

Central Alberta

Regional Assessment Review Board

LARB 0194-734/2016
Complaint ID 734
Roll No. 194-080004610

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

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

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: 194-080004610
MUNICIPAL ADDRESS: 5432 49 Avenue, Lacombe, Alberta
ASSESSMENT AMOUNT: \$228,000

The complaint was heard by the Local Assessment Review Board on the 28th 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 5432 49 Avenue 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 5432 49 Avenue.
- [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 stated that the property is old and has no basement. As such, the previous year's assessment of \$200,000 was high.

[14] The Complainant presented four market indicators:

1. 5240 51 Street, Lacombe, Alberta – This comparable is an active listing listed on February 11th, 2016. The original asking price was \$175,000 and was later reduced to \$149,900. The property has not sold. The seller of this property is the Royal Bank of Canada. The Complainant argued that banks are very strict in their process of selling a foreclosed property. There are at least two Realtor evaluations and one appraisal completed on this property. The Complainant suggested that the purchase price has to be within five percent of the valuation and has to be approved by a judge. Due to this strict process of establishing market value for the listing and sale, the Complainant argued that the resulting listing and sale should be acceptable evidence.
2. 5019 48 Street, Lacombe, Alberta – This comparable is a sale from November 22, 2015. The property was originally listed at \$165,000 and sold at \$160,000 after 47 days on the market. The Complainant stated that although this property has a garage and the subject does not, the subject has a much larger lot size.
3. 31 Valley Crescent, Lacombe, Alberta – This comparable is a sale from February 16, 2016. The property was listed for \$199,900 and sold for \$160,000 after 45 days on the market. The Complainant states that this property is larger than the subject.
4. 5119 53 Street, Lacombe, Alberta – This comparable is a sale from September 9, 2015. The property was listed for \$199,000 and sold for \$177,000 after 6 days on the market.

[15] The Complainant did not submit any other market evidence or analysis for consideration.

[16] In summary, the Complainant requested the assessed value be decreased to \$186,000.

Position of the Respondent

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

- [18] The Respondent stated that the subject property's assessment was prepared in accordance with the MGA and its subsidiary legislation.
- [19] The Respondent objected to the four comparables 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 listings and sales are all dated 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.
- [20] The Respondent further objected to the 5240 51 Street and 31 Valley Crescent comparables, as they are bank sales of foreclosed properties that are subject to different decision making characteristics, and therefore are not reliable indicators of market value.
- [21] The Respondent argued that the Complainant had not provided any additional analysis beyond the post-facto sales to suggest that the assessment of the subject property was calculated incorrectly.
- [22] 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.
- [23] The Respondent submitted that the Complainant did not meet the burden of proof, as providing four post-facto sales without any additional analysis is not enough to explicitly bring the assessment into question.
- [24] The Respondent requested the Board confirm the assessment at \$228,000.

BOARD FINDINGS & DECISION

- [25] The Board finds that the four 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 four comparables are all 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.”
- [26] 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.
- [27] The Board accepts the Respondent's assertion that the burden of proof has not been met by the Complainant.

[28] 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

[29] The Board finds that the assessed value of the subject property is confirmed at \$228,000.

[30] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 28th 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.



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.

APPENDIX

Documents presented at the Hearing and considered by the Board

<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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