

# Central Alberta

Regional Assessment Review Board

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**LARB 0194-732/2016**  
Complaint ID 732  
Roll No. 194-060006530

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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:

JON & 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: 194-060006530  
MUNICIPAL ADDRESS: 5028 56<sup>th</sup> Street, Lacombe, Alberta  
ASSESSMENT AMOUNT: \$298,000

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 5028 56<sup>th</sup> Street in the City of Lacombe, Alberta.
- [3] A property assessment complaint was submitted by property owners Jon and 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 5028 56<sup>th</sup> Street.
- [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, 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 submitted that this property should be assessed less than the previous year's assessment.
- [14] The Complainant presented three market indicators:
1. 5730-50 Avenue, Lacombe, Alberta – Active listing listed on October 16, 2015. The Complainant noted a reduced asking price of \$227,500 and a lengthy time on the market of 186 days. It was noted that this property included a new garage. The property has not sold, suggesting a value less than the asking price.
  2. 5259-49 Street, Lacombe, Alberta – Sold on April 22, 2015. The property was originally listed at \$277,000, was reduced to \$195,000, and finally sold at \$205,000. The Complainant notes that this is a unique property and is probably not a good comparable; however, it is in close proximity to the subject and has a comparable lot size. The Complainant suggests that it was on the market longer than the listing states at 62 days.
  3. 5310 C&E Trail, Lacombe, Alberta – Sold on February 29, 2016. The property was originally listed at \$309,000, was reduced to \$250,000, and finally sold at \$240,000 after 126 days on the market. This comparable was an estate sale.
- [15] The Complainant submitted that the market evidence presented should be enough to bring the assessment into question.
- [16] The Complainant suggested that assessments are consistently above market value and it is not fair and equitable for citizens.
- [17] The Complainant did not submit any other market evidence for consideration.
- [18] In summary, the Complainant requested the assessed value be decreased to \$264,000.

### **Position of the Respondent**

- [19] The Respondent stated that the subject property is an improved single family dwelling.

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- [20] The Respondent submitted that the subject property's assessment was prepared in accordance with the MGA and its subsidiary legislation.
- [21] The Respondent objected to two of three comparables as evidence submitted by the Complainant. The Respondent argued that the 5730-50 Avenue comparable is post-facto and was not information available to the Respondent at the time of the assessment. The comparable was listed October 16, 2015, which is later than the legislated valuation date of July 1, 2015.
- [22] The other objected comparable is 5310 C&E Trail which was listed October 27, 2015, also after the July 1, 2015 valuation date. In addition, the Respondent suggested that the sale should be treated as non-arm's-length, as it was an estate sale. The Respondent referenced three MGB decisions where post-facto evidence was limited in its use as evidence. The Respondent did not object to the 5259-49 Street comparable sale being submitted as evidence by the Complainant, as it was sold during the valuation period.
- [23] The Respondent argued that 5259-49 Street is only remotely comparable as it is a church. The Respondent also stated that the Complainant did not provide any additional analysis to adjust for the dissimilarities with the subject property.
- [24] 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.
- [25] The Respondent submitted that the Complainant did not meet the burden of proof, as only post-facto listings were provided to bring the assessment into question.
- [26] The Respondent requested the Board confirm the assessment at \$298,000.

### **BOARD FINDINGS & DECISION**

- [27] The Board finds that the two post-facto comparable indicators submitted by the Complainant 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 listings are both dated in October of 2015, after the legislated valuation date of July 1, 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.”
- [28] The Board acknowledges the sale of 5259-49 St. submitted by the Complainant. However, the Board puts minimal weight on this comparable as the property has significant dissimilarities, and no additional analysis was provided adjusting for these differences, or linking them to a conclusion of value for the subject property.

- [29] The Board acknowledges the 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.
- [30] The Board accepts the Respondent's assertion that the burden of proof has not been met by the Complainant.
- [31] The Board has determined 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**

- [32] The Board finds that the assessed value of the subject property is confirmed at \$298,000.
- [33] 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 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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