

Central Alberta

Regional Assessment Review Board

LARB 0194 728/2016
Complaint ID 728
Roll No. 194-080004110

LOCAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: September 13, 2016

PRESIDING OFFICER: A. Knight
BOARD MEMBER: A. Gamble
BOARD MEMBER: Z. Ordman

BETWEEN:

NOTTINGHAM INVESTMENT CORPORATION

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: 194-080004110
MUNICIPAL ADDRESS: 4724 - 49 Avenue
ASSESSMENT AMOUNT: \$ 150,000

The complaint was heard by the Local Assessment Review Board on the 13th day of September 2016, in the Council Chambers at the City of Lacombe, in the province of Alberta.

Appeared on behalf of the Complainant:

Ian Brown, President of Nottingham Investment Corporation

Appeared on behalf of the Respondent:

Warren Powers, Powers & Associates Appraisal Services Inc., Assessor for City of Lacombe

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 located at 4724 - 49 Avenue, and the property type is identified as residential land with improvement. The property is in the name of Nottingham Investment Corporation.
- [3] A property assessment complaint was submitted by the property owner on April 20, 2016.
- [4] Confirmation of receipt of complaint and Notice of Hearing was sent to the Parties on May 26, 2016.
- [5] For convenience of the Parties, a second property located at 5507 - 55 Avenue, also owned by the Complainant but in the name of Ian Scott Brown, was scheduled to be heard jointly with the subject property in one hearing.

PRELIMINARY MATTERS

- [6] The Board confirmed that no member of the panel raised any conflicts of interest with regard to matters before them.
- [7] Neither Party raised any objection to the panel hearing the complaint.
- [8] The Complainant requested clarification on the hearing process. The Board provided an overview of the hearing process, and the Complainant indicated he was prepared to proceed.
- [9] No additional preliminary or procedural matters were raised by either party. Both Parties indicated that they were prepared to proceed with the complaints.
- [10] The Board confirmed with the Parties that item #3 on the Complaint Form, the assessment amount, is the issue before the hearing panel for both properties.
- [11] The Board clarified that two properties would be heard together as one hearing, but each property would have a separate decision. This decision pertains to the subject property is located at 4724 - 49 Avenue.
- [12] The Board required the addition of page numbers to the Complainant submissions in order to assist the panel and parties in referring to specific documents during the hearing proceedings.
- [13] The Board confirmed the submissions of the parties and entered the following Exhibits into the record:

Clerk Hearing Materials:

A1 - Hearing Materials (16 pages)

Complainant submissions:

C1 - Summary of both properties - complaint ID#'s 727 & 728 (3 pages)

C2 - Summary of 5507 – 55 Ave (ID# #727/Ian Scott Brown – 7 pages)

C3 - Summary of 4724 – 49 Ave (ID 728/Nottingham Investment Corporation - 7 pages)

C4 - Larger comparables package (53 pages)

C5 - Smaller comparables package (5 pages)

Respondent submissions:

R1 - Respondent evidence package for 4724 - 49 Avenue (33 pages)

R2 - Respondent evidence for 5507- 55 Avenue (32 pages)

ISSUES

[14] The Board considered the parties' positions and determined the following questions are to be addressed within this decision:

Did the Assessor follow the best approach and appropriately apply adjustment variables to determine an assessment value for the subject property in a manner that is fair and equitable?

POSITION OF THE PARTIES

Position of the Complainant

[15] The Complainant contends that the assessment is too high.

[16] The Complainant further contends that the assessment fails to comply with provincially legislated requirements for the preparation of property assessments. The Complainant argues that the Assessor has:

- failed to adhere to MGA Section 289 (2) (a) & (b) or reflect the physical conditions and characteristics of the property on December 31, 2015 (the assessment year).
- failed to adhere to MGA 293 (1) (a) & (b) and 293 (2) in preparing the assessment.
- not followed the procedures or applied the valuation standards set out in regulations.

[17] The Complainant argues that the assessment does not reflect typical market conditions as of July 1 in the previous year. The Complainant submits that:

- The valuation process, application of basic figures, and adjustments made for items such as heat and plumbing, are not practical when considering the condition of older homes.
- The depreciation process for buildings is not consistent with age (both physical and effective), and does not reflect actual conditions.
- The process used introduces numbers that are not accurate and do not reflect market conditions or the value of the subject property.

