



CENTRAL ALBERTA REGIONAL
**Assessment
Review Board**

Complaint ID 0310 1803 (101)
Roll No. 00787300

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: November 9th, 2023

PRESIDING OFFICER: B Hisey
BOARD MEMBER: A Gamble
BOARD MEMBER: S Roberts

BETWEEN:

DENLAW HOLDINGS LTD.
As represented by Lani L. Rouillard

Complainant

-and-

TOWN OF SYLVAN LAKE
As represented by Wild Rose Assessment Services Inc.

Respondent

This decision pertains to a complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by Wild Rose Assessment Services for the Town of Sylvan Lake described as follows:

ROLL NUMBER: 00787300
MUNICIPAL ADDRESS: Unit 101, 37 Beju Industrial Dr
ASSESSMENT AMOUNT: \$520,000

The complaint was heard by the Central Alberta Regional Assessment Review Board on the 9th day of November 2023, at the Town of Sylvan Lake in the Province of Alberta.

Appeared on behalf of the Complainant: Lani L. Rouillard, for Denlaw Holdings Ltd.

Appeared on behalf of the Respondent: Kevin Bohlken & Kenneth Waters, for Wild Rose Assessment Services

DECISION: The assessed value of the subject property is reduced to \$462,000.

JURISDICTION

- [1] The Central Alberta Regional Assessment Review Board [“the Board”] has been established in accordance with section 455 of the *Municipal Government Act*, RSA 2000, c M-26 [“MGA”].

PROPERTY DESCRIPTION AND BACKGROUND

- [2] The subject is contained within an eight-unit office condominium and zoned highway commercial, in the Town of Sylvan Lake. The building was constructed in 2011 and has 9,852 square feet (sf) of leasable area on a 46,174 sf site located along Beju Industrial Drive. The subject is a main floor office space legally described as Unit 1, Condominium Plan 122 4185 and has 1,999 sf.
- [3] The assessment has been calculated using the cost approach to value.

PRELIMINARY MATTERS

- [4] No Board Member raised any conflicts of interest with regard to matters before them and neither party raised any objection to the composition of the Board.
- [5] At the onset of the hearing the Complainant requested reimbursement of the application fees. The Board directed this request to administration for the Regional Assessment Review Board. This matter is managed by the member municipality under 481 (2) of the *Municipal Government Act*, RSA 2000, c M-26 (MGA).

PROCEDURAL MATTERS

- [6] The Complainant referenced previous years assessments for the subject property and requested the Board consider issues of concern for those valuations. The Board advised that this hearing would review the merits for the current assessment. Each year's tax notice includes complaint information which sets out a formal process with deadlines. This administrative requirement is legislated under section 309(1)(c) of the MGA which requires the tax notice include, “a statement that the assessed person may file a complaint not later than the complaint deadline”. Additionally, section 467(2) of the MGA states that, “An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 460(9).”
The date to file a formal complaint is indicated on the tax notice and applications submitted after the deadline are invalid. Previous assessments are not within the purview of this Composite Assessment Review Board hearing, which deals with the 2023 tax year for the 2022 assessment.
- [7] A second matter was introduced by both parties, which was a request that the hearings for roll numbers 00787300 and 00787500 scheduled for November 9th, be heard concurrently with separate decisions provided for each property. The Board agreed with this request.

