

Central Alberta

Regional Assessment Review Board

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CARB 0310 1124 Roll 00866900

Complaint ID 1124

Roll No. 00866900

COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: OCTOBER 25, 2018

PRESIDING OFFICER: R. Mowbrey

BOARD MEMBER: B. Schnell

BOARD MEMBER: K. Waters

BETWEEN:

SYLVAN LAKE HARBOUR LTD.

Complainant

-and-

TOWN OF SYLVAN LAKE

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 Sylvan Lake as follows:

ROLL NUMBER: 00866900

MUNICIPAL ADDRESS: 5220 LAKESHORE DRIVE

ASSESSMENT AMOUNT: \$ 933,300

The complaint was heard by the Composite Assessment Review Board on the 25 day of October 2018, at The Town of Sylvan Lake, in the province of Alberta.

Appeared on behalf of the Complainant: Sylvan Harbour Ltd.

Jamin Laplante

Holly Wyatt

Appeared on behalf of the Respondent: Wild Rose Assessment Services, on behalf of Sylvan Lake

Calvin McArthur

Kevin Bohlken

Riley Kloss

DECISION: The assessment of the subject property is varied to \$907,580.

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 17,006 square foot (sf) property located at 5220 Lakeshore Drive in Sylvan Lake. The site is developed with a 7,200 sf multi-tenant office/retail building. The property is irregular and is adjacent to the southwest corner of the Sylvan Lake Harbour. The subject is assessed utilizing the direct sales assessment methodology.

PRELIMINARY MATTERS

- [3] The Board Chair confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [4] With respect to the issue of bias, one Board member stated he was acquainted with the assessor, but stated there was no bias. The Presiding Officer asked the Complainant if this was acceptable and the Complainant stated it was.
- [5] Neither party raised any objection to the panel hearing the complaint.
- [6] The Complainant and Respondent confirmed the complaint information before the Board and the Board accepted the documents as presented.
- [7] A preliminary matter was brought forth to the Board. Upon review of the property, it was discovered that a gas tank and pump which has previously been assessed on this property actually sits on the neighboring property at 5230 Lakeshore Drive which is owned by the same owner. This adjustment has resulted in a reduced assessment of \$25,720 on this property, and an increase of \$25,720 on 5230 Lakeshore Drive. This change results in the Town of Sylvan Lake recommending a decrease of the assessment to \$907,580. Both parties agreed to this preliminary matter.
- [8] No additional preliminary or procedural matters were raised by any party. Both parties indicated that they were prepared to proceed with the complaints.
- [9] The Board confirmed the submissions of the parties and entered the following Exhibits into the record:
- A.1 – Hearing Materials provided by Clerk.
 - C.1 – Complainant’s disclosure (68 pages).

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- C.2 – Complainant’s rebuttal (30 pages).
R.1 – Respondent’s disclosure (16 pages).

ISSUES

- [10] Does the assessment of the subject property reflect the market value of the subject property?

POSITION OF THE COMPLAINANT

- [11] The Complainant filed this complaint on the basis that the 2018 assessment of the subject is in excess of market value. In support of this position, the Complainant submitted an evidence package, a rebuttal package and oral argument.
- [12] The Complainant provided pictorials and maps of the subject. The Complainant presented a rental rate analysis on two properties. The first property built in 2013 is listed at \$19.00/sf and falls closely to the back calculation of the Towns assessment of \$20.91/sf. The first comparable is 28 years newer, space is fully developed for a pizza business and comes with all commercial equipment for the lease rate of \$19.00/sf.
- [13] The second comparable built in 2015 would be more comparable to the subject as it has a second story space for retail/commercial options. The Complainant stated “The comparable building is 30 years newer than the subject and is in a desirable location.”
- [14] The Complainant presented an actual income statement on the subject property. The Complainant stated the gross income was \$39,130 per year and the actual expenses were \$40,104 for the year or \$6.44/sf. Allowing a non-recoverable expense of 2.0% the net operating income (NOI) is a -\$1,757. Utilizing a capitalization rate of 8.0%, the valuation of the subject property is -\$21,967.
- [15] The Complainant presented a chart “calculating the valuation based upon the potential income the building could generate puts the building at a valuation of \$412,920.” The valuation is based on full rents, a vacancy allowance of 10.0%, operating costs of 6.44/sf, Non-recoverable Costs at 2.0% of Effective Gross and a capitalization rate of 8.0%. This further based on the subject obtaining \$14.44/sf for the second floor and \$4.47/sf for the owner-occupied shop bay and back office.
- [16] The Complainant calculated the Towns valuation and back calculating using the same operating costs. The potential gross income was \$130,111, vacancy allowance of 10.0%, operating costs of \$6.44/sf and non-recoverable expenses of 2.0% would yield an NOI of \$74,664. Capitalizing the NOI of \$74,664 with an 8.0% capitalization rate would estimate the value of the building at \$933,300. The Complainant noted this would put the rent at \$20.91/sf. for the building’s 6,223 sf of rentable area. The average price per square foot at \$20.91 which is unrealistic for the current market conditions.

