

Central Alberta

Regional Assessment Review Board

LARB 0262 881 2017
Complaint ID 881
Roll No.30002330705

LOCAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: May 23, 2017

PRESIDING OFFICER: Jeffrey Dawson
BOARD MEMBER: Al Gamble
BOARD MEMBER: Velma Keeler

BETWEEN:

XIAO DONG WU

Complainant

-and-

THE CITY OF RED DEER

Respondent

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

ROLL NUMBER: 30002330705
MUNICIPAL ADDRESS: 93 Turner Crescent
ASSESSMENT AMOUNT: \$ 471,600

The complaint was heard by the Local Assessment Review Board on the 23 day of May, 2017, in the Council Chambers at The City of Red Deer, in the province of Alberta.

Appeared on behalf of the Complainant:
Xiao Dong Wu

Appeared on behalf of the Respondent:
Kurtis Hall, Property Assessor for The City of Red Deer, Revenue & Assessment
Cale Green, Property Assessor for The City of Red Deer, Revenue & Assessment

DECISION: The assessed value of the subject property is varied to \$440,000.

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 Red Deer Bylaw No. 3474/2011, *Regional Assessment Review Board Bylaw*.

PROPERTY DESCRIPTION AND BACKGROUND

- [2] The subject property is a half-duplex residential property located at 93 Turner Crescent within the Timber Ridge neighborhood within the south economic zone of the city of Red Deer. The legal land description for the subject property is Plan 0920662, Block 5, Lot 9.
- [3] The Complainant submitted a property assessment complaint on February 28, 2017 to The City of Red Deer, and Notice of Hearing was sent to the parties on April 13, 2017.

PRELIMINARY MATTERS

- [4] The Board Chair confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [5] Neither party raised any objection to the panel hearing the complaint.
- [6] The Respondent raised one preliminary concern, that they request an opportunity to respond to the Complainant’s rebuttal prior to summations.
- [7] The Board confirmed that the Respondent would have an opportunity to speak to the Complainants rebuttal.
- [8] At the request of the Board, the parties confirmed that all evidence from a previous hearing at 9:00am on May 23, 2017, pertaining to an adjoining duplex at 89 Turner Crescent is brought forward into this hearing on the subject property. The parties agreed that rather than present the same materials and arguments before the same panel, they would focus their presentations any specific details or differences pertaining to the subject property at 93 Turner Crescent.
- [9] No additional preliminary or procedural matters were raised. Both parties indicated that they were prepared to proceed with the complaint.
- [10] The Board confirmed the complaint form appears to be valid and indicates that there is one main issue, the assessment amount.
- [11] The Board confirmed the submissions of the parties and entered the following exhibits into the record:
- A.1: Hearing materials, Agenda, and 6 pages
 - C.1: Complainant submission, 7 pages
 - R.1: Respondent submission, 21 pages
 - C.2: Complainant rebuttal, 1 page

ISSUES

[12] The Board considered the parties' positions and determined the following question is to be addressed within this decision:

What is the appropriate assessment amount, based on the evidence presented?

POSITION OF THE PARTIES

Position of the Complainant

- [13] The Complainant agreed with the argument made in the hearing on 89 Turner Crescent, that the assessment of his home relative to other properties located on Turner Crescent is overvalued compared to similar property comparables used by the Respondent. The Complainant provided a suggested range values for the subject property based on his own calculations for three neighbouring properties. He felt that the comparables he provided are better than the Respondent's comparables. It was noted that one of these properties is a single family dwelling (97 Turner Crescent). (C.1, page 1)
- [14] The Complainant also agreed that the Respondent did not account for significant property differences for the comparable at 94 Turner Crescent including a pre-cut concrete stair (in comparison, the subject has a simple timber wood stair). The Complainant further agreed with the assertion that 94 Turner Crescent also had premium windows and siding, as well as a vinyl fence. In addition, the Complainant agreed with the belief of the adjacent property owner at 89 Turner Crescent, that the sale of this property included an allowance to include basement finishing in the sale price.
- [15] The Complainant acknowledged two emails submitted at the previous hearing from a local real estate office (RE/MAX):
- a) One email dated April 20, 2017 stated that the property across the street (which the Complainant confirmed as 94 Turner Crescent) sold for \$480,000 fully furnished and with more square footage than the subject property.
 - b) The other email dated April 21, 2017 stated that 93 Turner Crescent (adjoining duplex) was listed for 183 days with the listing at \$459,00 from May 10 to August 10, and was reduced to \$450,000 from September 8 to December 8.
- [16] As noted in the reasons for the complaint in Section 5 of the complaint form, the Complainant stated:
- a) the subject property was on the market since last spring with a listed price of \$450,000, but still has not sold.
 - b) the comparable property at 94 Turner Crescent was sold at \$480,000 with basement finished, and it is a high-end house with 2140 sf while the subject is 1859 sf.
- [17] The Complainant agreed with arguments brought forward that adjustments made to the comparables used by the Respondent are unfair and represent a double standard because different values were used:
- a) The comparable adjustments range from \$72 to \$82 to \$92 per square foot for no clear reason.
 - b) The subject basement calculations were based on \$40 per square foot instead of the standard \$29 per square foot.
 - c) The subject's basement fireplace was valued at \$7,000, rather than the standard \$5,000.

