

Central Alberta

Regional Assessment Review Board

LARB 0262 1000 Roll 30000233140
0262 1002 Roll 30000233195
0262 1003 Roll 30000233210
0262 1004 Roll 30000233250
0262 1005 Roll 30000233340

LOCAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: JUNE 7, 2018

PRESIDING OFFICER: R. Schnell
BOARD MEMBER: M. Chalack
BOARD MEMBER: A. Gamble

BETWEEN:

GORDON GARY GRANT

Complainant

-and-

STEVE BEVERIDGE & CALE GREEN
THE CITY OF RED DEER
REVENUE & ASSESSMENT

Respondent

This decision pertains to six complaints submitted to the Central Alberta Regional Assessment Review Board in respect of property assessments prepared by an Assessor of The City of Red Deer as follows:

Roll #	Address	Assessed Value
30000233140	5110, 2660 22 St	\$155,200
30000233195	5121, 2660 22 St	\$179,000
30000233210	5124, 2660 22 St	\$151,500
30000233230	5128, 2660 22 St	\$171,600
30000233250	5132, 2660 22 St	\$196,400
30000233340	5308, 2660 22 St	\$194,900

The complaints were heard by the Local Assessment Review Board on the 7th day of June 2018, at The City of Red Deer, in the province of Alberta.

Appeared on behalf of the Complainant:
Gordon Gary Grant

Appeared on behalf of the Respondent:
Steve Beveridge, AMAA
Cale Green, AMAA

DECISION: The assessed values of the subject properties are varied as follows for the reasons provided herein:

Roll #	Address	Assessed Value	Board Decision
30000233140	5110, 2660 22 St	\$155,200	\$120,000
30000233195	5121, 2660 22 St	\$179,000	\$100,000
30000233210	5124, 2660 22 St	\$151,500	\$105,100
30000233230	5128, 2660 22 St	\$171,600	\$ 80,000
30000233250	5132, 2660 22 St	\$196,400	\$135,000
30000233340	5308, 2660 22 St	\$194,900	\$ 79,500

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”], and The City of Red Deer, Bylaw No. 3474/2011, *Regional Assessment Review Board Bylaw* (November 14, 2011).

PRELIMINARY MATTERS

- [2] Both Parties agreed to hear the complaints simultaneously and agreed to the Board issuing one decision for all 6 properties.
- [3] The Notice of Hearing required the Complainant to file initial disclosure on May 16, 2018. Disclosure was not filed by the Complainant on May 16, 2018. The Complainant stated that the Complaint Forms and the information contained on them filed on March 14, 2018 was his initial disclosure. The Respondent stated that he did not have an objection to that.
- [4] The Respondent asked the Board to make clerical amendments to his disclosure filed on May 30, 2018.
- [5] Neither party raised any objection to the panel hearing the complaint.
- [6] The Board entered the following Exhibits into the record:
- A.1 – Hearing Materials provided by Clerk (15 pages)
 - R.1- Respondent Disclosure filed May 30, 2018 (17 pages)
 - C.1- Complainant Rebuttal filed June 4, 2018 (3 pages)

POSITION OF THE PARTIES

Respondent

- [7] The Respondent stated that the subject properties are part of a condominium that is commonly known as the Venu. The Venu Condominium Board is currently in a dispute with the Developer over who is responsible for the building envelope which needs to be repaired or replaced.

- [8] The Respondent stated that many financial institutions are foreclosing on many of the Venu units, and re-selling them quickly to minimize loss.
- [9] The Respondent's position is rooted in legislation – specifically, s. 5 of the *Matters Relating to Assessment and Taxation Regulation*, Alberta Regulation 203/2017 ["MRAT"] that provides the following standards of assessment:

Mass appraisal**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.

Valuation date**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.

- [10] The Respondent stated that it is an Assessor's duty to value property in a fair and equitable manner using mass appraisal techniques.
- [11] The Respondent stated that foreclosures are not arm's length sales and therefore are not good comparables. In support of this, he provided the Board with a copy of Ministerial Order MAG: 026/16 (Exhibit R.1 page 10) which states at #5: *'Non-arms-length sales, foreclosures and duress sales are considered not a good sale. Not good sales are advised to be rejected as a source unless the market has a lack of sales for that property type stratification'*.
- [12] The Respondent stated that The City of Red Deer has adequate sales for the type of property (stratification) and therefore foreclosures are not considered to be good comparables.
- [13] Without knowing who will be responsible for repairs to the building envelope, in recognition of the dispute between the Developer and the Venu Condominium Board, the Respondent applied an adjustment to the assessed values of 25% - a 'cost to cure' reduction, which was based on a similar building in the City of Red Deer that needed a similar repair.

Complainant

- [14] The position of the Complainant is that the sale of units within Venu are fair comparables and other condominium property within the City of Red Deer are not as they do not have the same problems as the subject properties.
- [15] The Complainant stated that his purchases of the units are good examples of fair market value because: a) they were listed by realtors; and b) they were not sold quickly.

