, the Complainant stated that three of the Respondent's sale comparables were significantly smaller than the subject property. In addition, the Complainant stated that the Respondent's sale comparables numbers 2, 3, and 4 were nearly double the size of the subject property.

[16] The Complainant reiterated the fact that the best indicator of market is the sale of the subject property itself, and as such, requests the Board to reduce the 2012 assessment to \$1,350,000.

Position of the Respondent

[17] The Respondent presented the Board with a 40-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. The Respondent further provided the Board with a one page document marked as Exhibit R-3 and a surrebuttal evidence package marked as Exhibit R-4.

[18] 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).

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

[20] The Respondent found 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).

[21] The Respondent advised 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).

[22] The Respondent provided the Board with photographs and maps detailing the subject property (Exhibit R-1, pages 12-14).

[23] 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 age from 1971 to 1980. The total building area ranged in size from 15,576 square feet to 44,101 square feet. The site coverage ranged from a low of 31% to a high of 56% and all sales comparables were in average condition. The time adjusted selling price per square foot, based on total building area, ranged from \$92.09 to \$107.16 (Exhibit R-1, page 26).

[24] The Respondent provided evidence on the sale of the subject property. The Respondent advised the Board that discussions took place with both the seller and the purchaser. The seller was apparently under financial duress and there were long term vacancies and below-market lease rates. The Respondent advised the Board that this sale should not be used in the model, audit or court (R-1, pages 16-17).

[25] The Respondent provided the Board with nine equity comparables. The equity comparables were all in average condition and the first six equity comparables were on a major arterial road, the same as the subject property. The site coverage ranged from a low of 33% to a high of 41% and the effective age was between 1973 to 1979. The assessment per square foot of total area ranged from \$95.19 to \$106.02 (Exhibit R-1, page 33).

[26] The Respondent provided third party reports to the Board that stated there was ample paved parking and the high vacancy indicates a higher degree of risk (Exhibit R-3).

[27] The Respondent provided a number of pictures depicting the subject property (Exhibit R-4).

[28] During cross-examination by the Respondent to the Complainant, the Complainant stated the property was fully leased to a tenant to September 2011, and then the purchaser has a new tenant secured for the space upon expiration of the current lease (Exhibit C- 1, page 22).

[29] Also, during cross-examination by the Respondent to the Complainant, the Complainant stated that comparable #2 requires roof repairs, as well as office area renovations, and that the sale price has not been adjusted for these costs.

[30] During summary and argument, the Respondent requested the Board to confirm the 2012 assessment of \$2,138,000.

Decision

[31] The decision of the Board is to reduce the 2012 assessment of \$2,138,000 to \$1,350,000.

Reasons for the Decision

[32] The Board is persuaded by the sale of the subject property. The Board believes the best indicator of market value is the sale of the subject property itself.

[33] The Board is of the opinion that the sale of the subject property is a valid sale and meets the definition of “market”; that being what the subject property could realize if listed on the open market and sold to a willing buyer by a willing seller. While the Board is satisfied the Respondent communicated with both the purchaser and seller, this does not negate the fact that the sale transaction meets the definition of “market.”

[34] The Board is further persuaded by the Alberta Court of Queen’s Bench, 697604 Alberta Ltd. vs. Calgary “24”. The Judge notes the MGB’s failure to rely on the evidence of value provided by the recent sale of the property fails to meet the test of reasonableness. Recent Board Orders all indicate a valuable sale of the subject property near or at the assessment date is the best indicator of value.

[35] The Board did not rely on the sales comparables of the Complainant as the Complainant’s #2 sale (14730 115A Avenue) needed roof repairs at the time of sale and the purchaser assumed the cost, which would skew the selling price per square foot of total building area. With only two sale comparables left, this does not allow for typical variables to be developed.

[36] The Board put some weight on the Respondent’s sales comparables, but notes the sale of the subject property is better evidence than the Respondent’s sale comparables.

Dissenting Opinion

[37] There was no dissenting opinion.

Heard commencing November 6, 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

Marty Carpentier
Luis Delgado
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.