

# Central Alberta

Regional Assessment Review Board

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**LARB 0194-730/2016**  
Complaint ID 730  
Roll No. 194-070011965

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LOCAL ASSESSMENT REVIEW BOARD DECISION  
HEARING DATE: September 28, 2016

PRESIDING OFFICER: T. Hansen  
BOARD MEMBER: B. Farr  
BOARD MEMBER: D. Moore

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BETWEEN:

DENISE NICHOLS

Complainant

-and-

CITY OF LACOMBE

Respondent

This decision pertains to a property assessment complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by an Assessor of the City of Lacombe as follows:

ROLL NUMBER: 194-070011965  
MUNICIPAL ADDRESS: 4708 C&E Trail, Lacombe, Alberta  
ASSESSMENT AMOUNT: \$142,000

The complaint was heard by the Local Assessment Review Board on the 28<sup>th</sup> day of September, 2016 in the Council Chambers at The City of Lacombe, in the province of Alberta.

Appeared on behalf of the Complainant: Jon Nichols

Appeared on behalf of the Respondent: Warren Powers, Powers & Associates Appraisal Services

**DECISION:** The assessed value of the subject property is confirmed.

## **JURISDICTION**

- [1] The Central Alberta Regional Assessment Review Board [“the Board”] has been established in accordance with section 456 of the *Municipal Government Act*, RSA 2000, c M-26 [“MGA”], and City of Lacombe Bylaw No. 375, *Regional Assessment Review Board Bylaw*.

## **PROPERTY DESCRIPTION AND BACKGROUND**

- [2] The subject property is a residential property located at 4708 C&E Trail in the City of Lacombe, Alberta.
- [3] A property assessment complaint was submitted by property owner, Denise Nichols, on April 20, 2016.
- [4] Confirmation of receipt of complaint and Notice of Hearing was sent to the Parties on June 1, 2016.
- [5] For convenience of the Parties, six properties were scheduled to be heard jointly in one hearing.

## **PRELIMINARY MATTERS**

- [6] The Board Chair confirmed that no Board member raised any conflicts of interest with regard to matters before them.
- [7] The Complainant and the Respondent did not have any objection to the panel hearing the complaint.
- [8] The Board referred to section 4 of the complaint form, where the Complainant indicated that item #3, an Assessment amount, was the reason for complaint.
- [9] The Board confirmed that six properties would be heard together in one hearing, but each property would have a separate decision. This decision pertains to the subject property, located at 4708 C&E Trail.
- [10] No additional preliminary or procedural matters were raised. The Parties indicated that they were prepared to proceed with the complaint.
- [11] The Board confirmed the submissions of the Parties and entered the following Exhibits into the record:
- A1 Hearing Materials with Agenda cover page, Complaint form and attachments, Property Assessment, and Notices of Hearing
  - R1 Respondent Submission: 4708 & C&E Trail
  - R2 Respondent Submission: 4706 C&E Trail
  - R3 Respondent Submission: 5028 – 56 Street
  - R4 Respondent Submission: 43 Fairway Drive

- R5 Respondent Submission: 5432 – 49 Avenue  
R6 Respondent Submission: 42 Erma Street

## **ISSUES**

- [12] The Board determined the following question is to be addressed within this decision:
- a) Has the subject property been properly assessed?

## **POSITION OF THE PARTIES**

### **Position of the Complainant**

- [13] The Complainant noted that there is minimal comparable market data in the area that is similar to the subject property.
- [14] The Complainant argued that an increase in the assessment from the prior year of 22% cannot be justified. The Complainant noted that this increase is inconsistent with property value trends in Lacombe.
- [15] The Complainant provided an active listing as a comparable property to the subject. This property, located at 5240 51 Street in Lacombe, has the same zoning designation, is listed at \$149,900, and includes a 976 square foot home. He suggested that this listing indicates that the subject property assessment is too high, as the subject property is land only and valued at \$142,000.
- [16] The Complainant referred to Exhibit R2, page 4, which provides the assessment details of a neighbouring parcel of land that is 6,344 square feet, and assessed at \$17.65/square foot. As such, this land is assessed in total at \$112,000, up from the previous year's assessment of \$90,000. The Complainant compared this with the subject property, which is 10,010 square feet, and assessed at \$14.19/square foot, totalling an assessment of \$142,000. The Complainant submits that both of these valuations are wrong and the values can't be justified.
- [17] The Complainant did not submit any other market evidence for consideration.
- [18] In summary, the Complainant requested the assessed value be lowered to \$116,000.

