

Central Alberta

Regional Assessment Review Board

CARB 0262 899 2017
Roll No. 30002130865

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: AUGUST 30, 2017

PRESIDING OFFICER: J. SINGH
BOARD MEMBER: A. GAMBLE
BOARD MEMBER: A. KNIGHT

BETWEEN:

Avison Young (on behalf of Parkland Properties Ltd.)

Complainant

-and-

The City of Red Deer (Revenue and Assessment)

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: 30002130865
MUNICIPAL ADDRESS: 4914 59 Street, Red Deer, AB
ASSESSMENT AMOUNT: \$881,500

The complaint was heard by the Composite Assessment Review Board on the 30th day of August, 2017, at The City of Red Deer, in the province of Alberta.

Appeared on behalf of the Complainant: Joel Mayer, Agent
Jack Donald, Owner

Appeared on behalf of the Respondent: Jason Miller, Assessor
Maureen Cleary, Assessor

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

PRELIMINARY MATTERS

- [2] Upon questioning by the Presiding Officer, the parties indicated they did not object to the Board's composition. In addition, the Board members stated they had no bias with respect to this file.

BACKGROUND

- [3] The subject is a 25,187 sq. ft. (0.58 acre) parcel of vacant land, located at 4914 – 59 Street, in Red Deer municipal jurisdiction. This is in use as a parking lot for the adjoining office buildings. Assessed as 'Parking Lot', the 2017 assessment has been set at \$881,500.
- [4] The Complainant is requesting that the assessment be reduced to a nominal value of \$1,000, on the grounds that the subject property provides parking spaces that are necessary for the offices and the value of such parking is included in the rental rates applied for the assessment of the office building.

ISSUES

- [5] Should the assessment be reduced to a nominal value in view of the subject's use as a parking lot for the adjacent offices?

POSITION OF THE COMPLAINANT

- [6] In support of the requested change to the assessment, the Complainant provided the following information:
- [7] The subject property and the adjoining office building are owned by the same owner.
- [8] The subject property is needed to provide parking for the office tenants.
- [9] There is no hourly, daily or short-term parking available in the subject lot.
- [10] Since the office building is required to provide the parking required by the City Bylaw; the assessed office rent includes the cost of necessary parking and thus; the value of the parking spaces is already included in the assessment of the office building (4912 – 59 Street). Therefore the subject should be assessed at a nominal value of \$1,000.
- [11] Separately assessing the parking spaces needed for and included in the office building assessment; amounts to double-dipping.

- [12] The negative adjustment of \$440,800 shown on the 2017 assessment of the office building is not sufficient.
- [13] The Complainant argued that if the office building were to be sold; the subject property would need to be a part of the sale, to provide the requisite parking space for the offices.
- [14] The Complainant included two CARB decisions from the City of Calgary that, in the Complainant's opinion, supported the requested reduction of the subject assessment to a nominal value of \$1,000.
- [15] During cross-examination and upon production of photographic record, the Complainant conceded that five parking stalls had been assigned for use by an office building, across the street.
- [16] The Complainant acknowledged that the subject parcel was not formally assigned to the office building and there were no legal restrictions on the sale or development of the subject parcel of land. However, the Complainant stressed, that no additional rents were collected for the parking use of the subject parcel of land and the subject was functionally necessary for the office building.
- [17] The Complainant concluded by requesting the Board reduce the 2017 assessment of the subject property from \$881,500 to a nominal value of \$1,000.

POSITION OF THE RESPONDENT

- [18] The City has acknowledged the parking needs of the neighbouring office building, and has already applied a negative adjustment of \$440,800 to the 2017 assessment of the office building (Roll 30002130195).
- [19] In addition, the Respondent submitted as follows:
- [20] The Complainant has not provided any evidence to substantiate or support the requested \$1,000 assessment of the subject site.
- [21] The subject property has 78 parking stalls, some of which are allocated to the tenants in an office building across the street from the subject location.
- [22] Only half of the parking lot is required to meet the parking requirements, per bylaws, for the office building.
- [23] Parking lots are not used exclusively for the adjacent office. The Respondent provided photographic evidence, in support of such contention.
- [24] The Respondent provided evidence by way of the property owner's response to the City's Request for Information (RFI) that showed that the parking use was generating income for the owner.

