

Complaint ID 0180 1259 2019

Roll No. 201500

COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: DECEMBER 19, 2019

PRESIDING OFFICER: K. THOMPSON

BOARD MEMBER: D. DEY

BOARD MEMBER: L. MCLEVIN

BETWEEN:

WESTWOOD COURT MOBILE HOME PARK (ALBERTA) LTD.

Complainant

-and-

TOWN OF INNISFAIL

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 Town of Innisfail as follows:

ROLL NUMBER: 201500

MUNICIPAL ADDRESS: 5404 42 Street, Innisfail, AB

ASSESSMENT AMOUNT: \$ 4,881,240

The complaint was heard by the Composite Assessment Review Board on the 19 day of December 2019, in Council Chambers within The Town of Innisfail, in the province of Alberta.

Appeared on behalf of the Complainant:

D. PETERSEN

Owner, Westwood Court Mobile Home Park (Alberta) Ltd.

Appeared on behalf of the Respondent:

R. KLOSS

Assessor, Wild Rose Assessment Services Inc.

S. WASHINGTON

Assessor, Wild Rose Assessment Services Inc.

DECISION: The assessed value of the subject property is not altered and remains at \$4,881,240.

JURISDICTION

- [1] The Central Alberta Regional Assessment Review Board [“the Board”] has been established in accordance with section 455 of the *Municipal Government Act*, RSA 2000, c M-26 [“MGA”].

PROPERTY DESCRIPTION AND BACKGROUND

- [2] The subject property is a developed mobile home park located on the south end of The Town of Innisfail. The property consists of 17.78 acres and has 128 mobile home sites. The park is about 40 years old and is bounded on the east by railway tracks. There are industrial/commercial properties around the subject location.

PRELIMINARY MATTERS

- [3] The Presiding Officer confirmed that no Board Member raised any conflicts of interest with regard to matters before them and neither party raised any objection to the panel hearing the complaint.
- [4] No preliminary or procedural matters were raised and both parties indicated that they were prepared to proceed with the complaints.
- [5] The Board confirmed the submissions of the parties and entered the following Exhibits into the record:
- A.1 – Hearing Materials provided by Clerk (27 pages)
 - C.1 - Complainant Submission (14 pages)
 - C.2 – Complainant Rebuttal (9 pages)
 - R.1 – Respondent Submission (47 pages)

POSITION OF THE PARTIES**Position of the Complainant**

- [6] The Complainant requested the assessed value of the subject property be \$3,530,000. It was the Complainant’s understanding, through meetings with the Respondent on May 2, 2017, that the assessed value would remain at this value for two to three years. The 2018 assessment remained at that value however the subject’s assessed value increased by 38% (to \$4,881,240) for 2019. In the current economic climate, an increase in the property’s value was not reasonable. The Complainant stated that the subject property’s assessed value should be transparent, fair, equitable and consistent between and among various taxpayers. That was not the case with the subject assessment. The Complainant provided a chart with the 2015-2019 assessed values for the subject property.
- [7] The Complainant explained that determining a fair market value for the subject property was difficult for several reasons: there are very few mobile home parks; only a limited number of mobile home parks sell; the units in the park are not really mobile and generally sell in situ; the

age of the park would be a major factor on its value; and the type of units on the site impact the parks desirability. Mobile home parks were not like apartments, hotels, motels and retail properties; the renters own the units and rent the pad site. The Complainant noted that the assessment before this Board represented only the value for the park, as the individual mobile units within the park pay separate property tax.