### **Position of the Respondent**

- [19] The Respondent stated that the subject property is a 10,010 square foot land parcel zoned high density residential.
- [20] The Respondent stated that the subject property's assessment was prepared in accordance with the MGA and its subsidiary legislation.
- [21] The Respondent objected the active listing as evidence submitted by the Complainant. The Respondent argued that the evidence is post-facto and was not information available

to the Respondent at the time of the assessment. The comparable's listing date is February 10, 2016, which is later than the legislated valuation date of July 1, 2015. The Respondent referenced three MGB decisions where post-facto evidence was limited in its use as evidence.

- [22] The Respondent further objected to the listing as evidence as it is a bank sale. The seller name on the listing is Royal Bank of Canada.
- [23] The Respondent responded to the Complainant's argument regarding the year over year increase in the assessment. The Respondent argued that each year's assessment is independent of previous assessments, and that a large increase in the assessment is not enough to conclude that the assessment is too high. The Respondent referenced several ARB and MGB decisions to support this argument.
- [24] The Respondent submitted that the Complainant did not meet the burden of proof by providing a single post-facto listing to bring the assessment into question.
- [25] The Respondent requested the Board to confirm the assessment at \$142,000.

### **BOARD FINDINGS & DECISION**

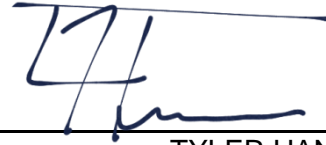
- [26] The Board finds that the active listing located at 5240 51 Street in Lacombe, cannot be accepted as market evidence used solely to establish value. The Board takes guidance from previous MGB decisions referencing the limited use of post-facto evidence as supporting market indicators of trends. However, it is not acceptable evidence to use solely to establish value at the time of assessment. The listing is dated February 10<sup>th</sup>, 2016, over seven months after the legislated valuation date of July 1<sup>st</sup>, 2015. Section 3 of *Matters Relating to Assessment and Taxation Regulation*, AR 220/2004 (MRAT) states:  
  
"Any assessment prepared in accordance with the Act must be an estimate of value of property on July 1 of the assessment year."
- [27] The Board acknowledges the high increase in the assessment over the previous year. However, the Board accepts the Respondent's argument that, on its own, a high increase isn't enough to suggest the assessment is incorrect.
- [28] The Board accepts the Respondent's assertion that the burden of proof has not been met by the Complainant. No evidence was provided by the Complainant beyond the post-facto listing.
- [29] The Board determines that the Complainant has failed to provide sufficient evidence to establish that the assessed value is not reflective of the subject property's market value.

### **DECISION SUMMARY**

- [30] The Board finds that the assessed value of the subject property is confirmed at \$142,000.
- [31] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 28<sup>th</sup> day of October, 2016 and signed by the Presiding

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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.



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TYLER HANSEN  
Presiding Officer

*This decision can be appealed to the Court of Queen's Bench on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for leave to appeal to be filed and served within 30 days of being notified of the decision. Additional information may also be found at [www.albertacourts.ab.ca](http://www.albertacourts.ab.ca).*

**APPENDIX**

Documents presented at the Hearing and considered by the Board

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<u>NO.</u>	<u>ITEM</u>
1.	A1 Hearing Materials with Agenda cover page, Complaint form and attachments, Property Assessment, Notices of Hearing
2.	R1 Respondent Submission: 4708 & C&E Trail
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