

Central Alberta

Regional Assessment Review Board

LARB 0194-731/2016
Complaint ID 731
Roll No. 194-070011970

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

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

BETWEEN:

DENISE NICHOLS

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: 194-070011970
MUNICIPAL ADDRESS: 4706 C&E Trail, Lacombe, Alberta
ASSESSMENT AMOUNT: \$306,000

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 4706 C&E Trail in the City of Lacombe, Alberta.
- [3] A property assessment complaint was submitted by property owner, Denise Nichols, 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 4706 C&E Trail.
- [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, and 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 explained that the subject property was purchased in 2007 for \$310,000 as a single lot, which was previously merged from three lots. Following the purchase, the Complainant subdivided one of the previous lots off, and the assessed property is the remaining two lots which are currently occupied by the Lacombe Foundation, and include a building improvement.
- [14] The Complainant argued that although market values have been decreasing, the subject property assessment has increased from the previous year by over 8%.
- [15] The Complainant provided three listings located in Lacombe as evidence. These comparables were all listed between January and April of 2016, following the legislated valuation date. The Complainant submits that post-facto evidence can be used to establish value.
- [16] The Complainant noted that all submitted comparable listings are less than \$280,000, that most of them have garages, are located in close proximity to the subject, and are of similar age and size.
- [17] The Complainant argued that as the comparable properties have not yet sold, it suggests that their actual value is somewhat less than their asking price, the highest of which is \$279,900.
- [18] The Complainant did not submit any other market evidence for consideration.
- [19] In summary, the Complainant requested the assessed value be decreased to \$280,000.

Position of the Respondent

- [20] The Respondent stated that the subject property is an improved property zoned high density residential.
- [21] It was submitted that the property is exempt from taxation as it is occupied by the Lacombe Foundation.

- [22] The Respondent stated that the subject property's assessment was prepared in accordance with the MGA and its subsidiary legislation.
- [23] The Respondent objected to the Board accepting the three comparable 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 comparables were listed between January and April of 2016, which is 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.
- [24] The Respondent did note that one of the comparable listings did transfer land titles, however, it was a non-arm's-length transaction. No copies of transfer documents were provided to the Board.
- [25] 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.
- [26] The Respondent submitted that the Complainant did not meet the burden of proof, as only post-facto listings were provided to bring the assessment into question.
- [27] The Respondent stated that a request for information (RFI) was mailed to the Complainant on September 29, 2014 with no response. As such, the Complainant did not meet their duty to provide information under MGA 295(1). Therefore, MGA 295(4) states:
- "No person may make a complaint in the year following the assessment year under section 460 or, in the case of linear property, under section 492(1) about an assessment if the person has failed to provide the information requested under subsection (1) within 60 days from the date of request."
- [28] The Complainant stated that they did not receive the request for information. The Respondent referred to page 3 of Exhibit R2 in the Narratives section of the Summary Report that an RFI was sent out. Beyond this, no formal information or a copy of the actual RFI was provided to the Board.
- [29] The Respondent requests the Board to confirm the assessment at \$306,000.

BOARD FINDINGS & DECISION

- [30] The Board finds that all three listings submitted as evidence 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 listings are dated in the period of January to April of 2016, several months 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.”

- [31] The Board acknowledges the high 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.
- [32] The Board accepts the Respondent’s assertion that the burden of proof has not been met by the Complainant. No evidence was provided by the Complainant beyond the post-facto listings.
- [33] The Board reviewed the information presented to them regarding the request for information and the Respondents position that the Complainant failed to meet their duty. The Board determines that insufficient information was provided to dismiss the Complaint, on account of MGA 295(4).
- [34] The Board finds 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

- [35] The Board finds that the assessed value of the subject property is confirmed at \$306,000.
- [36] 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> |
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| 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 |
| 3. | R2 Respondent Submission: 4706 C&E Trail |
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