- [8] The Complainant argued that any value determined for the subject property should have a 'touchstone of value' and be tested with market indicators. The Complainant based its market test on the increase of rental income over time, as the costs for running the park should be relatively the same over time. The Complainant compared the subject's current monthly rental rates to those at the time of purchase, 30 years prior. The rental rates at the time of purchase were \$190.00/month (includes water, sewer, garbage services) and current rents were \$525/month. This equated to a rental increase of 2.7 times. The Complainant then applied this factor to the subjects \$1,290,000 sale price and concluded the current assessment should be no more than \$3,500,000. This test supported the Respondent's requested value. It was noted that the current 2019 assessed value was 3.8 times the sale price.
- [9] The Complainant compared the assessment of the subject property to a similar mobile home park located in Slave Lake, Alberta. That property was larger than the subject, with 145 units, and had similar rents. The assessed value for that park was only \$3,584,100. The Complainant noted that the Slave Lake mobile home park's assessed value had actually decreased from the previous year (the 2018 assessed value was \$3,606,100).
- [10] The Complainant claimed the value of the subject property was inappropriately developed using the income approach, which skewed the resulting assessed value. The Complainant explained that there was more to the story than the capitalization rate. The operating statements for mobile home parks have a misleading bottom line, as adequate deductions can't be removed from the income so as to get a fair market value. The value of park is mostly buried under ground and it was not economically feasible to renew park infrastructure year over year. Reserves for replacement of the infrastructure would not be deducted from the operating income and therefore would not be reflected in the income approach value. The capital outlay for infrastructure in a mobile home park is significant. In addition, the units currently on the subject property are older style mobile home models, which would devalue the desirability of the park. As the current units usually sell on site it was difficult to renew the park with newer style units. The Complainant stated the income approach resulted in the very highest value for the subject property, which was not a fair value. The Complainant noted that new mobile home parks are valued using the cost approach which allows for the slow start up period and that was how the subject was assessed in prior years. The cost approach would also account for the nature of the park and allow for appropriate depreciation and obsolescence. The Complainant also objected to the Respondents process of normalizing income and had concerns that any capitalization rate used in the income approach varied with economic times and would not appropriately capture the future value of an asset.
- [11] The Complainant referred to the assessor's manual and commented on the three approaches to value (income, sales and cost) and their appropriate use. It was noted in the text that when there were few sales and a unique property the cost approach is the more appropriate method of determining the value. This would be the case for the subject property. The manual further stated that the income approach isn't appropriate as there were too few sales. The Complainant explained that with very few mobile home parks the demand outstrips the supply and the income approach failed to recognize or consider that mobile home parks were located in very diverse

geographical and economic areas and were unique with respect to age, number of sites, style and mode of operation. In particular the subject property had several locational deficiencies as it bounded on the east by busy railway tracks and the town allowed industrial and commercial development around the subject.

- [12] Finally the Complainant stated that the infrastructure within mobile home parks is the sole responsibility of the owner, not the town and that wouldn't be accounted for in the income approach. The town does not provide services to the park (tenants pay sewer, water and garbage as part of the rent) and the service costs have increase over the years. Again these factors were not taken into account in determining the value of the subject property.
- [13] The complainant concluded that with the current depressed economy, the assessed value of the subject property should not have increased and should be reduced to \$3,530,000. This would be the value if the income approach had been appropriately discounted.
- [14] The Complainant made note of the fact that there was no value for land on the tax notice. The value of \$4,881,240 was listed under improvements and this was not correct. Previous notices provided a breakdown of land and improvements.

Position of the Respondent

- [15] The Respondent stated that the subject property was a fully functioning mobile home park with little to no vacancy and garnered top dollar rent for its 128 sites. The subject property was an income producing property and it was appropriate to value it using the income approach. The Respondent also stated that the income approach value was supported with a sales comparison approach.
- [16] The Respondent commented on a number of the issues brought forward by the Complainant:
- I. With regard to the May 2, 2017 meeting with the Respondent, there was never an agreement to hold the assessed value constant for the years to come. Assessments are determined on an annual basis and cannot be pre-determine for years to come.
 - II. With respect to the Complainant's concern regarding the value on the tax notice, the Respondent explained that the total assessed value was \$4,881,240. This value was listed under 'Improvements' on the tax notice, as there was no 'Other' category on the Town of Innisfail notice. This was a systems issue. The Respondent provided the Innisfail assessment roll which had the total assessed value under 'Other'.
 - III. The Respondent noted that a Request For Information (RFI) was sent to owner for the preparation of the 2018 assessment and the Complainant was non-compliant. In fact, no request for detailed financial information had been received from the Complainant since 2006.
 - IV. The Respondent provided quotes from the appraisal and property assessment textbook that supported the use of the income approach to value the subject property. The text stated that the income approach was the most common and relied upon approach to valuation for income producing property and appropriate to use for an income producing property.