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- [16] The Complainant stated that the comparables used by the Respondent exclude the sale of the subject properties and he believes that units within the same building should be used.
- [17] The Complainant provided information on the sale price of each of the properties on the complaint forms and verbally.

ANALYSIS AND REASONS

Market Value

- [18] The Complainant believes that sales within Venu (specifically, the subject properties) are fair comparables that are representative of current market value for that property because: a) they were listed by realtors; and b) they were not sold quickly.
- [19] The Respondent believes that sales within Venu (specifically, the subject properties) are not fair comparables because they are not representative of market value and are non-arms-length sales.
- [20] In its analysis, the Board turned its mind to the definition of market value as found in s. 1(n)(i) of the MGA which states:
- “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 and a willing buyer;’*
- [21] The Board finds it fair to consider a listed property for sale by a realtor, without restricting potential purchasers, as being an open market. The Complainant stated that the subject properties were listed with a realtor and this was not disputed by the Respondent therefore the Board accepts that as fact and finds the properties to have been sold on the open market.
- [22] It is the Respondent’s position that foreclosures do not have a willing seller. The Board considered this and agrees that the owner of a property that is subject to a foreclosure may not be a willing seller. However, the subject properties were sold subsequent to that, by financial institutions, and the Board believes financial institutions to be willing sellers.
- [23] Further, the Complainant stated that the properties were on the market for a long time, this was not refuted by the Respondent. The Board believes that the length of time on the market is a good indication of fair market value considering the issues between the condominium board and the developer.
- [24] The purchaser (Complainant) was obviously a willing buyer; therefore the Board believes that the sale of the subject properties meet the definition of market value as found in the MGA.
- [25] The Respondent argued that the assessments were prepared in accordance with the valuation standards set out in s. 5 of MRAT (excerpt above) and, notwithstanding that the Respondent did not provide the Board with information on the comparables used, the Board agrees with that with respect to s. 5(a) and (b).
- [26] The Complainant provided actual sales information of the properties that was not disputed by the Respondent and, for some of the properties, was actually substantiated by the Respondents’ evidence (copies of titles with purchase prices). Having determined that the subject properties were sold on an open market and are reflective of market value, the Board is not convinced that the assessments reflect typical market conditions for properties similar to that property, as per section 5(c).

- [27] With respect to the Ministerial Order provided by the Respondent, the Board finds that while the Respondent may be required to comply with the order, the Board must take into consideration s. 467(3) of the MGA which states:

(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.

- [28] Further, the Board notes that the Ministerial Order provides that foreclosures are not deemed to be 'good' sales unless there is a lack of sales in the market. The Respondent stated that there were ample sales in the market, however no evidence of this was provided to the Board.
- [29] While the Board does not discredit the statement of the Respondent on that basis, in the absence of evidence to the contrary, the Board believes that for the subject properties, sales within Venu are the best comparables.
- [30] Further, in its analysis and resulting variance, the Board turned its mind to roll #30000233250 and 3000023340. The original assessed values were similar – at \$196,400 and \$194,900 respectively. The Board's decision varies the assessed values to \$135,000 and \$79,500. This may appear to be a significant inconsistency, however, the purchase price of the property was not opposed, and having found that the best comparables for the subject properties are sales within Venu, the Board had no basis by which to determine an alternate assessed value.

Cost to Cure

- [31] The fact that there is a dispute between the developer and the condominium board regarding the building envelope is not in question; the building envelope will need to be repaired. However, the costs and who will be responsible for them are unknown.
- [32] The Board believes that the Respondent prepared the assessments in accordance with legislation, recognizing the building envelope dispute by applying the cost to cure reduction to the assessments. The Respondent stated that the cost to cure estimate was based on a similar situation with a similar building.
- [33] The Board finds that the sales of the subject property are a better representation of a cost to cure than the estimate used by the Respondent, and therefore have placed more weight on the actual sales.

DECISION SUMMARY

- [34] Due to the dispute between the Developer and Venu Condominium Board, the Board is convinced that the best comparables to the subject properties would be those within the same building as the subject property.

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- [35] Given that some of the sale dates of the subject properties are outside the valuation period, the Board notes that they would have considered altering the assessments to values other than the purchase amounts paid by the Complainant. However, in the absence of comparables, the Board has varied the assessments based on the evidence at hand.
- [36] For the reasons identified above, the assessments are varied as stated on page 2 of this decision.
- [37] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 27 day of JUNE, 2018 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.



ROBERT SCHNELL
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 A

Documents presented at the Hearing and considered by the Board.

<u>NO.</u>	<u>ITEM</u>
A.1	Hearing Materials provided by Clerk (15 pages)
R.1	Respondent Disclosure filed May 30, 2018 (17 pages)
C.1	Complainant Rebuttal filed June 4, 2018 (3 pages)