POSITION OF THE PARTIES**Position of the Complainant**

- [8] The complaint was filed to argue that the assessment for the subject was not a reflection of market value.
- [9] The method of valuation for the subject was considered inaccurate as the cost approach used by the assessor considers the replacement value of the land and improvements but should be used for newer properties in the absence of sales data. In this instance, the Complainant argued the building was 10 years old, and each unit in the complex had sold at least once. Additionally, several sales of similar developments had occurred along the same street.
- [10] The Complainant suggested that the direct sales method of valuation was more appropriate for the calculation of the subject's assessment, as the building was a standard office condominium. It was not a purpose-built structure and did not have unique property characteristics.
- [11] The following list of comparables were provided to the Board by both parties. The first 6 were referenced by the Complainant as the most recent (from the past 2 years) and reflected a good representation of the market from the same area as the subject:
- Comparable #1 - 5037 50 Street - Sold 12/12/2021 for \$515,000 (\$178.88/sf) as shown on C1, page 2. This is a freestanding building with 2,879 sf. The same comparable was also shown as a 12/12/2021 sale in R1, page 48.
 - Comparable #2 - 160 Hewlett Park (unit 5) - Sold 9/20/2022 for \$430,000 (\$215.00/sf). This is a main floor corner office condominium built in 2002 with 1,996 sf and no highway exposure.
 - Comparable #3 - 103, 25 Beju Industrial Drive - Sold 4/28/2023 for \$432,500 (\$166.66/sf). This condominium space is 2,595 sf and is located on the main floor.
 - Comparable #4 - 204, 25 Beju Industrial Drive - Sold 3/6/2023 for \$193,400 (\$164.60/sf). This condominium space is 1,175 sf located on the second floor.
 - Comparable #5 - 101, 17 Beju Industrial Drive (former Falcon Homes) - Sold 6/16/2023 for \$899,900 (\$187.44/sf). This includes both main floor (3650 sf) and second floor (1150 sf) areas.
 - Comparable #6 - 104, 25 Beju Industrial Drive - Sold 5/7/2023 for \$345,000 (\$153.33/sf). This condominium space has 2,250 sf of main level area.

The average sale price of these comparable properties was \$177.65/sf. If this value were used for the assessment it would be \$355,122. This is much lower than the current assessed value of \$520,000.

- [12] There were an additional 5 sales included in the Complainants material that were provided by the Respondent in later discussions regarding the assessment for the subject property:
- Comparable #7 - 4904 50 Avenue - Sold on 12/9/2022 for \$500,000 (\$144/sf). This is a freestanding structure with 3,481 sf.

- Comparable #8 - 90 Hewlett Park (law office) - Sold on 8/12/2019 for \$200,000 (\$175/sf). This is an interior retail condominium built in 2001 with 1,145 sf.
- Comparable #9 - 2, 120 Hewlett Park - Sold on 2/18/2020 for \$220,000 (\$225/sf). This is a retail condominium built in 2002 with 979 sf.
- Comparable #10 - 203, 25 Beju Industrial Drive - Sold on 12/19/2019 for \$190,000 (\$146/sf). This retail condominium built in 2014 is located on the second floor and has 1,300 sf.
- Comparable #11 - 102, 17 Beju Industrial Drive - Sold 4/24/2019 for \$740,000 (\$269/sf). This corner condominium unit was built in 2006 and has 2,750 sf; fully renovated by purchaser to dental office use.

[13] Based on the market comparables provided by the Respondent and recognizing the valuation date of July 1, 2022, the Complainant suggested a value of \$193.86/sf would be realized excluding post facto sales. Although this price per square foot could be requested based on these properties, a more reasonable value of \$225/sf was considered appropriate as the subject should be at the higher end of the market sales provided.

[14] To further support a reduction to the assessment the Complainant gave evidence regarding unit 102 from the same building and located on the main floor. It was listed on June 20, 2022, at \$450,000 (no viewings or inquiries); relisted Aug 04, 2023 at \$365,000; and was further reduced on September 25, 2023 to \$350,000 with no viewings. This property is currently assessed at \$378,000 and has been available for lease, but vacant for over a year.

[15] The Complainant also found that a reduction in the floor area used to calculate the assessment of the subject in previous years was very disconcerting; 2020 and 2021 assessments showed approximately 321 sf more area than the current year. This incorrect area was amended without explanation and has not been satisfactorily explained by the Assessor. Upon questioning by the Complainant to the Respondent, regarding this issue the Respondent stated he was unable to speak to the difference as he had not calculated those previous values. The areas used to calculate the current assessment were based on the registered Condominium Plan 122 4185.

