
Complaint ID 0532 1535
Roll No. 00014001291

LOCAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: THURSDAY, DECEMBER 9, 2021

PRESIDING OFFICER: R. BROWN
BOARD MEMBER: M. CHALACK
BOARD MEMBER: A. GAMBLE

BETWEEN:

DON & LINDA GERLINGER

Complainant

-and-

WILDROSE ASSESSMENT SERVICES
ON BEHALF OF THE TOWN OF DRUMHELLER

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 Drumheller as follows:

ROLL NUMBER: 00014001291

MUNICIPAL ADDRESS: 283 River Drive, East Coulee

ASSESSMENT AMOUNT: \$ 255,530

The complaint was heard by the Local Assessment Review Board on the 9th day of December 2021, via Video Conference, in the province of Alberta.

Appeared on behalf of the Complainant: Don & Linda Gerlinger

Appeared on behalf of the Respondent: Rod Vikse, Wild Rose Assessment Services

DECISION: The assessed value of the subject property is confirmed at \$255,530.

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 single-family dwelling 1688 sq. ft. with detached garage 837 sq. ft. The land valuation is valued at \$32,050 and improvements valued at \$223,480.

PRELIMINARY MATTERS

- [3] The Presiding Officer confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [4] Neither party raised any objection to the panel hearing the complaint.
- [5] No additional preliminary or procedural matters were raised by any party. Both parties indicated that they were prepared to proceed with the complaint.
- [6] The Board confirmed the submissions of the parties and entered the exhibits identified Appendix “A” into the record.

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

- [7] The Complainant provided a (2019) assessment notice which showed the property with improvements valued at \$291,220.
- [8] The Complainant confirmed that the assessment amount and whether the property is assessable were the two issues under appeal.
- [9] The Complainant does not believe that the property is assessable however, in his rebuttal, he indicated an assessment amount of \$100,000 would be a fair assessment on which to pay taxes based on the services he receives.
- [10] The primary argument of the Complainant relates to a Flood Mitigation Program undertaken by the Town of Drumheller. As part of his evidence package, the Complainant provided a news article dated January 21, 2020. The article indicated that a policy for “fair and objective process for selecting and acquiring properties” had been passed by Drumheller Town Council. The article outlined those acquisitions of property as part of the Flood Mitigation Program would be based on fair market value or the 2014 assessed value for the property, whichever is greater.
- [11] A letter provided by the Complainant dated June 21, 2021 from the Town of Drumheller states that the Town of Drumheller was starting “a 5 year program to ensure that proper and aggressive flood mitigation strategies were put in place...”. The letter also indicated that no berm designs will be released to the public at large until affected property owners were first contacted.
- [12] The Complainant was advised by “Scott Land and Lease” (hired by the Town of Drumheller) that their land would be bought in part or in whole for a berm alignment. The Complainant was offered a pre-offer appraisal of their property. The Complainant rejected the pre-offer appraisal.

- [13] The Complainant has attended meetings held by the Town of Drumheller with respects to the Flood mitigation Plan and has heard no information on the Flood Mitigation Plans for East Coulee. The Complainant stated, in his opinion, the proposed berm size, with walking paths, and the location of the berm will have a negative effect on his property value.
- [14] The Complainant stated that an adjacent property owner listed his property for \$285,000. The property failed to sell within the 90-day listing period. The Complainant believes that this confirms that he would not be able to sell the subject property.
- [15] Through questioning, the Complainant advised they were not affected by either the 2005 or 2013 flood that occurred in his area.

Position of the Respondent

- [16] The Respondent stated that the assessed value of the subject property is \$255,530 for the land and improvements, not \$291,220 (2019 assessed value) as reported by the Complainant.
- [17] The Respondent stated that at the time of assessment he had no knowledge of the berm issue. He also stated that an offer adjusting the assessment prior to the hearing to reflect the berm was rejected by the Complainant.
- [18] The Respondent advised that the Town of Drumheller and the province of Alberta have concerns for future flooding in the area due to past floods that happened in 2005 and 2013. Because of the concerns for flooding the town of Drumheller has created an "Flood Hazard Overlay Map" in its Land Use Bylaw. The subject property is located within this mapped area.
- [19] The Overlay Map places restrictions on property within the Flood Overlay mapped area. Without the new Land Use Bylaw and without berms being in place no further development could occur on the subject property.
- [20] With regard to whether or not the property is assessable, the Respondent referred the Board to MGA Section 298(1) in determining if a property is assessable or not. The Respondent stated that the subject property does not fall within the category which excludes it from assessment.
- [21] The Respondent stated that generally, the overall assessment for the Town of Drumheller falls within the 95-105% Sales to Assessment Ratio required by the province and that the Respondent used sales that occurred between July 1, 2017 to July 1, 2020 for comparable sales to determine market value for the subject property.
- [22] However, the Respondent also stated there were few sales of property in the time allotted for comparison in the East Coulee area. This resulted in a 92.1% Assessment to Sales Ratio for all the comparable properties used in the area. This Assessment to Sales Ratio is below the ideal target range of 95%.
- [23] To show the difference in property value between river front and interior lots the Respondent provided calculations that showed if the subject property was an interior lot it would be worth \$27,440 not the \$32,050 which it is assessed.
- [24] The Respondent reviewed the comparables he provided and noted that the assessment to sales ratio of Land Values for one sale is at 96.3%. This percentage is within the range acceptable for determining the market value for the subject property. The only sales comparable which backed on to the river is roll number 14000608 (367 East Coulee Dr). The comparable has an assessment to sales ratio of 87.8%.