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- [17] The Respondent stated that the subject property's current use, as a mobile home park, was its highest and best use. As an income producing property it was determined that the income approach to value was appropriate and that had been the case for the past several years. The Respondent stated that it used 5% for vacancy and bad debt (higher than the actual vacancy – the subject had zero vacancy for the current assessment year), 40% for expense ratio (possibly higher than actual) and 9.50% for the capitalization rate (very high based on actual sales evidence). The 40% expense ratio was based on typicals and included a reserve for replacement. Actual reserves were amortized over a number of years and applied annually to the expense ratio. That was a common practice in dealing with large and infrequent expenses. The Respondent confirmed that all parameters used in its income approach were based on data from mobile home parks, not apartments or hotels as alluded to by the Complainant. In questioning, the Respondent acknowledged it used \$525/month as the current rental rate per unit.
- [18] The Respondent provided a chart with five recent sales of mobile home parks in Central Alberta (and one listing). The sale dates were between August 2017 and June 2019 and the parks ranged from 15 to 121 pad sites. The sale price/pad site ranged from \$40,000 to \$60,656, with a median of \$47,059 and a mean of \$47,257 (this did not include the property that was listed). The Respondent testified that the Ponoka and Rocky Mountain House properties received less rent per month and had less units when compared to the subject and were the same age as the subject. The subject property was valued at \$38,135/pad site, which was \$8,924/pad (or 19%) less than the median of the sold properties. The Respondent noted that assessment of the subject property would be \$6,023,552 if the median sale price/pad site were used.
- [19] The Respondent also listed the pad site monthly rents for each sale property, which ranged between \$360 and \$450 (the listed property had a monthly pad site rent of \$540). The subject's current monthly pad site rent was \$525.
- [20] The capitalization rates for the five mobile home park sales ranged from 5.10% to 7.70%, with a median of 6.50% and mean of 6.20%. The Respondent noted that the capitalization rate used for the subject property was 9.50%; in spite of the current sales supporting that a 6.50% typical capitalization rate was appropriate. This less aggressive capitalization rate would account for the detriments and issues the Complainant mentioned with regard to the subject property (issues such as age, train tracks, industrial buildings in the surrounding area). If the median capitalization rate of 6.50% were used, the Respondent stated that the subject property's assessed value would be \$7,294,818. The Respondent also noted that no evidence was provided to support the Complainant's contention that the age of the park affected its value. Sale information and land titles were included in the appendix.
- [21] The Respondent included a report from Avison Young that listed 19 sales of mobile home parks from 2007-2015. These sales had a weighted average of \$49,469/pad site and a weighted average capitalization rate of 6.94%. This provided support for the typical parameter results used by the Respondent.
- [22] The Respondent concluded that all market evidence led to the conclusion that the assessed value of the subject property was too low.
- [23] The Respondent provided a chart of 11 comparable mobile home parks, all in close proximity to the subject. The Respondent did not include the Slave Lake comparable used by the Complainant as it was too far away and there was no known data with which to compare it to the subject. The equity comparables ranged from \$34,763 to \$59,573 assessed value/pad site with a median of \$44,734/pad site and an average of \$44,077/pad site. Again the subject property was assessed at

\$38,135 /pad site. The pad site monthly rent ranged from \$350 to \$825, with a median of \$540 and average of \$525. The Respondent stated that the markets for the various locations were compared informally through the pad rents

- [24] The Respondent provided a number of CARB decisions for the Board's consideration.
- [25] The Respondent requested the assessed value of the subject property remain at \$4,881,240, or be increased as per the evidence provided. The Respondent was originally requesting an assessment increase to \$6,023,552; the value arrived at using the sales comparison approach to value. In the summary, the Respondent asked that the assessed value be increased to \$7,294,818; the value determined by the Respondent's income approach using the typical capitalization rate of 6.50% determined by the sale evidence.

