
Complaint ID 0263 1355
Roll No. 678057005

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: SEPTEMBER 21, 2020

PRESIDING OFFICER: I. ZACHAROPOULOS
BOARD MEMBER: R. BROWN
BOARD MEMBER: V. KEELER

BETWEEN:

424566 Alberta Ltd.

Complainant

-and-

Red Deer County Assessment

Respondent

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

ROLL NUMBER: 678057005

MUNICIPAL ADDRESS: 210 Liberty Avenue, Red Deer County

ASSESSMENT AMOUNT: \$1,333,280

The complaint was heard via Video Conference on the 21st day of September 2020, in the province of Alberta.

Appeared on behalf of the Complainant: Garry Borris, President of 424566 Alberta Ltd.

Appeared on behalf of the Respondent: Michael Arnold, AMAA, Assessor
Brad Koopmans, Assessor

Attending: Lori Stubbard, Central Alberta Regional Assessment Review Board
Kristen Waddle, Central Alberta Regional Assessment Review Board

Preliminary Matters:

- [1] The parties had no objections to the composition of the Composite Assessment Review Board panel (the “Board”) or with the Board’s jurisdiction to hear the complaint. The Board therefore proceeded with the hearing.

Property Description:

- [2] The subject property (the subject) was identified as a 14.58 acre land parcel, located on the northeast corner, at the intersection of Liberty AV and Lake ST, west of Highway 2 and north of Township Rd 374. The designated land use zoning was C-7 (mixed residential-commercial) and C-8 (commercial core). A communication tower on the property was identified as a Designated Industrial Property, assessed by the provincial assessor and not part of the complaint.

Background:

- [3] The following assessment details were disclosed to the Board:
- (a) A total of 11.58 acres were classified for assessment purposes as farmland, assessed pursuant to provincial regulations, resulting in an assessed value of \$3,770 (the “farmland assessment”).
 - (b) A total of 3 acres were classified for assessment purposes as non-residential, assessed at market value, resulting in an assessed value of \$1,329,510 (the “market value assessment”).

Issues:

- [4] The Complainant identified “an assessment amount” as the matter of complaint under Section 4 of the Assessment Review Board Complaint form.
- [5] The Complainant did not refute the farmland assessment, but did contest the market value assessment.
- [6] Specifically, the issue for the Board’s consideration was as follows:
- (a) Does the weight of evidence support a change of the non-residential assessment to 600,000?

Complainant’s Requested Value:

- [7] \$603,770 (at the hearing).

Board’s Decision:

- [8] For reasons outlined herein the Board decided that a change to the assessment was not required and the assessment was confirmed at \$1,333,280.

Position of the Parties

[9] The Parties presented documentary and testimonial evidence and arguments in support of their respective positions. Their key positions are summarized as follows:

Complainant's Position:

[10] The Complainant's objection to the market value assessment are summarized as follows:

- (a) The Complainant referenced the *Matters Relating to Assessment and Taxation Regulation, AR 203/2017* ("MRAT") and argued that, although a market value assessment component was warranted, there was no direction on the locational consideration for the 3 acres within the subject parcel.
- (b) It contended that the Respondent had erred in determining the market value assessment on the "best" rather than a "reasonable" 3 acres within the subject parcel.
- (c) The Complainant reasoned that, based on the Respondent's valuation approach, a comparable 14.58 acre parcel fully assessed at market value would require an unsupportable assessment of \$6,904,588.
- (d) It presented a third party property appraisal commissioned to estimate the market value of the subject property effective July 1, 2019. The appraisal concluded on a market value opinion for the subject of \$2,900,000 (\$200,000/acre) effective July 1, 2019.
- (e) The Complainant's requested assessment was based on a value of \$200,000/acre for the 3 acre market value assessment (resulting in a total market value assessment of \$600,000) plus the regulated assessment of \$3,770 for a total of \$603,770.

Respondent's Position:

[11] The Respondent advocated that the assessment not be changed and its key submissions are summarized as follows:

- (a) The Respondent referenced the Act, MRAT and the Subdivision and Development Regulation, AR 43/2002 ("SAD") in support of its analysis leading to the market value assessment.
- (b) It argued that the determination/location of the 3 acre parcel was impacted by the adjacency of services (water and sewer lines) along the subject's western boundary. Further, it submitted an advisory letter from the County's Current Planning Manager indicating that the current approaches from Liberty AV along the western boundary and Lake ST along the south boundary would meet the access requirements for subdivision.
- (c) The Respondent asserted that the market value assessment should be based on market evidence derived from the sale of similar properties displaying the aforementioned servicing and access characteristics.