[16] The Complainant also provided a detailed review of Comparable #5, suggesting it was the best indication of an inequitable assessment. This property was similar to the subject with a shared parking lot but included extensive cabinetry and vaulted ceilings. The assessment for this comparable was \$205.17/sf while the current assessment for the subject was much higher at \$248/sf.

[17] In summary, the Complainant argued the 17.4% year over year increase in assessment does not correlate with a declining market and reduction to the area from the previous year.

[18] The requested assessment of \$450,000 was based on a \$225/sf value recognizing the subject property was perhaps at the upper end of the comparables in quality and construction.

Position of the Respondent

- [19] The building was described as a two storey, multi-unit condominium with primary use as professional offices. The registered unit area for the subject located on the main floor is 1,999 sf. A unique aspect of this complex was identified as the interior access through an upscale common entrance, which includes a two-storey cathedral entryway with curved staircase and a passenger elevator. The Respondent also confirmed the common area for the complex includes a private paved parking lot. These spaces were assessed as an influence on each titled unit within the condominium.
- [20] The subject has a premium northwest corner on the main floor with direct Highway 20 exposure.
- [21] The Respondent confirmed a revision had been proposed for the subject's assessment after discussions with condominium owners from the same building. A recommendation for a reduction from \$520,000 (\$248/sf) to \$462,000 (\$231/sf) was suggested for the subject.
- [22] A review of the methodology used to calculate the assessment was provided, which was based on the Cost Approach. This method values a property with an estimated land value plus the depreciated cost of improvements. Marshall & Swift Valuation Cost Manual (M&S) is the foundation of the assessment's cost approach for market value-based assessment. With limited sales information the Cost Approach is often the only valid measure of value.
- [23] The Respondent also advised that the Cost Approach value is stabilized through a broadly applied market adjustment. This is derived from an annual study of assessment to sales price ratios.
- [24] Several legislative requirements and definitions were also discussed, which were identified and described as follows:
- Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year (section 6, Matters Relating to Assessment and Taxation (MRAT) - Standards of Assessment).
 - Each assessment must reflect the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed (MGA, section 289(2)(a))
 - "mass appraisal" means the process of preparing assessments for a group of properties using standard methods and common data and allowing for statistical testing (MRAT section 1(g)). Mass appraisal requires the assessment of property based on market value.
 - "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 (MGA, section 1(1)(n)).
 - An assessment of property based on market value
 - (a) must be prepared using mass appraisal,
 - (b) must be an estimate of the value of the fee simple estate in the property, and
 - (c) must reflect typical market conditions for properties similar to that property (MRAT, section 5)
- [25] Seven improved commercial sales have occurred in the Town of Sylvan Lake within the relevant sales analysis time period of July 1, 2019 to July 1, 2022 for the 2022 assessment/2023 property tax

year. Sales occurring after July 1, 2022, are post facto, and not utilized for the current assessment. Once the transactions occurring after July 1, 2022, are removed from the market sales provided to the Complainant, seven Comparables #1, #2, #7, #8, #9, #10, and #11 remain in the study pool.

- [26] These sales were compared to their assessments, which indicated an assessment to sale ratio (ASR) median of 97%. This is within the legislated variance of +/-5% and validates the cost approach-based assessment as successfully creating market valuations.
- [27] The seven market comparables provided a median of \$215/sf, with a low price per square foot of \$146 and a high of \$269 (page 52 R1). The subject has been equitably and fairly assessed at the recommended \$231/sf.
- [28] Equity was confirmed within the subject's building with the assessments of all eight units. The Respondent noted the subject was considered at the top of the range as it was located on the main floor in the best location.
- [29] Furthermore, 12 equity comparables were also provided (including the subject at the recommended revised assessment) that indicated a median of \$222.94/sf, with a minimum value of \$170.57/sf and a maximum of \$277.09/sf.
- [30] When questioned by the Complainant the Respondent confirmed at least 3 similar sales are required to consider the use of a sales comparison valuation. However, the market sales were all inferior as they did not include the interior common area unique to the subject.
- [31] In summary the Respondent requested the assessment be revised to \$462,000 (\$231/sf).

