

LARB 0262 1020 2018
Roll No. 30000410965

LOCAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: June 12, 2018

PRESIDING OFFICER: A. Gamble
BOARD MEMBER: M. Chilibeck
BOARD MEMBER: J. Kline

BETWEEN:

JOHN HANSUM

Complainant

-and-

THE CITY OF RED DEER

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: 30000410965
MUNICIPAL ADDRESS: 42 Bannerman Close
ASSESSMENT AMOUNT: \$ 886,500

The complaint was heard by the Local Assessment Review Board on the 12 day of June 2018, at The City of Red Deer, in the province of Alberta.

Appeared on behalf of the Complainant:

David Clark - Property Assessor, The City of Red Deer
Cale Green – Property Assessor, The City of Red Deer

Appeared on behalf of the Respondent:

John Hansum

DECISION: The assessed value of the subject property is varied to \$769,900.

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).

PROPERTY DESCRIPTION AND BACKGROUND

2. The subject property is a single family custom home located in the Bower subdivision in the south end of the City of Red Deer.
3. The property assessment complaint was submitted to the Central Alberta Regional Assessment Review Board by the Complainant on March 20, 2018.
4. The Notice of Hearing was issued on April 24, 2018.

PRELIMINARY MATTERS

5. The Presiding Officer confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
6. Neither Party raised any objection to the panel hearing the complaint.
7. The Notice of Hearing required the Complainant to file initial disclosure on May 22, 2018. Disclosure was not filed by the Complainant on May 22, 2018. The Complainant then filed a letter as well as his initial disclosure on May 28, 2018 advising of extenuating circumstances and requesting the disclosure filed on May 28, 2018 be accepted as his initial disclosure.
8. The Respondent stated that he did not have any objection to accepting the late disclosure.
9. No additional preliminary or procedural matters were raised by any party. Both Parties indicated that they were prepared to proceed with the complaint.
10. The Board confirmed the submissions of the Parties and entered the following Exhibits into the record:
 - A.1 – Hearing Materials provided by Clerk (6 Pages)
 - C.1 – Complainant Disclosure filed May 28, 2018 (51 Pages)
 - R.1 - Respondent Disclosure filed June 4, 2018 (20 Pages)

POSITION OF THE PARTIES

Position of the Complainant

11. The Position of the Complainant is that based on the purchase price for the subject property, the assessed value is unfair. The assessed value is significantly higher than what the property was purchased for on October 27, 2017 for \$740,000.
12. The Complainant submitted evidence in support including an appraisal completed by TruePoint Appraisals LTD dated October 5, 2017 which estimated the value of the property to be \$750,000. Even though the appraisal was for purchase financing purposes, the Complainant believes it representative of a market value amount.
13. The Complainant stated that after meeting with the Respondent on February 13, 2018, the Respondent offered to reduce the assessed value to \$836,000 (from \$886,500). This was refused by the Complainant because the offer was still \$99,000 higher than the actual purchase price.
14. The Complainant explained that considering the valuation date of July 1, 2017 he would be willing to accept an assessment value of \$769,900 which is the same as the MLS list price at that time.
15. The Complainant stated that the subject property is a custom home located at an in-fill area of an existing sub-division, not considered typical. Therefore he argued that it is difficult to find good comparables due to the characteristics and location of the subject property.
16. The Complainant also argued that true comparable properties are properties in the Bannerman Close neighborhood and that due to the limited number of comparable sales, listings should also be given consideration when valuating this property.
17. The Complainant argued that market value is defined as the price the property might sell for after adequate time and exposure to an open market when sold by a willing seller to a willing buyer. He believes the purchase price reflects market value because the subject property was listed for nearly 22 months before it sold, due to (the Complainant alleges) it being drastically overpriced. Only once the property was priced correctly at \$769,900 did it sell.

Position of the Respondent

18. The Respondent explained that The City of Red Deer assesses properties using mass appraisal techniques, and that a single sale alone cannot be used to determine an estimate of market value.
19. The Respondent explained that only sales between July 1, 2016 and June 30, 2017 (the valuation period) were used in their analysis techniques. The sale of the subject property occurred outside the valuation date as set out in the regulations and therefore given no weight for this valuation period.
20. The Respondent is requesting a revised assessment of \$839,000. When asked, the Respondent advised that he could not confirm what factors resulted in the offer made to the Complainant to reduce the assessment. He stated that the offer to reduce the assessment was made to the

Complainant by a colleague and that the request to the Board to reduce the assessment is being made in order to honor the original offer made by his colleague.

