Edmonton Composite Assessment Review Board

Citation: Colliers International Realty Advisors Inc v The City of Edmonton, 2013 ECARB 01548

Assessment Roll Number:	9963899
Municipal Address:	5704 Roper Road 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
Robert Mowbrey, Presiding Officer
Howard Worrell, Board Member
Judy Shewchuk, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties indicated they had no objection to the composition of the Board. In addition, the Board members indicated no bias on this file.

Preliminary Matters

[2] There were no preliminary matters.

Background

[3] The subject property was constructed in 2003. The site coverage is 28% and the 2013 assessment is for $8,329,000. The subject property is a 58,411 square foot average quality large warehouse located at 5704 Roper Road NW. The subject property is part of the Southeast industrial inventory.

Issues

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

[5] Is the subject property equitably assessed compared to similar properties?

Legislation

[6] **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

[7] The Complainant filed this complaint on the basis that the subject property's assessment of $8,329,000 exceeds the best estimate of market value. In support of this position, the Complainant presented the Board with a 25 page evidence package marked as Exhibit C-1. In addition, the Complainant also presented a 17 page rebuttal evidence package marked as Exhibit C-2.

[8] The Complainant advised the Board that the assessment for the subject property was prepared using the direct sales comparison approach [Exhibit C-1 pages 5].

[9] The Complainant presented 3 sales comparables to the Board. The comparables ranged from in year of construction from 1978 to 2001. The net leasable area ranged from 38,373 square feet to 44,994 square feet and site coverage ranged from 25 to 48%. The sale dates ranged from June 2010 to December 2010 and the price per square foot ranged from $85.42 to $120.76. The Complainant noted that the average of the 3 sales is $100.27 per square foot. The Complainant noted that only one sale comparable enjoys a similar age (2001). Further, the Complainant stated the site coverage averaged 37%, which is a little higher than the subject property at 31% [Exhibit C-1 page 5].

[10] The Complainant advised the Board that the average of the 3 sales comparables is $100.00 per square foot, and in consideration of the subject property's newer age, an upward adjustment is necessary.

[11] The Complainant noted sale comparable #1 is closest in age to the subject property, sold for a time-adjusted sale price per square foot of $120.76, and thus represents a good comparable to the subject property from a valuation point of view [Exhibit C-1 page 5].

[12] The Complainant argued that a 7.1% increase in assessment over 1 year is too high, considering that 3.21% is normal [Exhibit C-1 page 2].

[13] The Complainant stated that the assessment should remain in the $120.00 per square foot range, which results in a market value, based on the direct sales approach, of $7,009,000.

[14] The Complainant presented 6 equity comparables to the Board. The comparables ranged in year of construction from 1977 to 2008, and site coverage ranged from 25 to 54%. The net leasable area ranged from 38,373 to162,860 square feet and the assessment per square foot ranged from $91.91 to $142.03 [Exhibit C-1 page 6].

[15] The Complainant stated that with the subject property's lower site coverage, an upward adjustment is necessary. In addition, the Complainant advised the Board the average size of the equity comparables is larger, and based on economies of scale, this would necessitate an upward adjustment for the subject property.

[16] The Complainant stated that based on the equity approach, the market value of the subject property should remain in the $120.00 per square foot range or $7,009,000 [Exhibit C-1 page 6].

[17] The Complainant also produced an income approach to value for the Board. The Complainant determined that a $9.50 rental rate per square foot was reasonable based on existing rents of the subject property and comparable recent leasing. Utilizing a capitalization rate of 7.00% and a rental lease rate of $9.50, the market value of the subject property according to the income approach is $6,750,000, which is lower than the direct comparison approach [Exhibit C-1 pages 7, 8]. This test utilizing the income approach supports the Complainant's assertion that the assessment is too high.

[18] The Complainant presented a rebuttal evidence package outlining an analysis of the Respondent's sale comparables and their corresponding assessment to sale ratio (ASR). The Complainant stated that 2 of the sales comparables are dated and the average ASR is 0.87%, which clearly shows the inequity of the issue [Exhibit C-2 page 4].

[19] During summation and argument, the Complainant stated there were 3 approaches to value and the Complainant placed most weight on the direct comparison approach. The Complainant noted the higher than normal increase in assessment for the subject property year over year and therefore a reduction in the current assessment is warranted.

[20] The Complainant requested that the Board reduce the 2013 assessment of $8,329,000 to $7,009,000, based on the three approaches to value.

Position of the Respondent

[21] The Respondent defended the 2013 assessment by providing the Board with a 69 page disclosure package marked as Exhibit R-1.

[22] The Respondent explained to the Board that the assessment and similar assessments were prepared using the direct sales comparison methodology. The Respondent advised the Board that "there is ample data from which to derive reliable estimates and only a portion of the inventory is traded based 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" [Exhibit R-1 page 6].

[23] The Respondent advised the Board that sales occurring from January 2008 through June 2012 were used in the model development and testing. Factors found to affect value in the warehouse inventory are as follows: total main floor area (per building), site coverage, effective age (per building), condition (per building), location of the property, main floor finished area, as

well as finished area (per building). The most common unit of comparison for industrial properties is value per square foot of building area [Exhibit R-1 pages 7- 11].