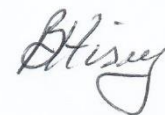
BOARD FINDINGS and DECISION

- [32] The Board acknowledges that legislation does not stipulate a particular approach for valuation purposes. Rather the focus is to determine whether a property assessment reasonably reflects the market value of that property; not whether one approach to value should be used over another.
- [33] The Board was unable to rely on a year over year increase as sufficient evidence to reduce an assessment. Section 285 of the MGA requires a new assessment to be prepared each year, based on market conditions as of the new valuation date. An assessment from the prior year is not a relevant factor in the preparation of a subsequent assessment.
- [34] Although the Complainant stated that the market has declined and that post pandemic markets have affected value, there was no evidence provided to support that claim.
- [35] The Board reviewed the eleven market comparables provided by the Respondent and referenced by both parties. These are the comments regarding the comparable properties:
- Post facto sales cannot be used to set values but may be used for trending purposes. Therefore, comparables #2, #3, #4, #5, #6, and #7 were given little weight.
 - The most similar sales would include condominium properties, as they provide a unique bundle of rights and provide elements of comparison that may impact property value. Therefore, no weight was given to comparables #1 and #7.

- Comparable properties may be adjusted upwards or downwards to reflect a variance between the subject and the comparable. The market comparable located on a second floor was given less weight (Comparable #10).
 - Of the three-remaining market comparables (#8, #9, and #11) the average sale price was \$223/sf and the median value was \$225/sf. Supporting the recommended \$231/sf value for the subject, which has a superior location (main floor unit with direct Highway 20 exposure) and an upscale common entrance in the building.
- [36] Although not all condominium properties were found to have finished interior common area, the Respondent did not provide sufficient evidence to determine how that area was calculated or specifically how the value was reflected in the assessment of the subject. There was a lack of clarity with regard to common area valuation or the assignment of this space to each condominium unit. The subject could be assessed as having a superior attribute, but no evidence was provided to make that determination.
- [37] The Board relied upon section 14 of MRAT for information regarding intent and use of the ASR. This regulation sets quality standards for median assessment ratios that assessors must meet in preparing assessments. The Board recognizes that the ASR is used to test the assessment as set out in MRAT and was not intended to be used to set value or modify a market price.
- [38] On the equality issue, the Board was not provided with sufficient evidence to establish the similarities to Comparable #5 at the Complainants suggested \$205.17/sf rate; this comparable was dissimilar to the subject with main and second floor areas.
- [39] The Board finds the average of \$223/sf and median value of \$225/sf of the most comparable market sales support the revised recommended value \$231/sf (\$462,000); recognizing the most comparable market sale for the subject would be Comparable #11 (102, 17 Beju Industrial Drive) with a \$269/sf sale price. This is most similar to the subject, as it is a main floor corner condominium unit located along Beju Industrial Drive.
- [40] Based on the market comparables, the assessment is reduced to the Respondent's recommended value of \$462,000.

DECISION SUMMARY

- [41] The Board reduces the assessment to \$462,000.
- [42] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 5 day of December 2023 and signed by the Presiding Officer on behalf of all the panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



BRENDA HISEY
Presiding Officer

If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for judicial review to be filed and served not more than 60 days after the date of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents presented at the Hearing and considered by the Board.

<u>NO.</u>	<u>ITEM</u>
1. A.1	Hearing Materials provided by Clerk - 26 pages
2. C.1	Complainant submission - 27 pages
3. C.3	Complainant Rebuttal - 7 pages
4. R.1	Respondent submission - 59 pages