

Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2013 ECARB 00985

Assessment Roll Number: 3178829

Municipal Address: 10611 KINGSWAY NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

Colliers International Realty Advisors Inc

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Petra Hagemann, Presiding Officer

James Wall, Board Member

Randy Townsend, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties before the Board indicated no objection to the Board's composition. In addition, the Board Members indicated no bias with respect to this file.

Preliminary Matters

[2] There were no preliminary matters presented to the Board initially. However, during the Respondent's initial opening argument it was indicated that the City of Edmonton is requesting an increase in the 2013 assessment due to an error in the size of the leasable space in the subject building. The subject building should, according to the Respondent, be assessed as 3657 sq. ft. larger.

Background

[3] The subject property is a multi-tenant office complex located at 10611 Kingsway Ave, known as "Kingsway Professional Building". The building was constructed in 1965. The total building floor area, as recorded on the 2013 assessment roll, is 72,911 sq. ft., consisting of 61,696 sq. ft. of office space and 11,215 sq. ft. of retail area. There are nine surface parking stalls and 199 underground stalls. The market rent used by the City of Edmonton is \$20.00 for the office space and \$21.00 per sq. ft. for the retail space. The typical cap rate applied to this property by the City is 6.75%. The cap rate is not in question by the Complainant.

Issue

[4] Has the City of Edmonton applied the correct market rental rate to the office portion of the subject building?

Legislation

[5] **The *Municipal Government Act*, RSA 2000, c M-26, reads:**

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

[6] The subject property has had no physical changes, nor has the market changed, in the past year to justify an 18% increase in assessed value by the City of Edmonton in comparison to the 2012 assessment of the subject property.

[7] The Complainant submitted a list of five recent leases (Exhibit C-1, pg. 7) within the subject property ranging from March 2011 to August 2012. Most of these are lease renewals. Lease rates range from \$15.00 to \$19.50 per sq. ft. The average is \$18.00 per sq. ft.

[8] The Complainant also presented six recent comparable leases (Exhibit C-1, pg. 8) of office buildings in the approximate area of the subject, although admittedly five of the six are in what the City has designated as the 124 St district, whereas the subject is in the 118 Ave district.

[9] Five of the six lease comparables are “A” class buildings, as is the subject, while the sixth comparable is a “B” class building located on Jasper Ave. Lease rates range from a low of \$8.00 per sq. ft. to a high of \$15.00 per sq. ft.

[10] The Complainant also produced a summary (Exhibit C-1, pg. 8) of “Market Reports” from two professional leasing companies in the Edmonton market – Avison Young and Collier’s International. The Avison Young Office Report indicates typical asking rental rates in the 118 Ave district (as of Quarter 2, 2012) for “A” class office space at \$15.50 per sq. ft. The Colliers

International Office Market Report, for the same time period and location, indicates a rate of \$15.00 per sq. ft. for “new product” rents.

[11] On Exhibit C-1, pg 21 the Complainant has reproduced the actual rent roll for the subject property as of December 2012. Rent rates start at a low of \$8.00 per sq. ft. to a high of \$22.00, with an average of \$18.03 per sq. ft. Four of the leases are renewals effective August 2012.

[12] It is the opinion of the Complainant that the appropriate rent rate applied to the subject property by the City should be \$18.00 per sq. ft. and not \$20.00 as currently applied.

Position of the Respondent

[13] During the review of the subject property assessment, while preparing their arguments for this case, the City found that there had been an error in the net leasable area of the subject building, with the result being that the subject was under- assessed by 3,657 sq. ft. The Respondent asked that the Board increase the 2013 assessed value to \$21,475,000 from \$20,739,000. A revised proforma, with the correct size, was submitted by the Respondent (Exhibit R-1, pg 14) to the Board for their consideration.

[14] On page 21 of Exhibit R-1 the Respondent emphasized that the rent roll presented by the Complainant in Exhibit C-1 were either “step-up” or “renewal” leases and were not typical rents as required to be used by the Respondent. Therefore, the Respondent did not place any weight on these rents to determine typical rents in the 118th Ave district.

[15] The Respondent provided the Board (Exhibit R-1, pg 23) with the “Suburban Valuation Rates” for office buildings in various locations and various subclasses to show the Board the typical rates used by the City. The highest rate is \$22.00 for “AA” class offices in the 118th Ave district. “A” class buildings in this district are all assessed at \$20.00 per sq. ft. This, in the Respondent’s opinion, creates equity within the various districts. Equity comparables are presented in Exhibit R-1, page 27.

[16] The Respondent provided the Board with Exhibit R-1, page 24 which includes seven comparable “A” class offices in the 118th Ave district. After time-adjustment the median of these comparables is \$20.13 per sq. ft. and the average is \$18.72. The Respondent pointed out that the Complainant did not use time-adjusted rents.

