

Central Alberta

Regional Assessment Review Board

LARB 0194-733/2016
Complaint ID 733
Roll No. 194-050017020

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

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

BETWEEN:

JONATHON OTTO & DENISE MARIE 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: 194-050017020
MUNICIPAL ADDRESS: 43 Fairway Drive, Lacombe, Alberta
ASSESSMENT AMOUNT: \$401,000

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 43 Fairway Drive in the City of Lacombe, Alberta.
- [3] A property assessment complaint was submitted by property owners Jonathon and 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 43 Fairway Drive.
- [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 this property was purchased on July 14, 2015 for \$315,000 and needed significant updating, some of which has since been completed. The Complainant stated the previous year's assessment was \$393,000 and increased to \$401,000 this year, yet the Complainant purchased it in July, 2015 for \$315,000.
- [14] The Complainant presented three market indicators:
1. 43 Fairway Drive, Lacombe, Alberta (the subject property) – Was purchased by the Complainant on July 14, 2015. The original asking price was \$389,900, was later reduced to \$359,900, and sold for \$315,000 after 46 days on the market.
 2. 31 Fairway Drive, Lacombe, Alberta – Sold on July 12, 2013. The property was originally listed at \$409,900, was later reduced to \$389,900, and sold at \$375,000 after 294 days on the market. The Complainant stated that this property had fairly extensive upgrading and a larger lot size.
 3. 39 Fairway Drive, Lacombe, Alberta – Sold on April 23, 2013. The property was listed for \$369,900 and sold for \$346,000 after 167 days on the market. The Complainant states that this is the best comparable to the subject property.
- [15] The Complainant emphasized that the subject property sold within one month of the valuation date, suggesting that the assessment is too high.
- [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 \$369,000.

Position of the Respondent

- [18] The Respondent stated that the subject property is an improved single family dwelling.
- [19] The Respondent stated that the subject property's assessment was prepared in accordance with the MGA and its subsidiary legislation.

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- [20] The Respondent objected to the sale of the subject property as evidence submitted by the Complainant. The Respondent argued that the sale of the subject property comparable was post-facto and was not information available to the Respondent at the time of the assessment. The comparable was sold on July 14, 2015 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.
- [21] The Respondent argued that the Complainant had not provided any additional analysis beyond the sales to suggest that the assessment of the subject property was calculated incorrectly.
- [22] Further, the Respondent argued that it is not reasonable to look at one or two sales to determine the assessment value, as legislation requires the use of mass appraisal. The Respondent stated that one sale, even of the subject property itself, is only one indicator of market value and that market value is determined by the collective actions of the market.
- [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 by simply providing one or two sales without any additional analysis explicitly bringing the assessment into question.
- [25] The Respondent requested the Board confirm the assessment at \$401,000.

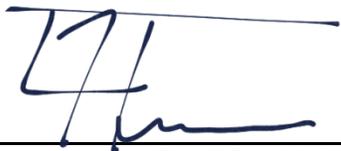
BOARD FINDINGS & DECISION

- [26] The Board acknowledges the sales of 31 and 39 Fairway Drive, as submitted by the Complainant, occurred prior to the legislated valuation date of July 1, 2015.
- [27] The Board also acknowledges the sale of the subject property after the legislated valuation date of July 1, 2015. However, it is not acceptable evidence to use solely to establish value at the time of assessment. 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.”
- [28] The Board is persuaded by the Respondent's argument that the Board is limited in its ability to rely on market evidence taking place after the valuation date. The Board considers this sale in the context of supporting market trends; however, no weight has been given to this sale in establishing the value of the subject property as of the valuation date.

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- [29] 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.
- [30] The Board was provided information by the Complainant that may suggest the market value at the time of assessment is less than the assessed value. However, the Board finds that the Complainant has failed to provide any further analysis of the submitted sales data to convince the Board that the assessment is incorrect.
- [31] The Board accepts the Respondent's assertion that the burden of proof has not been met by the Complainant.
- [32] The Board has determined 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

- [33] The Board finds that the assessed value of the subject property is confirmed at \$401,000.
- [34] 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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