

Central Alberta

Regional Assessment Review Board

LARB 0262 884 & 886 2017
Complaint ID 884 & 886
Roll No. 30000233085 & 30000233090

LOCAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: May 18, 2017

PRESIDING OFFICER: A. Knight
BOARD MEMBER: J. Dawson
BOARD MEMBER: T. Hansen

BETWEEN:

1987694 ALBERTA LTD.

Complainant

-and-

THE CITY OF RED DEER

Respondent

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

ROLL NUMBER: 30000233085 and 30000233090
MUNICIPAL ADDRESS: 2 & 3 2660 22 Street
ASSESSMENT AMOUNT: \$1,819,800 & \$1,486,300

These complaints were heard by the Local Assessment Review Board on the 18th day of May, 2017, in the Culture Services Multipurpose Room in the City of Red Deer within the province of Alberta.

Appeared on behalf of the Complainant:
Stephen Cook – Colliers International Realty Advisors Inc.

Appeared on behalf of the Respondent:
Stephen Beveridge –The City of Red Deer Revenue and Assessment Department
Kurtis Hall –The City of Red Deer Revenue and Assessment Department

DECISION: The assessed value of the subject property is varied.

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 properties are located on lots 2 and 3 2660 22nd Street, in the City of Red Deer, Alberta. Both properties are serviced R2 zoned land.
- [3] A property assessment complaint was submitted on March 16, 2017, by Colliers International Realty Advisors Inc. on behalf of 1987694 Alberta Ltd.
- [4] Confirmation of receipt of complaint and Notice of Hearing was sent to the parties on April 11, 2017, with a revised Notice of Hearing sent May 15, 2017.
- [5] Upon agreement of both parties, the two subject 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] Neither party raised any objection to the panel hearing the complaint or its jurisdiction.
- [8] The Respondent corrected an error on page 33 of Exhibit R.1. The average final adjusted sale price per acre was corrected from \$756,300 to \$762,700. The Board accepted the correction without objection from the Complainant.
- [9] The Respondent requested an opportunity to provide a surrebuttal to the Complainant’s rebuttal document. The Board agreed to provide a verbal surrebuttal opportunity to the Complainant’s rebuttal document. No objection was received from the Complainant.
- [10] No additional preliminary or procedural matters were raised by either party. Both parties indicated that they were prepared to proceed with the hearing.
- [11] The Board confirmed the submissions of the parties and entered the following Exhibits into the record:
- A.1 – Clerk’s Hearing Materials
 - C.1 – Complainant’s disclosure for Roll 30000233090
 - R.1 – Respondent’s disclosure for Roll 30000233090
 - C.2 – Complainant’s disclosure for Roll 30000233085
 - R.2 – Respondent’s disclosure for Roll 30000233085
 - C.3 – Complainant’s rebuttal for Roll 30000233090 and Roll 30000233085

ISSUES

- [12] The Board considered the parties' positions and determined the following question is to be addressed within this decision:
- a) Have the subject properties been assessed correctly?

POSITION OF THE PARTIES

Position of the Complainant

- [13] The Complainant presented the details pertaining to the subject properties identifying their location, characteristics, and history.
- [14] The Complainant provided an analysis of the subject properties' neighbourhood, the ownership history, and the perceived issues resulting in the requested value, as follows:
- a) The subject properties are within a condominium project identified as lot 2 and lot 3, which were intended to be phase two and phase three of the overall project.
 - b) The first phase is characterized as a 'broken condo', and suffers from 'stigma' associated with a failed development.
 - c) The deficiencies within phase one have resulted in a liability to all parties to the condominium property, including the presence of an ongoing lawsuit purported to be \$10,000,000.
- [15] The Complainant provided five sales comparable properties showing a unit price average of \$767,163 per acre and unit price median of \$770,000 per acre.
- [16] The Complainant provided an analysis of the five comparable properties indicating that all of the sales are superior to the subject properties, thereby applying adjustments as recommended within the appraisal report, resulting in a requested value of \$300,000 per acre.
- [17] The Complainant provided as evidence the "Venu Urban Residences Building Envelope Assessment", which identified numerous deficiencies within phase one of the condominium project, ultimately resulting in the lawsuit noted above.
- [18] The Complainant provided as evidence a document titled "An Appraisal Report Of Two Vacant Land Holdings Located At: Unit 2, Condominium Plan 092 6309, Unit 3, Condominium Plan 092 6309, 2660 22 Street, Red Deer, Alberta". The appraisal report concluded that, after adjustments, the value of the subject properties are \$300,000 per acre.
- [19] The Complainant provided as evidence the "Indoor Air Environmental Assessment Venu Living Condominiums Red Deer, AB", which found that within phase one of the condominium associated with the subject properties, there was standing water, significant water damage to the wood structures, and fungi growth.
- [20] The Complainant introduced Board decisions that, in their opinion, referenced or supported that an assessment reduction is warranted for the subject properties. The

Complainant surmised that these Board decisions provided relevant guidance when valuing property associated with a negative 'stigma'.