- [18] The Complainant stated he did not understand the Respondent's reference to the adjusted sales price range for the subject assessment being within 1.03% of quality standard regulations, and thereby not qualifying for reconsideration by the Assessor. The Complainant noted that he had tried to talk to the city prior to the hearing about their concerns, but were not able to resolve anything.
- [19] In summary, the Complainant feels the assessment is unfair. The Complainant does not agree with the comparables or with the calculations used by the Assessor, and asks the Board to vary the assessment to \$440,000, which is \$10,000 higher than what was initially indicated on the complaint form at the time of filing.

Position of the Respondent

- [20] The Respondent brought forward the explanation that the subject property is somewhat unique as it is considered a "high end" duplex placing it into a narrow sales market. The subject is identified as being in new condition and having above average features including granite counters, high ceilings, and a fully finished basement with custom features similar to the adjacent duplex, 89 Turner Crescent.
- [21] The Respondent presented a sales comparison table with three property comparisons compared to the subject property. This table included the time adjusted sale price, year built, floor area, lot area, quality, and basement finish for comparison. (R.1, page 10)
- [22] The Respondent presented a sales comparison table displaying three properties that were sold prior to July 1, 2016. No comparable sales used by the Respondent were after the July 1, 2016 valuation date; therefore the comparables were adjusted for the time of the sale.
- [23] The Respondent provided a paired sales analysis which indicates the market recognized value of the basement finish of 31 Windermere to be roughly \$29 per square foot. The basement finish quality is considered average and below the quality of the subject property. The Respondent went on to explain that if the market recognized value of standard or average basement finish is \$29 per square foot, it would be reasonable to assume semi-custom or custom finish would be \$5 to \$15 per square foot higher. He went on to explain that an assumption was made that \$40 per sq ft was a reasonable adjustment for basement finish of higher quality. (R.1, page 11)
- [24] The Respondent brought forward the explanation that the law of diminishing returns was considered when making adjustments to the comparables for size. The Respondent further explained that larger properties generally sell for lower dollars per square foot than smaller size properties, so adjustments were made to account for this. The Respondent assumed the size of the subject property to be roughly in the middle of the curve between the property sizes of 117 Turner Crescent and 94 Turner Crescent. The Respondent then used a slightly higher figure of \$92 per square foot when adjusting 117 Turner Crescent upward and \$72 when adjusting 94 Turner Crescent downwards. (R.1,page 12)
- [25] The Respondent demonstrated that sale #1 is somewhat comparable but the most weight was placed on sale #2. He considered sale #3 to be the least comparable. The Respondent surmised that with an adjusted sales price range of \$435,000 to \$454,000, and considering sale #2 to have the least adjustments and most weight, this places the

subject assessment sales ratio within “1.03% of their ‘quality standard regulations,’ indicating a fair and reasonable assessment”. (R.1 page 13-14)

- [26] To demonstrate assessment equity, the Respondent compared the assessed values of nearby similar properties to the subject property. The assessments of the comparable properties range in value from \$353,100 to \$492,500 with the average assessment being \$453,300. The Respondent submitted that the subject property is appropriately assessed within the range of assessment comparables. (R.1, page 16)
- [27] The Respondent argues that the Complainant has not met the burden of proof and the assessment is accurate and falls within quality standard guidelines. The Respondent therefore requested that the assessment of \$471,600, which is the same assessment applied to the adjoining duplex at 89 Turner Crescent, be confirmed.

BOARD FINDINGS AND DECISION

- [28] The Board finds that the Municipal Government Act, RSA 2000, c M-26 [“MGA”], and in Regulations passed pursuant to this Act, specifically Matters Relating to Assessment and Taxation Regulation [“MRAT”] provides clear guidance on this complaint. This legislation governs the assessor in completing assessments, and the Board must make decisions based on the same legislation.
- a) MGA s. (1)(n): “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;
 - b) MGA s. 293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,
 - (a) apply the valuation and other standards set out in the regulations, and
 - (b) follow the procedures set out in the regulations.(2) If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.
 - c) MRAT s. 1(k) “mass appraisal” means the process of preparing assessments for a group of properties using standard methods and common data and allowing for statistical testing;
 - d) MRAT s. 2 An assessment of property based on market value
 - (a) must be prepared using mass appraisal,
 - (b) must be an estimate of the value of the fee simple estate in the property, and
 - (c) must reflect typical market conditions for properties similar to that property.
 - e) MRAT s. 3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.
 - f) MRAT s. 4(1) The valuation standard for a parcel of land is
 - (a) market value
 - g) MRAT s. 10(1) In this section, ‘property’ does not include regulated property.

