

# Central Alberta

Regional Assessment Review Board

Decision # **CARB 0310-593/2013**  
Complaint ID: 593-595  
Roll No.: 00212900, 00213200, 00216000

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COMPOSITE ASSESSMENT REVIEW BOARD DECISION  
HEARING DATE: 14 NOVEMBER, 2013

PRESIDING OFFICER J. Dawson  
BOARD MEMBER A. Knight  
BOARD MEMBER R. Kerber

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BETWEEN:

MARINA BAY HOMEOWNERS ASSOCIATION

Complainant

-and-

THE TOWN OF SYLVAN LAKE

Respondent

[1] These are complaints to the Central Alberta Regional Assessment Review Board (hereinafter, "the Board") in respect of property assessments entered in the 2013 Assessment Roll as follows:

|                           |                      |                      |                      |
|---------------------------|----------------------|----------------------|----------------------|
| <b>ROLL NUMBER:</b>       | 00212900             | 00213200             | 00216000             |
| <b>MUNICIPAL ADDRESS:</b> | 100 Marina Bay Court | 200 Marina Bay Place | 206 Marina Bay Court |
| <b>ASSESSMENT:</b>        | \$555,740            | \$1,352,790          | \$385,500            |

[2] The complaints were heard by the Board on the 14th day of November, 2013, in the Town of Sylvan Lake, Alberta.

[3] Appeared on behalf of the Complainant:  
Doug Hamilton                      Agent, Altus Group Limited

[4] Appeared on behalf of the Respondent:  
Calvin McArthur                      Assessor, Wild Rose Assessment Services Inc.  
Steve Washington                      Wild Rose Assessment Services Inc.

## **JURISDICTION**

[5] The Board has been established in accordance with section 456 of the Municipal Government Act R.S.A. 2000, ch M-26 (hereinafter, "the MGA") and Town of Sylvan Lake bylaw.

[6] Neither party raised an objection to any Board member hearing the complaint.

[7] No procedural or jurisdictional matters were raised by either party.

## **BACKGROUND**

[8] The subject properties are amenity sites for the Marina Bay Homeowners Association. Two of the three sites have been assessed since their creation while the third is assessed this year for the first time based on new information received by the assessor. 100 Marina Bay Court is a 1,500 square foot amenity building described as the 'Yacht Club' located on a 6,232 square foot lot; 206 Marina Bay Court is a tennis court and recreational vehicle storage lot located on a 36,164 square foot lot; and 200 Marina Bay Place is a 5.03 acre site that has been dredged, flooded with lake water, and developed creating a 109 boat slips for the use of the Marina Bay Homeowners Association.

## **ISSUES AND FINDINGS**

### **1. ASSESSED VALUE OF THE AMENITY PROPERTIES**

[9] **Complainant:** The Complainant argues there is no value in the amenity properties as the value of the homes would be less without the amenities. The value of the amenities is already captured in the value of each residence within Marina Bay and, by assessing the amenities separately, the homeowners and the homeowners association are being assessed twice.

[10] The homes within the Marina Bay complex are valued using the Direct Comparison Approach and, without the amenity properties, would sell for and be assessed at a lower value.

[11] The Complainant recognizes that an assessment cannot be zero and therefore requested a nominal value of \$1000 per assessed property.

[12] Each Marina Bay homeowner, by means of an encumbrance placed on their property, becomes a member of the Marina Bay Homeowners Association and holds an interest in the homeowners association's common property upon purchasing a home within Marina Bay. Each Marina Bay homeowner has no choice but to become a member of the homeowners association; however, if they relinquish their membership by expulsion of free will, each homeowner must continue to provide funding for the amenity properties. In addition, if a homeowner wishes to utilize the boat slip there are additional fees (C1 pp. 26-30 and 41-50). During questioning from the Respondent the Complainant admitted that the homeowners association does lease a boat slip or two, if they have extra over and above the needs of the homeowners; however, the Complainant didn't seem to know the fee.

[13] The Complainant provided assessment information for each of the ninety-five homes within Marina Bay showing a range between \$517,890 and \$1,101,950 with a median of \$678,030 and a mean of \$696,494 (C1 pp. 61-63). The Complainant argued that these properties would not be valued as high if the amenities were not present, the value of the amenities is captured in the home values resulting in a double assessment of the amenities.

[14] The Complainant posed several questions of the Respondent including questioning on the 25% reduction in assessment for lack of utility versus the parcel with tennis courts and boat storage that has a 40% reduction in assessment for four different influences. The Complainant suggested that if an above water improved parcel warrants 40% influence reduction then the flooded subject should have a greater influence reduction of perhaps 90%.

[15] The Complainant during summation indicated that all parties agree that the homeowners association is a non-profit association and all three properties are owned by the Marina Bay Homeowners Association and the residents of Marina Bay own the Marina Bay Homeowners Association with the market value being captured in their value of each individual home. Therefore, the subject parcels should be assessed at a nominal value with a requested value of \$1000.00 per parcel.