[24] The Respondent provided the Board with maps, photographs and assessment details of the subject property's assessment [Exhibit R-1 pages 12-17].

[25] In support of the City of Edmonton's assessment, the Respondent presented 3 sale comparables. The comparables ranged in year built from 1998 to 2008 and ranged in site coverage from 29% to 33%. The total building size in terms of square feet ranged from 30,078 to 51,586 square feet. The time adjusted sale price per square foot of total building area ranged from $152.00 to $184.00 [Exhibit R-1 page 23].

[26] The Respondent advised the Board regarding law and legislation issues as follows:

a. Market value within a range. "The MGB has ruled on a number of occasions that market value encompasses a range of values and the issue is whether the assessment falls within that range of values" [Exhibit R-1 page 51].

b. The 5% Range. "Both the ARB and MGB have ruled on numerous occasions that it would not alter an assessment, if the requested change to the assessment, or if the evidence indicates a change to the assessment within 5%" [Exhibit R-1 page 52].

c. Burden of Proof or Onus of the Parties. "The onus rests with the Complainant to provide sufficiently convincing evidence on which a change to the assessment can be based. The Complainant's evidence needs to be sufficiently compelling to allow the Board to alter the assessment" [Exhibit R-1 page 54].

d. Post-Facto Sales. "It is important to note that the use of a post facto, a sale which occurs after July 1st of the assessment year is restricted. The Board may consider such post facto evidence to confirm market trends, however, post facto evidence cannot be used in setting value" [Exhibit R-1 page 56].

[27] The Respondent also addressed the issue of fee simple estate. The Respondent advised the Board that "since the assessment is based on the fee simple estate, when examining any sale, it is necessary to ensure that a sale is of the fee simple estate, and does not relate to some other form of interest in the property" [Exhibit R-1, page 34]. The Respondent also cited *Altus Group v. The City of Edmonton*, 2012 ECARB 000598:

> "For income producing properties encumbered by leases, it is the leased fee estate that typically sells, not the fee simple estate. Depending on the value of the rights conveyed relative to the contract rent, the leased fee estate can either fall short of or exceed the value of the fee simple interest.
>
> ...
>
> With the presence of long-term signed leases with rates well below market value, the subject property sale is reflective of the leased fee estate. The Board notes, however, that the assessment for the subject property must be based on the fee simple estate and not the leased fee estate" [Exhibit R-1 page 35].

[28] The Respondent advised the Board that the Complainant's #1, 2 and 3 sale comparables were all leased below market [Exhibit R-1 pages 29-31].

[29] During argument and summation, the Respondent advised the Board that the Respondent's 3 sales comparables need few adjustments and that they support the assessment.

[30] The Respondent noted the Complainant's sale comparables have inferior value and don't adequately reflect the sale price.

[31] The Respondent advised the Board that the Respondent's equity comparables show fairness, whereas the Complainant's equity comparables would need adjustments.

[32] The Respondent stated that the subject's assessment at $143.00 per square foot is demonstrably correct when both the sales and equity analyses are considered.

[33] The Respondent requested that the Board confirm the 2013 assessment of $8,329,000.

Decision

[34] The Board confirms the 2013 assessment of $8,329,000.

Reasons for the Decision

[35] The Board was not persuaded by the Complainant's sales comparables. Two of the three Complainant's sales comparables were 24 to 34 years older than the subject property, making comparability difficult. Thus, only one sale comparable at 7603 McIntyre Road is comparable in age, condition, building size and site coverage. However, the sale comparable rents at below market and has about one third the main office space that the subject property has. In addition, the Board would be most reluctant to adjust an assessment based on one comparable.

[36] The Board was not persuaded by the Complainant's equity comparables. One equity comparable (#3 at 4103 84 Avenue) had much higher site coverage and was more than double the square footage of the total building size. Equity comparables #4, #5, #6 (at 3304-Parsons Road, 4115-101 Street and 4900-93 Avenue) were 24 to 34 years older than the subject property. In addition, #4 and #6 were on major arterial roadways making comparability difficult. Comparable 6 was also assessed in fair condition as opposed to average condition.

[37] The Board is persuaded by the Respondent's sales comparables. The comparables are similar in age, condition and site coverage. The total office building is also comparable to the subject property. In addition, the time-adjusted sale price per square foot of total building footage of $152.00 to $184.00 certainly supports the lower assessment of $143.00.

[38] The Board notes that if you average the Respondent's three sales comparables and the Complainant's number one comparable, the average time-adjusted sale price per square foot is $152.00, which supports the assessment.

[39] Regarding the issue of an excessive increase in assessment year over year, the Board is mindful that each year's assessment is independent of previous assessments, and the mere fact of a large percentage increase without more evidence, is not enough information to draw the conclusion that an assessment is too high.

[40] The onus is on the Complainant to provide sufficient and compelling evidence to show the incorrectness on an assessment. The Board is satisfied the Complainant did not provide sufficient nor compelling evidence to allow the Board to conclude the assessment was incorrect.

Dissenting Opinion

[41] There was no dissenting opinion.

Heard commencing October 10, 2013.

Dated this 30th day of October, 2013, at the City of Edmonton, Alberta.

Robert Mowbrey, Presiding Officer

Appearances:

Stephen Cook
for the Complainant

Cherie Skolney
Marcia Barker
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.