[17] The Respondent refuted the Complainant’s comparables (Exhibit R-1, pg 25) with comments as to why they should not be used.

[18] The Respondent asked the Board to reference Exhibit R-1, page 26 to see the ‘trend’ in new and renewal leases between January 2009 and December 2010. Since December 2010 the trend is clearly upward in lease rates.

[19] In response to the Complainant’s use of third party (Avison Young and Colliers) information regarding lease rates the Respondent provided the Board (Exhibit R-1, pg 28) with a comparison chart showing the City’s inventory of offices across the City in comparison to what Colliers and Avison Young show as inventory. The Respondent pointed out to the Board that the information between the three parties differs widely, which suggests that they use different

parameters when collecting and analyzing data. The City uses actual information from RIF's, which is then analyzed to derive the typical lease rates applied to the assessments.

[20] In summary, the Respondent asked the Board to consider whether or not the Complainant actually provided "burden of proof" to justify a change to the assessment. The information used by the City represents "typical rents", as required by legislation and not actual rents as presented by the Complainant. The renewal lease information regarding Capital Health in 2012 at \$19.50 per sq. ft., although not used by the City in their analysis, is still within 2.5% of the rent rate used for the current assessment. Therefore, in their opinion, the Board should correct the error in size to the subject property and confirm the rate of \$20.00 used for office space.

Decision

[21] The 2013 assessed value for this property is reduced to **\$19,766,500** (\$258.15 per sq. ft.). This value is derived by using the Respondent's "revised assessment proforma" for the subject property (Exhibit R-1, pg 14) and inserting \$18.00 per sq. ft., rather than \$20.00, for the adjusted office space and the necessary adjustments to office vacancy and expenses. All other calculations are as indicated in the revised summary.

Reasons for the Decision

[22] With regard to the preliminary matter of the correct building size for the subject, the Board asked the Complainant if they had any concern with this change to which they replied that they had no objection to the Respondent making the correction. Therefore, the Board accepts the correction to the subject property to reflect increasing the size building space from 72,911 sq. ft. to 76,568 sq. ft., an increase in size of 3657 sq. ft.

[23] The Board reviewed the Respondent's comparables as shown in Exhibit R-1, page 24 but found this chart to be lacking in useful information, such as locations, age of buildings or sizes. After reviewing the Respondent's 118th Ave market map (exhibit R-1, pg 11) it was noted by the Board, and pointed out by the Complainant in summary, that this district stretches from 142 St in the west to beyond 66 St in the east. This is a huge area (76 blocks) which likely would have many different rental rates due to the varying neighborhoods it encompasses. Without knowing approximately where the Respondent's comparable leases are located in relation to the subject and in which buildings, it is very difficult for the Board to know if these truly are comparable properties. The Board placed less weight on this evidence.

[24] The Board noted that the Respondent's "trending map" (Exhibit R-1, pg. 26) does indicate an upward trend in lease rates since December 2010 but at no time over the spread of 50 months (approximately Jan. 2009 to July 2012) does the "net rent" ever reach \$20.00 per sq. ft. The lease rates indicated are roughly between \$15.00 and \$18.00 per sq. ft. This indicates to the Board that a \$20.00 per sq. ft. office lease rate is excessive for the subject property.

[25] The rent roll for the subject property as of December 2011 (Exhibit R-1, pg 20) shows an average rent of \$17.25 and a median of \$18.00. Since this is the time frame indicated by the Respondent as the cutoff date for their cap and lease rate analysis, it supports the Complainant's request for an \$18.00 office lease rate.

[26] Although the Board does not generally rely on third party information, it can be helpful to determine trends. Both reports (Colliers and Avison Young) clearly indicate that current rents for suburban office space are below \$20.00 for typical "A" class buildings.

[27] The Board was further persuaded by the Complainant's office lease rate comparables in the West Chambers and Princeton Place buildings. Although these buildings are located in the 124th Street district, which is considered slightly inferior to the 118th Ave district, they are in close proximity to the subject and, based on their attributes, considered comparable to the subject. After omitting the \$8.00 per sq. ft. outlier lease, the remaining four leases average \$14.50 per sq. ft. Once an adjustment for location is applied, the Board finds the requested \$18.00 office space lease rate is well supported.

Dissenting Opinion

[28] There were no dissenting opinions from any of the Board members.

Heard commencing August 26, 2013.

Dated this 9th day of September, 2013, at the City of Edmonton, Alberta.



Petra Hagemann, Presiding Officer

Appearances:

Stephen Cook
for the Complainant

Tanya Smith, Legal Counsel
Vasily Kim, 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.