21. The Respondent stated that the purpose of the appraisal provided by the Complainant was for financing only and therefore it could not be considered for assessment purposes.
22. The Respondent referred the Board to the chart relating to equity on page 15 of Exhibit R.1. He described 29 custom homes located in the sub-neighborhood of Bannerman Close. It is the Respondents position that because of the comparables, it is clear that the subject cannot be assessed at the requested \$740,000 as this would cause inequity amongst the neighboring homes.
23. In summarizing the sales comparison, the Respondent stated that he is legislated to use all sales of similar properties in determining assessment values, and further stated that the subject property would be fairly assessed at the recommended assessed value of \$839,000.
24. The Respondent requested the Board vary the assessment to \$839,000.

BOARD FINDINGS and DECISION

Comparables

25. The Complainant argued that the subject property and the neighborhood is unique due to the amount of infill development in the area, and the best comparables are comparables located on Bannerman.
26. The Respondent provided the Board with the legislated parameters for valuation and a summary of comparables of similar property.
27. The Board finds that the comparables provided by the Respondent vary significantly from the subject property not only in terms of housing type (two storey comparables compared to the subject bi-level) but also in terms of lot size, lot location and its proximity to the creek, additional detached garage(s), the total floor area and the year built.
28. Further, the comparables provided by the Respondent show post valuation date downward adjustments and have a wide range of assessed values. Because they vary significantly from the subject property, and adjustments have been made to accommodate for those differences, the Board placed little weight on the comparables.

Purchase Price

29. The Complainant believes that the sale price of the subject property is the best indicator of market value. The Respondent stated that because the sale of the subject property occurred outside the valuation period it was not used for the 2017 assessment but would be used for 2018 assessment purposes.
30. The Respondent stated that the appraisal cannot be used for assessment purposes because it was conducted for a different purpose (financing). The Complainant believes that the appraisal is a good reflection of market value because it was used for the purchase of the property that was bought and sold on an open market.
31. The Board agrees with the Complainant that the sale price of the subject property is a good indication of market value, particularly when it has been listed on the open market for a length of

time. However, the relevant valuation period is for July 1, 2016 – June 30, 2017 and the sale of the subject property occurred in October 2017.

32. The Board acknowledges and respects the Respondent's responsibility in using the evaluation period when conducting mass appraisal. However, having found the comparables provided by the Respondent to be dissimilar to the subject property, the Board believes it is warranted to consider sales beyond the valuation date - particularly when it occurs within a reasonable time frame of the valuation period and when the sale is the subject property itself.
33. The Board finds the Alberta Court of Queen's Bench decision, *697604 Alberta Ltd. v. Calgary (City of)*, 2005 ABQB 512, instructive in this regard:

[24] In my view, the MGB's failure to rely on the evidence of value provided by the recent sale of the Property fails to meet the test of reasonableness. I agree with the following comments from *Re Regional Assessment Commissioner, Region No. 11 v. Nesse Holdings Ltd. et al.* (1984), 1984 CanLII 1857 (ON SC), 47 O.R. (2d) 766 (Ont. H.C.J. Div. Ct.) at p. 767:

It seems to me to be worth remembering that where the Assessment Act, R.S.O. 1980, c. 31 requires the determination of what a property might be expected to realize if sold on the open market by a willing seller to a willing buyer (s. 18(2)), the price paid in a recent free sale of the subject property itself, where, as in this case, there are neither changes in the market nor to the property in the interval, must be very powerful evidence indeed as to what the market value of the property is. It is for that reason that the recent free sale of a subject property is generally accepted as the best means of establishing the market value of that property.

...

...I think that generally speaking the recent sales price, if available as it was in this case, is in law and, in common sense, the most realistic and most reliable method of establishing market value.

DECISION SUMMARY

34. The Board was provided with enough information by the Parties to determine that an adjustment to the assessed value was warranted. Due to the lack of true comparables similar to the subject property, the Board varies the assessed value of the subject property to \$769,900.
35. Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this **06** day of **July 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.



Alfred Gamble
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

Documents presented at the Hearing and considered by the Board.

NO.

ITEM

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| 1. A.1 | Hearing Materials provided by Clerk (6 Pages) |
| 2. C.1 | Complainant submission (51 Pages) |
| 3. R.1 | Respondent submission(20 Pages) |