- [25] The Respondent argued that the Complainant had not presented any market evidence to support the contention that: a) the entirety of the subject property was necessary to make up for lack of parking for the adjoining office building, to enable it to achieve the assessed market rents for the office space; and b) the negative adjustment of \$440,800, applied to the assessment of the office building property was not sufficient.
- [26] There was no evidence before the Board that the provisions of the parking bylaw, requiring 2 parking stalls for every 93 m² of the office space, were not sufficient to support the assessed rents for the office space.
- [27] The Respondent argued that accepting the Complainant's request for a nominal \$1,000 assessment will, in effect, result in a negative \$439,700 assessment of the subject property; because a credit or negative adjustment of \$440,800 had already been applied to the 2017 assessment of the office building. In the Respondent's opinion, the Complainant's request amounted to double-dipping.
- [28] The Respondent concluded by stressing that the parking requirements, in accordance with the bylaws, had been acknowledged and the necessary negative adjustment of \$440,800 applied to the assessment of the office building
- [29] The Respondent requested the Board to confirm the subject assessment.

DECISION

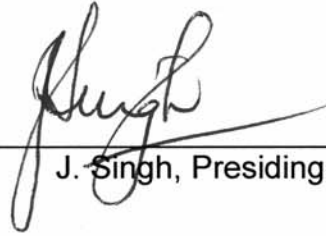
- [30] The Board confirms the assessment at \$881,500.

REASONS FOR THE DECISION

- [31] The Board accepts the Complainant's contention that parking space is required to meet the business needs of the office building at 4914 – 59 Street (Roll 30002130195) and that the rental rates applied for the assessment of the office space, include the cost of providing the number of parking spaces required by the bylaws.
- [32] The Board notes that the municipality has also acknowledged such needs of the office tenants and made negative adjustment in the assessment of the office building.
- [33] The Board accepts the premise that if a vacant parcel of land is required to meet the regulatory needs of an adjoining business; its value may be deemed to be included in the assessment of the primary business operation it supports. However, there was no evidence before the Board to support the contention that the entire area of the subject property was necessary to meet the regulatory parking needs of the office building.

- [34] The Board was persuaded by the Respondent's evidence of the parking income from the subject property to accept the contention that the subject property was not used solely to provide parking for the offices. The evidence showed that the subject property was also generating additional parking income.
- [35] In the absence of any market evidence to the contrary, from the Complainant, the Board is satisfied that the negative adjustment of \$440,800, applied to the 2017 assessment of the office building, is sufficient for it to achieve the assessed rental rates for the office space.
- [36] The Board notes that a decision provided by the Complainant (CARB 90548P-2015), reducing the assessments of two adjoining parcels to a nominal value, was based on such lands being deemed necessary to meet the parking needs as determined for the building permits for the retail businesses on one of the three contiguous sites. However, in the case before the Board, no evidence was provided to support the contention that the subject property (4914 – 59 Street) was needed, in its entirety, to meet the adjoining office building's parking needs.
- [37] The Board also notes that the additional two CARB decisions provided by the Complainant (CARB 74946P-2014 and CARB 71706P-2013) pertained to the same properties in Calgary and the Boards had reduced the assessments to a nominal value; on the basis that such parcels of land were required to meet the regulatory parking requirements of the retail business located on an adjacent parcel; and these requirements were a binding part of the permit issued for the retail development. There existed legal restrictions on the separation and development of the parcels in question.
- [38] The Board finds that no such legal restrictions exist in the case under appeal. There was no evidence of any restrictions on the sale or the development of the subject property. This was also acknowledged by the Complainant at the hearing.
- [39] In all of the decisions presented by the Complainant, there was no indication if any negative adjustment having been applied to the assessments of the primary businesses that lacked the parking spaces required by the applicable bylaws. On the other hand, the Board finds that in the case of the property under appeal, the municipality has applied a negative adjustment of \$440,800, to account for the lack of requisite parking on the office building lot. There was no evidence before the Board to prove that the adjustment applied by the municipality was not sufficient.
- [40] In view of the above, and the fact that the City has acknowledged the office building's parking needs and made appropriate negative adjustment in its 2017 assessment, the Board finds no sufficient or compelling evidence or argument to reduce the subject property's 2017 assessment from \$881,500 to a requested nominal value of \$1,000.

[41] Dated this 27 day of September, 2017, at the City of Red Deer, Alberta and signed by the Presiding Officer on behalf of all the Board Members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



J. Singh, Presiding Officer

This decision can be appealed to the Court of Queen's Bench. 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 within 60 days of being notified of the decision. Additional information may also be found at www.albertacourts.ab.ca.

Appendix

Legislation

The *Municipal Government Act*, RSA 2000, c M-26, states:

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;

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.

s. 467(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.

Exhibits

- A-1 Hearing Materials (12 pages)
- C-1 Complainant’s Brief (44 pages)
- R-1 Respondent’s Brief (19 pages)