(2) In preparing an assessment for property, the assessor must have regard to the quality standards required by subsection (3) and must follow the procedures set out in the Alberta Assessment Quality Minister's Guidelines.

(3) For any stratum of the property type described in the following table, the quality standards set out in the table must be met in the preparation of assessments:

Property Type	Median Assessment Ratio	Coefficient of Dispersion
Property containing 1, 2, or 3 dwelling units	0.950 – 1.050	0 – 15.0
All other property	0.950 – 1.050	0 – 20.0

(4) The assessor must, in accordance with the procedures set out in the Alberta Assessment Quality Minister's Guidelines, declare annually that the requirements for assessment have been met.

- [29] The Board acknowledges that the Complainant referenced the listing of the subject property as an indication of value, but the Board finds that a property assessment cannot rely on listing values but must look at actual market sales prior to July 1, 2016.
- [30] The Board acknowledges that the Respondent has prepared the assessment utilizing the sales comparison approach pursuant to all legislation using mass appraisal and market value techniques.
- [31] The Board further acknowledges that the Respondent followed proper techniques in completing the assessment; however, after reviewing sale #2, 94 Turner Crescent, the Board finds the sale to be unreliable for the following reasons:
- An email from RE/MAX, brought forward by the Complainant (C.1 page 5), states that 94 Turner Crescent was sold fully furnished. The Board finds that no adjustment was made for this.
 - The Board also finds that no adjustments were made to the assessment for property features that could influence market value such as premium steps, siding, windows, and fencing. The Board finds that these features should be given some consideration similar to that of the standard vs. premium basement development.
 - The Board also finds that the Respondent failed to factor in the larger square footage of the finished basement of sale comparable #2. This questionable valuation places \$82 per square foot for size difference extrapolation in doubt.
 - The Board finds that all adjustments to the subject by the Respondent that have been made based on Sale #2, are in question and unreliable.

Due to the aforementioned reasons, Sale #2 was given no weight by the Board in their deliberations.

- [32] The Board notes that the Respondent agrees that the subject property was over assessed by \$16,000 but submits that it is still within the acceptable range at 1.03%; however, the Board found the correct calculation for the subject property range to be 1.04%. The Board finds that removing sale #2 from the comparables would have a significant impact to calculations made by the Respondent and could result in a different conclusion for this range.
- [33] The Respondent stated in his submission that "the subject property type is considered to be somewhat unique" and "this creates a narrow market segment for this property type".

The Board finds that, since Sale #2 was included in the sales analysis, the removal of this sale from the analysis would alter the assessment for the subject property. (R.1, page 7)

- [34] The Board notes that the parties did not agree on the standard of the finishing including the fireplace, but neither party provided conclusive evidence to support their position on this issue. Thus, the Board did not give any weight to this issue.
- [35] The Board has determined that the Complainant raised sufficient doubt about square foot values ranging from \$72 to \$92 since the Respondent did not submit conclusive evidence that clearly explained why a \$10 variation up or down was used.
- [36] The Board finds that property features such as the step, siding, windows, and fencing that were not factored in to the assessment could influence market value and should be given consideration similar to that given to different standards of basement development.
- [37] Based on evidence submitted by the Respondent, the Board accepts that the basement of the subject property is marginally higher than the standard quality at a rate of \$29 per square foot. However, the Board finds that the Respondent failed to provide sufficient proof to warrant an increase from \$29 per square foot to \$40 per square foot which was used in the calculation of the assessment of the subject property (\$11 per square foot higher than the standard).
- [38] The Board finds that both verbal and written evidence submitted raises reasonable doubt as to whether the assessment is reflective of the subject property's market value. The Board accepts the Complainant's requested assessment value of \$440,000 which is within the adjusted sale price range of \$435,000 to \$454,000 as presented by the Respondent. (R.1 page 13).

DECISION SUMMARY

- [39] Based on the reasons herein, the Board varies the property assessment to \$440,000.
- [40] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 22nd day of June, 2017 and signed by the Presiding Officer on behalf of all the panel members.



Jeffrey Dawson
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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| 1. A.1 | Hearing Materials with Agenda, Complaint Form, and Notice of Hearing. |
| 2. C.1 | Complainant disclosure submission. |
| 3. R.1 | Respondent disclosure submission. |
| 4. C.2 | Complainant rebuttal submission. |