[16] The Complainant continued suggesting that if the Board did not agree on the nominal value then the land underwater should receive a 90% reduction for lack of utility versus the current 25% reduction.

[17] **Respondent:** The Respondent described the first parcel as a 6,232 Square foot parcel with 1,500 square foot improvement referred to as the Yacht Club. This property has been assessed since 1989 (R1 Tab 1).

[18] The Respondent described the second parcel as a five acre parcel with approximately 109 boat slips (sketch provided R1 Tab 7). From 1989 until 2012 this parcel had been exempted. In 2012 the Respondent became aware of the License of Occupation (R1 Tab 10) in place through the Province of Alberta. The Assessor has the duty (R1 Tab 11) to assess all assessable property within a municipality and with this revelation the Respondent must prepare an assessment. In addition there is a water slide near the subject that exists under a License of Occupation that has been assessed in a similar manner (R1 Tab 2).

[19] The Respondent testified that one or more slips are rented out to the Yacht Club (R1 Tab 10) and based on the reported boat slip income the value should be over \$1.3 million using the Income Approach to Value. Alternatively the boat slips valued at \$12,000 each would create an assessment of \$1.3 million as well (R1 Tab 2).

[20] The Respondent provided 21 sales comparables of boat slips with individual titles that have sold on a nearby parcel ranging from \$56,000 to \$75,000 each (R1 Tab 3). In addition a map is provided to show the proximity and comparability of the boat slips (R1 Tab 7).

[21] The Respondent described the third parcel as a 36,164 square foot parcel used for boat storage and tennis courts. It has own legal description and is not part of a bare land condominium plan. The use is restricted to the homeowners of Marina Bay with the general public restricted (R1 Tab 4).

[22] The Respondent provided typical assessment values for land parcels on the Sylvan Lake waterfront located in a variety of municipalities showing the homeowners of Marina Bay are not paying a premium for their properties because of the amenities as argued by the Complainant. The Respondent also provided results of the provincial audit to show that their assessments are reflective of sales with Marina Bay having eight sales with an assessment to sales ratio of 0.98 (R1 Tab 5 and Tab 8).

[23] The Respondent argued that none of the subject parcels are condominium parcels and are not comparable to common bare land condominium property that is not assessed in the municipality (R1 Tab 6).

[24] In conclusion the Respondent indicated the subject parcels are not established as common property or a condominium and does meet the definition as a parcel. The Complainant hasn't shown that the homeowners of Marina Bay property values are enhanced by the amenities. The fees are only for maintenance, does not state that part of a common property (R1 Tab 9).

[25] **Board Finding:** The Board is not convinced the circumstances surrounding the Calgary decisions, in regards to adjacent and required parking for retail operations, are comparable to the subject properties as the Marina Bay residents can exist without the club house, marina (boat slips), or tennis court, and they are not essential to operation of the Marina Bay Homeowners Association

[26] For the two properties that remain above water, arguments were presented; however, onus is not met. The assessments are confirmed.

[27] The 5.03 acre property meets the definition of a parcel and was arable, useable, developable, and has been developed for the purpose of a marina by excavation and flooding with the permission of the Province of Alberta through the issuance of a License of Occupation. The choice to dredge and flood the property is a conscious choice and therefore is assessed at market value.

### **SUMMARY**

For the reasons noted above the assessed values of the subject properties are CONFIRMED as follows:

|                           |                      |                      |                      |
|---------------------------|----------------------|----------------------|----------------------|
| <b>ROLL NUMBER:</b>       | 00212900             | 00213200             | 00216000             |
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| <b>ASSESSMENT:</b>        | \$555,740            | \$1,352,790          | \$385,500            |

Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 9 day of December, 2013 and signed by the Presiding Officer on behalf of all three panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.

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Jeffrey Dawson, Presiding Officer

**This decision can be appealed to the Court of Queen's Bench on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 470 of the Municipal Government Act which requires an application for leave to appeal to be filed and served within 30 days of being notified of the decision. Additional information may also be found at [www.albertacourts.ab.ca](http://www.albertacourts.ab.ca).**

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**APPENDIX "A"**

Documents Presented at the Hearing  
and considered by the Board

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- | <u>NO.</u> | <u>ITEM</u>                     |
|------------|---------------------------------|
| 1. C1      | Complainant Disclosure          |
| 2. R1      | Respondent Disclosure           |
| 3. C2      | Complainant Rebuttal Disclosure |

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|---------------------------------|---------------|-------------------|---------------------|--------------------------------|
| Appeal Type                     | Property Type | Property Sub-Type | Issue               | Sub-Issue                      |
| CARB                            | Recreation    | Other Recreation  | Cost/Sales Approach | Land & Improvement Comparables |