- [25] The Respondent submitted email correspondence from the Flood Resiliency Project Director, Deighen Blakely for the Town of Drumheller advising no new pathways are planned for the new berms and that the Town would be concentrating the effort on existing pathways.
- [26] The Respondent also provided email correspondence from D. Drohomerski for the Town of Drumheller explaining that the province has now agreed to permanent structural mitigation measures (build a berm). He believes this to be a positive move for the valley, further explaining this will mean banks and insurance companies will be more receptive to lending/insuring properties in the mitigated Flood Area.
- [27] Mr. Drohomerski's email further explained *"what the flood mitigation project is trying to do is improve the community as a whole. Unfortunately, some residents only see their own land and change to by the project. By constructing the berm to the correct elevation between the Gerlinger house and the river, it will actually allow them to move out of the conveyance zone and into the protected zone, allowing them to do as they please with their property."*
- [28] The Respondent requested the assessed value of \$255,530 be confirmed.

BOARD FINDINGS and DECISION

- [29] The Board notes that the assessment value identified in the Complainant Submission \$291,220 was from the 2019 assessment year. The Respondent stated that the assessment value for 2020 was \$255,530. The Board finds the assessed value under complaint for the purposes of this hearing is the 2020 assessed value of \$255,530 as per the R.1 p. 38.
- [30] The Board agrees with the Complainant that Flood Mitigation restrictions and the impending berm construction have an implication on the Complainant's property value. The Board is also sympathetic to the emotional strain caused by the uncertainty of the future, the impacts of possible expropriation and/ or the construction of a berm between the subject property and the Red Deer River.
- [31] The Board considered the positive and negative impacts of a potential berm including protecting properties from flooding, allowing homeowners and potential buyer's of the subject property to secure mortgages; to secure property insurance and to alleviate the concerns of subject property expropriation. The Board acknowledges a five-year period of uncertainty until the project is built and the long-term effect on property value of a berm.
- [32] From the evidence provided at the hearing the Board could not determine the financial implication for these events. Further the Board finds, while the berm may impact the assessment value of the Complainant's property this will need to be reflected on future valuations.
- [33] In considering the Complainant's position that the subject property should be considered non-assessable the Board reviewed s. 298(1) of the MGA. Based on this review the Board agrees with the Respondent that this property is not exempt from assessment. Therefore, the Board placed little weight on this argument.
- [34] Upon review of the Complainant's \$100,000 proposed value of the subject property the Board noted no supporting documentation was provided. Further, a \$100,000 proposed valuation of the subject property has no regard for the documentation provided by the Complainant indicating the Town of Drumheller was prepared to pay *"either the fair market value or the 2014 tax assessment value for the property whichever is greater,"* C.1. p. 8.
- [35] Without specific information regarding the financial impacts to the current valuation the Board has no means to re-evaluate the assessment. Given the above, the Board finds there was insufficient evidence provided by the Complainant to support a change to the assessed value.

DECISION SUMMARY

- [36] The Board finds that the Respondent values are CONFIRMED at \$255,530.
- [37] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 17th day of December 2021 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 (Board Clerk) On behalf of
Roy Brown
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 "A"

Documents presented at the Hearing and considered by the Board.

<u>NO.</u>	<u>ITEM</u>
1. A.1	Hearing Materials – 7 pages provided by Clerk
2. C.1	Complainant Submission – 10 pages
3. C.2	Complainant Rebuttal – 2 pages
4. R.1	Respondent Submission – Part 1 of 2 - 49 pages
5. R.2	Respondent Submission – Part 2 of 2 – 1 page