Complainant's Rebuttal

- [26] In its rebuttal the Complainant reiterated that textbooks on appraisal theory state that the three approaches to value are not intended to be used independent of each other. Valuing the subject property with the income approach produced an incorrect value.
- [27] The Complainant commented on the five sales presented by the Respondent and stated there were only three actual sale transactions. Three of the five sales transacted together. In addition, the Respondent did not provide any information to illustrate how these five mobile home parks were comparable to the subject. The Complainant stated that the quality range of these sale parks could be like comparing apples to oranges. In addition, the Complainant concluded that there were insufficient sales to be statistically significant and the results would then be unreliable.
- [28] Specific to the five sales:
- I. The sale of the Rocky Mountain House park also included the Eckville park and Drayton Valley park. Insufficient information was provided to determine if this was a valid sale.
 - II. The Eckville park sold with only 41 pad sites, was 50% vacant, but had 23.95 acres. Was it possible that excess land was purchased at \$70,981/acre? Was this a development potential purchase?
 - III. The Drayton Valley park only had half an acre of land and 15 pad sites. This was purchased for \$392,157/acre.
 - IV. The Rocky Mountain House park had 85 pad sites spread over 65% of the land and was purchased for \$257,732/acre.
 - V. The Ponoka park sale included 80 pad sites on two separate parcels. The total was 43.29 acres at a purchase price of \$20,038/acre. The Complainant noted that the subject is only 17.78 acres for 128 pad sites (40% of land occupied)
 - VI. The Complainant stated that the Penhold park sale was an outlier but provided no evidence to support this statement.
- [29] The Complainant reviewed the Respondent's equity comparables and stated that generally there was no information provided on assessed values of these parks. In addition:
- I. Five of these mobile home parks were located in Red Deer, which had a population of 100,000. Red Deer was not comparable to Innisfail.

- II. The Davenport park was a new park at the high end of the quality spectrum. It was a 55+ park with attached garages and a clubhouse. This was not similar to the subject property.
- III. The Northwood Estate and Mustang Acres parks had much higher rents and more expensive mobile home prices, again not comparable to the subject property.
- IV. The Complainant testified that the Crossfield park is an outlier but had no information to support that contention.

[30] The Complainant concluded that the Respondent did not provide sufficient information relating to the comparables to ensure they are truly comparable and that the lack of good comparables suggests the income approach is not a valid approach when valuing mobile home parks.

[31] In summary the Complainant stated that the Respondent did not address the suggested approach to value for the subject property or different classes of parks. The subject's footprint will not change and sizes of mobiles have changed over the years. The new mobile homes are larger (too large to fit on the subject site) so replacements of the mobile units are limited. Reserves for replacement are not adjusted for in the income approach and the Complainant does not believe this is reflected in the assessed value. Again, the approaches to value are not intended to be independent – are meant to be used as a check – and it is inappropriate to use just one. The result is a fictitious number as there are insufficient comparables and sales. The Complainant does not believe the applied 9.5% capitalization rate accounts for the deficiencies of the park. The Complainant requested an assessed value in the amount of \$3,530,000.

BOARD FINDINGS and DECISION

[32] The Board reviewed the evidence presented by both parties and will limit its comments to the relevant facts pertaining to this case. The Board notes that while it is not bound by previous CARB decisions, it did consider those that were submitted but based its decision on the evidence before it.