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- [17] The Complainant presented a sale comparable that was sold in October 2017 for \$400,000, zoning W-DC and \$72.73/sf. Based upon this comparable of \$72.73/sf, the subject's valuation would be \$452,599.
- [18] During questioning, the Complainant could not confirm the October 2017 sale of the comparable sale or if there were any conditions place with the sale. The Complainant stated that the gross rents were used and the standard operating costs were pulled out of the gross rents. The Complainant stated the 8.0% capitalization rate was utilized after reviewing a number of properties in the Sylvan Lake area.
- [19] During rebuttal, the Complainant critiqued the Respondent's sale comparables and stated they were not comparable to the subject property. Some of the issues included one that is no more than a garage with a basement suite, much newer buildings, a cannabis store location, an auto repair shop, the old fire hall, much larger comparables and generally much newer. Overall, the Complainant stated that none of the buildings viewed in the assessments were close in age or building quality to the subject. The Complainant stated that arguably, one of the newest buildings and the most desirable location on Lakeshore Drive, and possibly the highest data point for data analysis should not be compared to the subject. The Complainant questions the validity of using only one data point of comparison on Lakeshore Drive.
- [20] During rebuttal, the Complainant stated that accurate information is essential to the validity of any argument. The information presented by the Respondent concerning the Spa is incorrect. Little income was collected from the "Spa" and the "Spa" pulled a midnight move. In addition, the "Spa" left considerable damage and it took several months for the damages to be repaired.
- [21] Further, the Complainant stated that using sales to government agencies are considered invalid and should not be used to establish market value for the subject. This is referenced in the Alberta Guide to Property Assessment and Taxation in Alberta.
- [22] During summary, the Complainant stated that for the 2017 assessment year, the only facts that matter are the facts that relate to the subject on July 1st, 2017; not what the property was in 2010 as brought forward in Respondent's property overview. The Complainant stated it is acknowledged that the comparables provided in the disclosure were not similar to the property as all comparables were difficult to find in the Sylvan Lake district. The Complainant agreed that a standard of reasonableness must be exercised in considering the valuation.
- [23] The Complainant advised that he used the income approach to value and obtaining actual hard numbers that exist and are easy to prove.
- [24] In conclusion, the Complainant requests the Board to reduce the 2018 revised assessment of \$907,580 to \$412,920.

POSITION OF THE RESPONDENT

- [25] In support of his position that the revised assessment is correct, the Respondent presented an assessment brief as well as oral argument.
- [26] The Respondent provided pictorials and maps depicting the subject and surrounding neighborhood. The Respondent stated the subject is a 7200 sf multi-tenant office/retail building that is irregular in shape and is adjacent to the southwest corner of the Sylvan Lake Harbour, and has expansive views of the lake.
- [27] The subject is unique to Lakeshore Drive and therefore comparables that are similar are very difficult to find or non-existent. The Respondent stated the standard of reasonableness must be exercised in the valuation of this property. The Respondent advised that the subject was previously listed for sale in mid to late 2016 and possibly into early 2017 for \$1,200,000.
- [28] The Respondent critiqued the Complainant's comparable properties that are listed for \$19.00/sf and a second property with a second floor listed for \$14.00/sf, which could possibly be split into two separate offices. The Respondent stated that both properties are newer, but both differ significantly in terms of location, as one is a strip mall along highway 20 and the other is an office/retail also along highway 20, while the subject borders Sylvan Lake and has expansive views and locational desirability.
- [29] The Respondent noted that the subject is assessed utilizing the sales comparison approach and the cost approach for valuation of the subject. In addition, the Respondent utilized the income valuation to test the reasonableness to ensure that the valuation made sense based on the limited income data available in Sylvan Lake to use this method for mass appraisal.
- [30] The Respondent noted that the Complainant has made considerable mention about the potential cannabis location and their effect on values. The Respondent stated that the valuation date was July 1st, 2017 and cannabis legalization comes in October 2018 and the effects on property values positive or negative will not be known until after this time.
- [31] The Respondent critiqued the current leases for the subject, including expenses and cap rates, which resulted in a -\$21,967 net operating income. The Respondent notes the second floor was still leased for a significant portion of 2017 including the July 1st, 2017 valuation date.
- [32] The Respondent provided a listing for the subject from late 2016 for \$1,200,000. The listing also indicates an NOI of \$83,713. The Respondent stated that based on the information provided by the Complainant when this building was fully leased in 2016/2017 their income valuation would

support a value of \$1,046,416. (\$83,713 NOI times 8.0% cap rate.) The Respondent advised that the assessment was not prepared utilizing the income/capitalization approach, but used this approach for a test of reasonableness.