[18] The Complainant referred to sales comparables included in Exhibit C5, but no reference was made to these comparables in the Complainant's presentation except to state that the comparables were provided by the Respondent, in response to the Complainants request

for information. The Complainant argues that the Respondent relied on listings that do not reflect typical market conditions as of July 1, 2015.

- [19] The Complainant further introduced a copy of an appraisal completed by an accredited appraiser (CRA) from Red Deer. This appraisal was completed with a valuation date of October 27, 2014 and was not done for the purpose of this complaint (Exhibit C4, pages 23 to 38). No further argument was made concerning the appraisal in the Complainant's presentation.
- [20] The Complainant included excerpts from an inspection report referencing both properties at this hearing, and identifying various items that need repair, attention etc. (details are in Exhibit C4 page 39 to 53). No further argument was made concerning the inspection report in the Complainant's presentation. The Complainant suggests the appraisal and the inspection report provided in his submissions more accurately reflect the current physical condition of the subject property.
- [21] The Complainant argues that the assessed land value is incorrect and that it utilizes new service values, whereas the existing or subject property is older and needs replacement or upgrading.
- [22] The Complainant suggests that the Respondent should have valued the land on its own, less the cost of demolition and disposal costs, to reach a more realistic value.
- [23] The Complainant questioned why the current assessment value for the subject property increased 14.6% over the previous year's assessment when the average increase on comparables 1 to 6 is between 1.5% and 3.9% increase from the previous year. The Complainant argues that this is evidence that the value increase of the subject property fails to accurately reflect typical market conditions.
- [24] In summary, the Complainant initially requested the assessment should be reduced to land value only, less demolition and disposal, and further suggested the assessment be reduced to the land value only at \$145,000, as noted on the property assessment.
- [25] In questioning the Complainant, the Respondent asked what background, expertise and reasons were relied on to make the conclusions and inferences that were made. The Respondent asked where the Complainant came up with the figures used in the estimate of mechanical items, depreciation, etc. The Complainant responded that his figures were based on his own 25 years of experience in the residential market place, which leads him to believe the figures used in the assessment process are not reasonable.
- [26] In further questioning, the Respondent asked if the Complainant brought forward any sales comparables that bring the assessment into question. The Complainant stated that no comparables were submitted other than those that were provided by the Assessor and those referenced in the appraisal included in his Exhibits. In response to further questioning, the Complainant advised that the appraisal was completed for the property of which he was a co-owner (he was the spouse of the client at that time). It was presented as evidence in matrimonial proceedings of which he was a party, therefore he feels he is entitled to use the document.

[27] Upon questioning, the Complainant confirmed the property is currently rented and occupied, and that the property has not been condemned.

[28] In the Complainant's summation (following the Respondents presentation), the Complainant changed his earlier position requesting \$145,000 assessed value of the land only, and instead requested an assessed value of \$136,000 for the subject property, based on applying a 3.9% increase from the previous year's assessment.

Position of the Respondent

[29] The Respondent referred to the requirements and responsibility of the Complainant in making his presentation as stipulated in the MGA, which states:

460(7) A Complainant must

- (a) indicate the information shown on an assessment notice or tax notice is incorrect
- (b) explain in what respect that information is incorrect
- (c) indicate what the correct information is, and
- (d) identify the requested assessed value if the complaint relates to an assessment.

[30] The Respondent further referred to the onus and the burden of proof that must be met. The Respondent pointed to a quote from a Municipal Government Board ["MGB"] decision (MGB Order 116/03, at paragraph 162) which states:

"making broad statements in narrative form without supporting documentation is simply insufficient to meet the onus" (Exhibit R1, page 20).

[31] The Respondent argues that utilization of 2013 and 2014 comparables is not in error and is permissible in the appraisal process, with proper adjustments made. The Respondent explained that the classification and calculation of the improvement, size, age, depreciation etc., takes into account the plumbing, heat, and other amenities of the subject property.

[32] The Respondent explained the utilization of the cost approach to value specific components of a property by employing the Computer Assisted Mass Appraisal ["CAMA"] valuation program, a provincially recognized costing manual. Details of the Respondent's calculations using this program for the subject property are shown in Exhibit R1.

