

Central Alberta

Regional Assessment Review Board

LARB 0194-736/2016
Complaint ID 736
Roll No. 194-015045260

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

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

BETWEEN:

THOMAS DANIEL PROPERTIES

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: 194-015045260
MUNICIPAL ADDRESS: 42 Erma Street, Lacombe, Alberta
ASSESSMENT AMOUNT: \$135,000

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 42 Erma Street in the City of Lacombe, Alberta.
- [3] A property assessment complaint was submitted by Thomas Daniel Properties 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 42 Erma 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 stated that the property is a vacant residential lot.
- [14] The Complainant presented two properties as four market indicators:
1. 31 Erma Street, Lacombe, Alberta – This comparable is an active listing listed on April 11th, 2016. The asking price is \$133,000. The property has not sold. The Complainant indicated that this property was on the market for 565 days, however, this is a re-listing of the property and has only been on the market now for 8 days.
 2. 31 Erma Street, Lacombe, Alberta – This is the expired listing for the same property that the Complainant first referred to. It was listed on April 9, 2015 and was taken off the market on March 31, 2016. The original list price was \$130,000 and the existing list price upon expiry was \$133,000.
 3. 29 Erma Street, Lacombe, Alberta – This comparable is also an active listing listed on April 11th, 2016. The asking price is \$133,000. The property has not sold. The Complainant indicated that this property has been on the market for 310 days, however, this is a re-listing of the property and has been on the market now for 8 days.
 4. 29 Erma Street, Lacombe, Alberta – This is the expired listing for the same property that the Complainant referred to above. It was listed on September 2, 2014 and was taken off the market on March 31, 2016. The list price upon expiry was \$130,000.
- [15] The Complainant stated that the two properties are identical to the subject property and argued that as they have not yet sold after being exposed to the market for a significant time period that the value of the subject property is less.
- [16] The Complainant did not submit any other market evidence or analysis for consideration.
- [17] In summary, the Complainant requested the assessed value be decreased to \$124,000.

Position of the Respondent

- [18] The Respondent stated that the subject property is a vacant residential lot.

- [19] The Respondent stated that the subject property's assessment was prepared in accordance with the MGA and its subsidiary legislation.
- [20] The Respondent objected to the two comparables and their duplicate listings 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 are 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.
- [21] The Respondent further argued that the Complainant had not provided any additional analysis beyond the post-facto listings to suggest that the assessment of the subject property is calculated incorrectly.
- [22] The Respondent asserted that assessors are required to rely on sales data during the valuation period as input data into the mass appraisal process. The Respondent argued that listings are not sales data and their use as market evidence is not reliable, as they have not sold.
- [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, as providing post-facto listings without any additional analysis is not enough to explicitly bring the assessment into question.
- [25] The Respondent requested the Board confirm the assessment at \$135,000.

BOARD FINDINGS and DECISION

- [26] The Board finds that the two post-facto comparable active listings 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 two active listings are both after the legislated valuation date of July 1st, 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 that the duplicate listings were listed prior to the valuation date and would have been available to the Respondent. However, as they would have been active listings at the time of assessment they would have provided minimal market evidence to establish the market value of the subject property within the legislated mass appraisal assessment process.

- [28] 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.
- [29] The Board accepts the Respondent's assertion that the burden of proof has not been met by the Complainant.
- [30] 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

- [31] The Board finds that the assessed value of the subject property is confirmed at \$135,000.
- [32] 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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