[33] The Complainant stated that the value of the subject property should be \$3,530,000, if properly discounted for its location, age and makeup. The Complainant, however, did not provide the Board with any specific market evidence to support this contention. The Complainant further contended that the assessed value of the subject property was inappropriately determined using the income approach, suggesting the cost approach would be more appropriate. No alternate calculations were provided in the Complainant's evidence to support this valuation conclusion. The only valuation evidence the Complainant provided to the Board was an analysis of the change in the subject's pad site rents over a 30 year period and apply that change to the subject's 30 year old sale price. The Board finds that the Complainant's assumption that the change in pad site rents (particularly rents that include utilities) over a 30 year period, would not adequately support a similar increase in the market place. In addition, the Board received no supporting documentation on the 30 year old sale price used in this analysis. There was no way for the Board to determine if that sale was an arm's length transaction representing market at the time of sale.

[34] The Complainant further stated that there was a two year old agreement with the Respondent; that the assessed value would remain at \$3,350,000 for 2019. The Respondent denied this agreement. The Board finds that the appropriate legislation requires that the value of the subject property be determined annually and represent the market value as of July 1 of the year prior to

the assessment year. That is what the Board is bound by and what the Board's decision will be based on. The Board finds that subject property's assessment is determined annually as per legislation and was appropriately prepared.

- [35] With respect to the method used to determine the assessed value, the Board finds it acceptable to determine the value of the subject property using the income approach, as the subject is an income producing property. The income approach would adequately predict market value of the subject property as long as the typical parameters used for this approach were appropriately determined to reflect the nature of the subject property. The Respondent testified that the typical parameters used in its income calculation for the subject were derived from mobile home parks. The Board also notes that the Respondent did test and support its income approach value with the sales comparison approach.
- [36] The Board reviewed the only market data provided; the five sales provided by the Respondent. The sales provided two purposes, a means to determine a typical capitalization rate for the income approach and to provide sale comparables used for the sales approach. The Board gave little weight to the current listing provided by the Respondent as that property had not yet sold.
- [37] The Board agrees with the Complainant that sales for either analysis (income or sales) should represent relatively similar properties when compared to the subject property, or be adjusted so as to become similar to the subject property. As neither party provided the Board with any quantitative adjustments for the differences in the properties, it was left to the Board to determine which sales would best represent the subject and where the subject would best fit within those sales. It is also noted that the Board was provided relatively few details regarding the sale properties.
- [38] The Board finds that three of the sales provided by the Respondent were relatively similar to the subject and therefore deemed to be acceptable indicators of value, less weight was given to the other two sales. The Board acknowledged that all of the sales were outside the Town of Innisfail but were located in the surrounding regions. The Board's decision on the five sales is as follows:
- I. The Complainant questioned the arm's length validity of three sales provided by the Respondent as the Rocky Mountain House, Eckville and Drayton Valley mobile home park sales all transferred to the same person on the same day. The Board accepts these sales as valid arm's length transactions as each property had a separately declared value on the Affidavit. No evidence was provided to dispute that these were not arm's length transactions.
 - i. The Rocky Mountain House mobile home park sale was accepted as a comparable as it was reasonably similar to the subject property. The 2017 sale property was slightly smaller than subject and the park was similar in age to the subject.
 - ii. Eckville and Drayton Valley, were considered valid sales however the Board placed less weight on these sales as they had considerably fewer pad sites when compared to the subject property.
 - II. The Ponoka mobile home park sale was found to be reasonably similar to the subject property and acceptable by the Board. This was a 2019 sale and had a current pad rent of \$450. The sale included two parcels however the Respondent testified that it had adjusted and reduced the sale price to account for the excess land. The Respondent

demonstrated that the sale price used in its analysis was lower than the affidavit value for this property.