- (d) It reviewed the transactions included in the appraisal submitted by the Complainant and concluded that the applicable sales supported the assessment.
- (e) The Respondent submitted an analysis of four sales in support of the market value assessment.
- (f) The Respondent also provided six listings of properties for sale in support of the market value assessment.

Board's Discussion and Findings:

- [12] Upon a review of all documentary submissions, testimony and arguments and the legislative authorities noted under Appendix "B", the Board found the weight of evidence to support no change to the assessment of \$1,333,280.
- [13] In the interest of brevity the Board will confine its comments to the evidence found relevant to the determination of the issues identified under paragraph [6](a).
- [14] The farmland assessment component was not contested by the Complainant. Thus, it is unnecessary for the Board to comment on that component.
- [15] The Complainant argued that the market value assessment for a 3 acre parcel within the subject 14.58 acres should be based on the market value of 3 acres anywhere within the subject parcel.
- [16] Property assessments, including the market value assessment component in question, reflect a July 1 valuation date and a December 31 condition date.
- [17] It was not argued that effective the valuation and condition dates, an area of 3 acres within the subject parcel, could be serviced by using water and sewer distribution lines. Further, that the available water and sewer distribution lines were located in land adjacent to the parcel's western boundary. The Complainant's appraisal report "assumed the parcel has access to all the usual municipal services and utilities including sanitary and storm sewer, natural gas, domestic water ...".
- [18] In light of the above, the Board found it reasonable that the 3 acres to be assessed at market value would be located adjacent to the available water and sewer distribution lines. The Board interpreted the unrefuted opinion from the County's Current Planning Manager, indicating that subdivision was most likely along the subject parcel's west and south boundaries, to support that rationale.
- [19] The Board acknowledged the Complainant's argument that services could be provided to the entire parcel. However, in that such services were not in place as of the valuation date or the condition date, the Board found that argument to be anticipatory and was thus not swayed by the Complainant's argument that the 3 acres to be valued at market value could be located anywhere within the subject parcel.

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- [20] The appraisal submitted by the Complainant provided an opinion of value for the entire 14.58 acre subject parcel at market value, concluding that “a price per acre of \$200,000 is considered reasonable for the subject parcel”.
- [21] It has been discussed above that the assessment of the subject parcel was not solely based on market value parameters, but rather, was indicative of two separate assessment classes: 11.58 acres designated as farmland and subject to regulated assessment; and 3 acres designated as non-residential and subject to market value assessment. The assessment classes were not contested by the Complainant.
- [22] In that the 11.58 acre farmland classification and resulting regulated assessment were not in question, the Board was left to ponder whether a market value appraisal of 14.58 acres and associated market analysis provided an effective indicator of market value for a 3 acre non-residential parcel.
- [23] Upon review of the 6 purportedly comparable land sales included in the appraisal and the analysis of same by the Respondent, the Board gave no weight to “Comparable No. 3” as it was effectively shown to be a non-arm’s length sale. “Comparable No. 5” was shown to be “Industrial Land”, locationally dissimilar to the subject and was thus not seen as an effective market comparable. “Comparable No. 6” involved a larger parcel (21.30 acres) destined for “Future Development” and was not seen by the Board as an effective market comparable. The remaining three sales ranged from \$385,356/acre to \$600,000/acre. The Board did not find this to support the requested assessment based on a value of \$200,000/acre, but rather, the assessment reflecting a value of \$443,170/acre.
- [24] Further, the appraisal spoke of adjustments for property characteristics including location, site size, development horizon, off-site levies and development costs. However, these were not explained or shown to be market based in the appraisal and the author was not before the Board to answer questions.
- [25] In summary, the Board did not find the value conclusion of \$200,000/acre for the subject 14.58 acre parcel to be a persuasive indicator for a 3 acre non-residential, market based valuation.
- [26] The four sales provided by the Respondent were not contested by the Complainant.
- [27] The Board noted that both parties referenced two sales (Complainant’s “Comparable No. 3” = Respondent’s “A”, 1.64 acres sold December 2018 at \$580,000/acre; Complainant’s “Comparable No. 4” = Respondent’s “B”, 4.00 acres sold March 2018 at \$600,000/acre). These two common sale references were understood by the Board to reflect characteristics (e.g. size, location, servicing, timing, etc.) appropriate for a 3 acre non-residential, market based valuation within the subject 14.58 acres. The Board gave these transactions substantial weight.
- [28] The parties provided market listings in support of their positions. The Board acknowledged that evidence, understood it to reflect general market trends but did not find it was established to be materially relevant to the determination of market value as of the valuation date.