- [21] In summary, the Complainant stated that due to the problems identified with the subject properties and the findings from the appraisal report, the requested assessed values of the subject properties are as follows:
- a) Roll Number: 30000233085, Municipal Address: 2 2660 22 Street: \$756,000.00
 - b) Roll Number: 30000233090, Municipal Address: 3 2660 22 Street: \$615,000.00

Position of the Respondent

- [22] The Respondent presented an overview of the subject properties, identifying their location and characteristics. The Respondent provided extensive information addressing the issues identified by the Complainant.
- [23] The Respondent indicated that he believes there is no 'stigma' associated with the subject properties and they must be assessed as if 'unencumbered'.
- [24] The Respondent introduced ten sales with R2 and R3 land use designations in support of the assessment. The Respondent submitted that there is no indication of loss in value and that the market shows no 'stigma' for the purposes of the 2016 assessment.
- [25] The Respondent presented that, in preparation for this hearing, they found that the subject properties are encumbered by way of a registered private roadway and utility right of way creating negative traffic and shape influences, resulting in a recommended 10% reduction of the assessed value, as follows:
- a) Roll Number: 30000233085 Municipal Address: 2 2660 22 Street: \$1,637,800.00.
 - b) Roll Number: 30000233090 Municipal Address: 3 2660 22 Street: \$1,337,700.00

BOARD FINDINGS and DECISION

- [26] The Board finds that previous Board decisions do not create precedence, though they can be helpful guidance during the deliberation process. However, none of the decisions referred to the Board by the Complainant provided any helpful guidance with the circumstances presented to the Board.
- [27] The Board finds the deficiencies identified within the 'broken condo', such as the building envelope failure and indoor air quality, are not relevant to the value of the subject properties, which are vacant land parcels. As such, the Board placed no weight on this evidence.
- [28] The Board finds that the appraisal report of the subject properties is the only evidence provided by the Complainant related to the value of the subject properties.
- [29] The Board finds that the appraisal report was created for purposes other than for assessment purposes and fails to recognize the legislative restraints associated with assessment preparation:
- a) MGA Section 290.1(1) Each unit and the share in the common property that is assigned to the unit must be assessed

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- i. in the case of a bare land condominium, as if it is a parcel of land
 - b) Matters Relating to Assessment and Taxation Regulation Section 2 An assessment of property based on market value
 - i. must be prepared using mass appraisal,
 - ii. must be an estimate of the value of the fee simple estate in the property, and
 - iii. must reflect typical market conditions for properties similar to that property.
 - c) MGA Section 1(1) In this Act,
 - i. "parcel of land" means
 - 1. where there has been a subdivision, any lot or block shown on a plan of subdivision that has been registered in a land titles office.

[30] The Board finds that there is a lack of evidence provided within the adjustment process in the appraisal report. The appraisal report offers some commentary on their rationale for the adjustments; however, there is no market data, sales information, or evidence presented within the report to support the adjustments. Therefore, the Board places no weight on the appraisal report provided by the Complainant.

DECISION SUMMARY

[31] The Board finds that the Respondent values are varied to the recommended values provided by the Respondent:

- a) Roll Number: 30000233085 Municipal Address: 2 2660 22 Street: \$1,637,800.00
- b) Roll Number: 30000233090 Municipal Address: 3 2660 22 Street: \$1,337,700.00

[32] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 19th day of June, 2017 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

<u>NO.</u>	<u>ITEM</u>
1. A.1	Clerk's Hearing Materials
2. C.1	Complainant's disclosure for Roll 30000233090
3. R.1	Respondent's disclosure for Roll 30000233090
4. C.2	Complainant's disclosure for Roll 30000233085
5. R.2	Respondent's disclosure for Roll 30000233085
6. C.3	Complainant's rebuttal for Roll 30000233090 and Roll 30000233085