- [33] The Respondent noted the Complainant used post-facto sale (October 2017). The list price was \$539,000 and after 11 days was taken off the market and indicated a sale price of \$400,000. However, as of October 2018, this sale has not cleared land titles and has not been registered on this property.
- [34] The Respondent advised that very few sales occurred on Lakeshore Drive and thus provided four sales that were closest to the subject and were located in the Downtown, Highway and Industrial area. The data suggests that using \$180.00/sf for the 4,255 sf main space would be \$765,900 and \$80.00/sf for the upper floor would be \$236,640 for a total of \$972,464. In addition, the data further suggests that using \$150.00/sf for the total building of 7,213 sf and an assessment level of 0.97 would be \$1,001,160.
- [35] The Respondent provided four assessments that were located in the Downtown, Lakeshore and Highway/commercial. The Respondent utilized the average of \$152.00/sf times 7,213 sf for a total of \$1,096,400.
- [36] The Respondent stated that based on the comparison of other similar assessments, the assessment of the subject appears fair and equitable when compared to other similar assessed properties within Sylvan Lake.
- [37] The Respondent notes the subject has had a number of tenant improvements over the years which will prolong the age-life of the subject, therefore making in more valuable.
- [38] The Respondent stated the assessment to sales ratio for all non-residential properties when using two years of sales (56 properties) had a median of 98.2% and a mean of 98.9% while one year of sales (24 properties) had a mean of 98.2% and a mean of 97.6%. The Respondent further stated this indicates that the assessments fall on the lower side of the 95.0% to 105.0% range required by the standards set out by the Province.
- [39] In summary, the Respondent stated the Town has been mindful of property values dropping over the past number of years and this has been reflective in the assessments.
- [40] The subject is a well-maintained building located in a very desirable location on the Sylvan Lake harbour front. The Respondent stated the sales and equity analysis show the valuation of the property is correct and equitable with other non-residential properties.

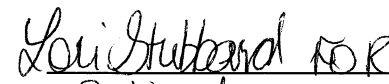
- [41] The Respondent opined that there is no way that one could obtain a 7,000 sf building on the waterfront in Sylvan Lake for \$400,000. The Respondent stated the Complainant's valuation and recommended assessment does not even reach the value of the subject properties land value.
- [42] The Respondent requests the Board to confirm the revised recommended assessment of \$907,580.

BOARD FINDINGS AND DECISION.

- [43] The Board acknowledges the parties concerns that comparable sales to the subject are difficult to find or are non-existent. In addition, the Board finds that evidence from both the Complainant and the Respondent is lacking in sufficient detail.
- [44] The Board acknowledges the Complainant's position to utilize the income capitalization assessment methodology to value the subject. However, the Board finds the Complainant failed to provide supporting evidence to support the income capitalization assessment methodology.
- [45] The onus rests with the Complainant to show the assessment is incorrect. The Board finds the Complainant did not provide sufficient or compelling evidence for the Board to determine that the assessment for the subject is incorrect.
- [46] The Board notes that the Respondent did not provide comparable sales to the subject in order to establish market value for the subject. However, the Board further notes that on a general basis, the Respondent's sale to assessment ratio is within the provincial standards.
- [47] The Board finds that the subject property was not vacated until October of the assessment year and is therefore to be treated as occupied for the purposes of the assessment. For the purposes of establishing the value of the subject property using the Income Approach, a NOI of \$83,713.00 is therefore the proper figure to be used, and not any of the lesser amounts suggested by the Complainant.
- [48] The Board was persuaded by information contained in the Complainant's expired listing of the subject property at \$1,200,000. The listing highlights the subject's NOI as \$83,713. Using the Complainant's cap rate of 8.0%, the Respondent's estimated value of the subject would be \$1,046,416.

DECISION SUMMARY

- [49] The Board varies the assessment from \$933,300 to \$907,580 which is in line with the Respondent's recommendation.
- [50] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 19th day of November 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.


Lori Stubbard _____
Lori Stubbard Robert J. Mowbrey
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
2. C.1 – Complainant’s disclosure (68 pages)
3. C.2 – Complainant’s rebuttal (30 pages)
4. R.1 – Respondent’s disclosure (16 pages)