- III. The Penhold mobile home park sale was also accepted by the Board as a good comparable, with 121 units, a similar age to the subject and 17.24 acres. This property was probably the most comparable to the subject property. The property transferred in November of 2017 (7 months away from current valuation date). Although the Complainant stated this property sale was an outlier, no evidence was provided to the Board to support that premise.

- [39] With respect to the Respondent's income approach value, the three similar sales more than supported the 9.50% typical capitalization rate used to value the subject property. The sales indicated a capitalization rate of 6.50% however the Respondent testified that it had increased that capitalization rate to 9.50% for the subject property valuation to account for its detriments such as aging infrastructure and location. The Board finds that logic reasonable, even though it wasn't quantifiable.
- [40] In the sales comparison approach, a review of the three sales most similar to the subject property more than supports the assessed value of \$4,881,240. The Respondent used a rate/pad site as the method of comparison for this approach to value. The subject property's assessed rate/ pad site was below all three sales rates/pad site. The Complainant did testify there were issues with the subject mobile home park, which would make this lower pad site value reasonable. Again, with limited evidence on the sale properties did not allow for quantified adjustments.
- [41] The Board then looked to the equity comparables provided by the Respondent. The Board agrees with the Complainant that these comparables must be representative of the subject property. The Board accepts the Complainant's contention that three of the parks on this list would not be reasonable comparables and gave little weight to Davenport, Mustang Acres and Northwood Estates. Less weight was also given to the other parks in Red Deer as it was a very different location compared to the subject property. Using the remaining comparables and the known parameters, the Board finds subject property's assessed value \$4,881,240 was supported.
- [42] The Complainant expressed concern about the value of the property being listed under 'Improvements' on the tax notice. The Board recognizes that the assessed value of \$4,881,240 represents the total assessed value for the subject mobile home park. While the notice might be confusing, it is part of the tax notice and an administrative matter and not the matter before the Board.
- [43] Finally, the Respondent, in its evidence, requested that the assessed value remain at \$4,881,240. In the hearing, the Respondent also requested that the assessment be increased to either \$6,023,552 or \$7,294,818 (the values determined by either the sales comparison approach or income approach with a 6.50% capitalization rate). The Board finds there was insufficient evidence to support an increase in the assessed value. The typical parameters used in the income formula were not appropriately supported for the subject or the sale properties. Appropriate comparisons to the sale properties were not provided nor were quantifiable adjustments to the sale and equity properties in evidence. The Board finds the current value of \$4,882,240 was support by the evidence and testimony and as such will not alter that assessed value.
- [44] The Board also notes that the request to increase the assessed value was not indicated in the Summary of Testimonial Evidence (the Respondent labelled it 'Overview' in its evidence package) and as such the Respondent did not give the Complainant appropriate ability for a response. This

is clearly stated in *Ag Pro Grain v Lacombe* 2006 ABQB 351 Feb 23 2006. In summary this decision stated that the MGB has the statutory authority to increase an assessment; however, it can only do so in a manner that meets strict requirements for procedural fairness. That burden is particularly heavy when the MGB seeks to significantly reorient the proceedings before it, as is the case with raising assessments. The appellants must be given appropriate notice and a full opportunity to argue the issue. **Note:** Although the ABQB initially distinguished this decision in *Capilano* 2013 ABQB 526 (see above) and narrowed the circumstances in which an ARB can the ABQB and ABCA were overturned by the SCC in 2016 SCC 47.

DECISION SUMMARY

- [45] The Board finds that there is insufficient compelling evidence to alter the assessed value. The assessment remains at: \$4,881,240.
- [46] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 24th day of December, 2019 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.



Jackie Kurylo for Kathryn Thompson
Presiding Officer

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

Documents presented at the Hearing and considered by the Board.

NO.

ITEM

1. A.1 – Hearing Materials provided by Clerk (27 pages)
2. C.1 - Complainant Submission (14 pages)
3. C.2 – Complainant Rebuttal (9 pages)
4. R.1 – Respondent Submission (47 pages)