

Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2013 ECARB 01267

Assessment Roll Number: 10030323

Municipal Address: 11731 181 Street NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

Colliers International Realty Advisors Inc v The City of Edmonton

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Dean Sanduga, Presiding Officer
Brian Frost, Board Member
Robert Kallir, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties did not object to the composition of the Board. The Board members stated they had no bias with regard to this file.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject property consists of a warehouse and two smaller cost buildings. It is situated in the northwest sector of the City at 11731 – 181 Street NW. The warehouse comprises 19,001 square feet and is in average condition. The cost buildings comprise a total of 2,963 sq ft. The effective year built of the warehouse is 1999. The lot size is 3.50 acres (152,469 sq ft), resulting in site coverage of 12%. The 2013 assessment is \$3,979,500.

Issue

- [4] Is the assessment of the subject property too high in relation to market value?

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] It is the Complainant’s position that the 2013 assessment is in excess of market value and that it should be reduced to \$3,610,000. In support, a 20 page brief (Exhibit C-2) and a 15 page rebuttal (Exhibit C-3) were presented to the Board.

[7] The Complainant stated the assessment of the subject property has increased from \$3,310,500 in 2011 to \$3,754,500 in 2012, to the current assessment of \$3,979,500, increases of 13.4% and 6.0% respectively (Exhibit C-2, pg 3). It is the Complainant’s contention that this is in excess of acknowledged time adjustment factors and is without reason.

[8] The Complainant stated that an assessment of \$3,610,000 or \$190.00 per sq ft is more appropriate. In support of this contention, sales of four similar properties were provided (Exhibit C-2, pg 9). The comparable properties ranged in year built from 1978 to 2011, size from 4,000 sq ft to 21,453 sq ft and site coverage from 8% to 12%. They sold between September 2011 and June 2012, ranged in time adjusted price per sq ft from \$170.03 to \$229.89 per sq ft and averaged \$198.34 per sq ft.

[9] On the basis that all sale comparables exhibited similar site coverage to the subject property, two of the sales are in a more preferable south side location, one is significantly newer than the subject, and three are smaller buildings than the subject, the Complainant concluded that \$190.00 per sq ft is appropriate for the subject property assessment.

[10] In Rebuttal, the Complainant critiqued the Respondent's sale comparables (Exhibit C-3, page 5), comparing the sales prices to their current assessments. The Complainant noted that two of the sales reflected a 0.92 assessment to sales ratio (ASR), and assessments of \$208.64 and \$211.44 per sq ft while the third reflected a 0.61 ASR and an assessment per sq ft of 135.39. The average ASR was 0.82 and the average assessment per sq ft was 185.16, further support to the Complainant's request for a reduction in assessment to \$190.00 per sq ft, or \$3,610,000.

Position of the Respondent

[11] It is the Respondent's position that the 2013 assessment is correct and should be confirmed at \$3,979,500. In support, a 47 page brief was presented, (Exhibit R-2) as well as a sur-rebuttal containing 3 pages (Exhibit R-3).

[12] The Respondent stated that each year's assessment is independent of previous years' assessments.

[13] The Respondent presented sale comparable charts for three sales as well as a reconstitution of the Complainant's sale comparables in order to show comparability in a consistent manner (Exhibit R-2, pg 21). The Respondent's sale comparables ranged in year built from 1964 to 1981, building size from 14,392 sq ft to 17,789 sq ft and site coverage from 7 % to 13%. They sold between May 2008 and July 2009 and ranged in time adjusted price per sq ft, from \$222.96 to \$230.41 per sq ft. The Respondent stated that these sales support the subject assessment of 209.44 per sq ft.

[14] In critique of the Complainant's four sales (Exhibit R2, pg 21), the Respondent provided evidence that comparables 1 and 4 were non-arms length sales (Exhibit R-2, pg 26 & 27). Comparable 2 has an effective year built of 2010, is in a different market area and is one quarter the size of the subject property. Comparable 3 is in a south side location and is one half the size of the subject property.

[15] In sur-rebuttal (Exhibit R-3), the Respondent addressed the Complainant's rebuttal evidence, noting that any attempt to arrive at a meaningful ASR by comparing a current assessment to a sale price for a sale that occurred in years past is misleading. In support, the Respondent provided reports as provided by City assessors suggesting change in quality and/or configuration between the sale date and the current assessment year. In one case, a building had been removed between the date of sale and the most recent assessment.

[16] The Respondent asked that the Board confirm the 2013 assessment of \$3,979,500.

Decision

[17] The Board's decision is to confirm the 2013 assessment of \$3,979,500.

Reasons for the Decision

[18] The Board was not persuaded by the Complainant's argument that this year's assessment should be reduced because it reflected a 6.0% increase over the 2012 assessment. The Board was satisfied with the Respondent's argument that each year's assessment is independent of the previous year's assessment.

[19] The Board accepts the Respondent's evidence that the Complainant's sales 1 and 4 were non-arms length transactions and that a non-arms length transaction is not reliable evidence of market value. The Board considered the two arms-length transactions more representative of market value, which at \$229.89 per sq ft and \$226.20 per sq ft support the subject property assessment of \$209.44 per sq ft.

[20] The Board reviewed the Complainant's rebuttal evidence as it related to the assessment of the Respondent's sale comparables. The Board noted that sale prices and assessments of the Respondent's comparables 1 and 2 (Exhibit C-3, page 5), support the assessment of the subject property. The sale price of the third comparable as well supports the assessment of the subject property. The Board noted the position of the Respondent relating to changes in quality and/or condition and was swayed that an ASR of 0.61 for comparable 3 as well as the data set out in Exhibit R-3, page 3 indicated that such a change had likely occurred and that it was not a reliable comparable on the basis of assessment.

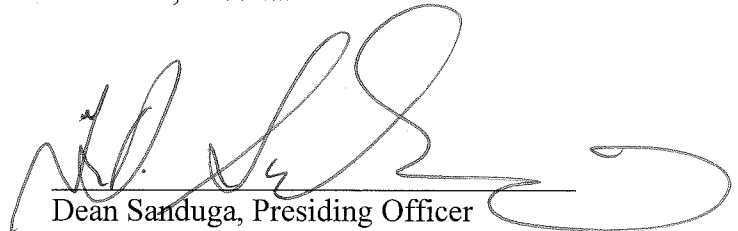
[21] The Board concludes that the Complainant failed to produce sufficient evidence to convince the Board that the City was incorrect in its assessment of the subject property.

Dissenting Opinion

[22] There was no dissenting opinion.

Heard on October 17, 2013.

Dated this 28th day of October, 2013, at the City of Edmonton, Alberta.


Dean Sanduga, Presiding Officer

Appearances:

Stephen Cook
for the Complainant

Joel Schmaus

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.