- The basic value arrived at includes a specific amount for plumbing fixtures, heating capacity etc., and adjustments are made for what physically exists in the subject property.
- All forms of depreciation are then considered, including physical, functional and economic (locational), arriving at an assessed value to the improvement.
- Then land is valued and added to arrive at the total assessment value.

The Respondent submits that these calculations are appropriate and correct for the assessment of the subject property.

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- [33] The Respondent addressed the assertions made by the Complainant who suggests the Assessor was negligent in the valuation of the property in a number of areas. The Respondent submits that statements in this regard are broadly stated opinions of the Complainant, with no reference to any specific item or calculation, and no evidence to support them.
- [34] The Respondent emphasized that application of “mass appraisal” is required under the MGA and its subsidiary legislation for assessments in the Province of Alberta. The Respondent argues that the Complainants “lack of understanding in both assessment legislation, requirements, and general valuation methods, techniques, and parameters should not be placed on the assessor or this Board to rectify, teach or train” (Exhibit R1, page 19).
- [35] The Respondent referred the Board to a Calgary Board decision, MGB 149/08, *Great West Life Assurance Company et al v. City of Calgary*, and provided the following quote:
- “The Respondent must use mass appraisal to develop the assessments. However, when a property is appealed, it is not the mass appraisal that is examined, as the mass appraisal must by legislation pass Provincial audit; rather, it is the individual result that the mass appraisal yielded...The MGB must then determine whether the assessed values appealed to it should be varied in order to be fair, equitable, and within the range of market value.”* (Exhibit R1, page 19).
- [36] The Respondent argues that the October 2014 Appraisal, submitted and referred to by the Complainant, should be considered inadmissible by the Board for the following reasons:
- The Appraisal was prepared for an entirely different purpose (a “matrimonial settlement”), and including it in the evidence for this case constitutes “a breach of the appraisers ordinary assumptions and limiting conditions noted on page 7 of the appraisal report and on the cover letter” (Exhibit R1, page 13).
 - Several CARB decisions referenced in the Respondent’s disclosure indicate that these Boards placed little weight on appraisals where the appraiser is not present to answer questions or validate the information within the report.
 - Given that the Complainant has no written authorization to rely on the appraisal, and that the appraiser is not present to explain or defend any calculations, the Respondent submits that this report should be given no weight and dismissed.
- [37] In response the Complainant’s assertion that the percentage increase from the previous year is unreasonable, the Respondent referred to cases cited in his disclosure:
- Board decision MGB DL 114/09, *John Yen v. The City of Edmonton*, where the Board’s states:
“Assessments are created anew every year, and tested on an overall statistical basis by the Province to ensure that the regulated assessment quality standards have been met. An assessment from one year is not and should not be merely modified to become the subsequent year’s assessment. Assessments are not based on previous years’ assessments.”
 - Court decision 2012 ABQB 651, *Globexx Properties Inc. v Edmonton (City)*, summarized by the Respondent as stating:
“the Court confirmed that neither a prior year’s Board Decision or a prior year’s assessment is a “starting Point” or “base” for the following year’s assessment.”

- [38] In summary, the Respondent asks the Board to consider that the burden of proof has not been met by the Complainant, while the legislative requirements of mass appraisal have been met in a fair and equitable manner by the Respondent. The Respondent requests that the current assessment be confirmed at \$150,000.

BOARD FINDINGS and DECISION

- [39] The Board finds that the evidence presented by the Complainant is not reliable as it is not supported by reliable facts or expert testimony to convince the Board of its accuracy.
- [40] The Board does not place any weight on the appraisal as presented in the Complainants evidence, as it represents a dated value that was effective in October 2014, and was prepared for another purpose. Further, it includes three sales comparisons with numerous adjustments that are not supported or explained.
- [41] The Board finds that the subject property has been appropriately assessed using the cost approach to calculate values for various features such as plumbing and heating. The Board further finds that depreciation from several sources has been recognized and addressed in the appraisal process.
- [42] The Board was not persuaded by the Complainant's position that a percentage increase from the previous year's assessment should be applied to the current assessment of the subject property. It is the Board's position that there is no legal or practical requirement to support this.
- [43] The Board finds there has been no evidence provided by the Complainant to convince the Board that the assessment valuation is incorrect

DECISION SUMMARY

- [44] The Board finds that the assessed property value is confirmed at \$150,000.
- [45] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 12th 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.


Al Knight
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

NO. ITEM

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