- [29] Further to the discussion above, the Board found the weight of evidence to support the assessed value of the 3 acres designated as non-residential and subject to market value assessment, reflecting a value of \$443,170/acre.

Board's Conclusion:

- [30] The Board concluded that the assessment was fair and equitable and a change was not required. It follows that the assessment of \$1,333,280 was confirmed.
- [31] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 30th day of October, 2020, 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.



Lori Stubbard (Board Clerk) On behalf of
Ike Zacharopoulos
Presiding Officer
On behalf of the Board

If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for judicial review to be filed and served not more than 60 days after the date of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING

AND CONSIDERED BY THE BOARD:

<u>NO.</u>	<u>ITEM</u>
Doc H-1	Board's Hearing Materials (5 pages)
Doc C-1A	Complainant's Summary of Evidence and Argument (4 pages)
Doc C-1B	Complainant's Appraisal Report (81 pages)
Doc C-2	Complainant's Rebuttal (1 page)
Doc R-1	Respondent Disclosure (118 pages)

APPENDIX "B"

LEGISLATIVE AUTHORITIES CONSIDERED BY THE BOARD

Municipal Government Act, R.S.A. 2000, Chapter M-26

s. 1(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.

...

(v) "parcel of land" means

(i) 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...

s. 289(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) the valuation and other standards set out in the regulations for the property...

s. 297(1) When preparing an assessment of property, the assessor must assign one or more of the following assessment classes to the property:

(a) class 1 - residential;

(b) class 2 - non-residential;

(c) class 3 - farm land;

(d) class 4 - machinery and equipment.

...

(3) If more than one assessment class or sub-class is assigned to a property, the assessor must provide a breakdown of the assessment, showing each assessment class or sub-class assigned and the portion of the assessment attributable to each assessment class or sub-class.

(4) In this section,

(a) "farm land" means land used for farming operations as defined in the regulations;

...

(b) "non-residential", in respect of property, means linear property, components of manufacturing or processing facilities that are used for the cogeneration of power or other property on which industry, commerce or another use takes place or is permitted to take place under a land use bylaw passed by a council, but does not include farm land or land that is used or intended to be used for permanent living accommodation...

s. 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

...

(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- (a) the valuation and other standards set out in the regulations,
- (b) the procedures set out in the regulations, and
- (c) the assessments of similar property or businesses in the same municipality.

Matters Relating to Assessment and Taxation Regulation, 2018 A.R. 203/2017

s. 1(b) “agricultural use value” means the value of a parcel of land based exclusively on its use for farming operations;

...

(g) “mass appraisal” means the process of preparing assessments for a group of properties using standard methods and common data and allowing for statistical testing;

...

(i) “Minister’s Guidelines” means the Minister’s Guidelines established by the Minister, including the following:

...

- (ii) Alberta Farm Land Assessment Minister’s Guidelines;

...

(k) “regulated property” means

- (i) land in respect of which the valuation standard is agricultural use value...

s. 5 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.

s. 6 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.

s. 7(1) The valuation standard for a parcel of land is

- (a) market value, or
- (b) if the parcel is used for farming operations, agricultural use value.

(2) In preparing an assessment for a parcel of land based on agricultural use value, the assessor must follow the procedures set out in the Alberta Farm Land Assessment Minister’s Guidelines.

(3) Despite subsection (1)(b), the valuation standard for the following property is market value:

...

- (d) an area of 3 acres that
 - (i) is located within a parcel of land, and

(ii) can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;

(4) An area referred to in subsection (3)(c), (d), (e) or (f) must be assessed as if it is a parcel of land...

Matters Relating to Assessment Complaints Regulation, 2018 A.R. 201/2017

s. 13 If a property is used or designated for multiple purposes in circumstances where both a local assessment review board and a composite assessment review board have jurisdiction to hear a complaint with respect to the property, the complaint must be heard by the composite assessment review board.