

Central Alberta

Regional Assessment Review Board

CARB 0310 1273 2019

Complaint ID 1273

Roll No. 00793900

COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: November 14, 2019

PRESIDING OFFICER: J. DAWSON

BOARD MEMBER: A. GAMBLE

BOARD MEMBER: L. MCLEVIN

BETWEEN:

SYLVAN LAKE HARBOUR LTD.

Complainant

-and-

THE 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 the Assessor for The Town of Sylvan Lake as follows:

ROLL NUMBER: 00793900
MUNICIPAL ADDRESS: 5320 Lakeshore Drive, Sylvan Lake, AB
ASSESSMENT AMOUNT: \$ 609,380

The complaint was heard by the Composite Assessment Review Board on the 14th day of November 2019, in Council Chambers of the Sylvan Lake municipal building within the town of Sylvan Lake, in the province of Alberta.

Appeared on behalf of the Complainant:

A. IZARD Agent, Altus Group
H. WYATT Witness

Appeared on behalf of the Respondent:

K. BOHLKEN Property Assessor, Wild Rose Assessment Services Inc.

DECISION:

1. The complaint is accepted on the subject property. The assessment value is changed to a nominal value of \$100.

JURISDICTION:

2. 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.

PROPERTY DESCRIPTION AND BACKGROUND:

3. The subject property is a non-residential property located within the Town of Sylvan Lake. The site is a 22,711 square foot (0.52 acres) parcel with boat launch access to Sylvan Lake and fronting Lakeshore Drive with a land use designation of LDC. On site is gas tank and pump with a card lock.
4. The assessment was calculated using the replacement cost approach:

Component	Value	Total
Land	22,711 square feet at \$13.44	\$691,568
Land -15% location		(\$103,735)
Boat Gas – 11 square feet	Depreciated Replacement Cost	No value provided
Concrete and Asphalt Paving: Boat Launch – 807 square feet	Depreciated Replacement Cost	No value provided
	Total	\$587,830

PRELIMINARY MATTERS:

5. The Board Chair confirmed that no Board Member raised any conflicts of interest regarding the matters before them.
6. Neither party raised any objection to the panel hearing the complaint.
7. No additional preliminary or procedural matters were raised by any party. Both parties indicated that they were prepared to proceed with the complaints.
8. The Board confirmed the submissions of the parties and entered the Exhibits into the record. See Appendix for details.

ISSUES:

9. The Board considered the parties' positions and determined the following questions are to be addressed within this decision:

Is the subject property a public roadway?

Is the value of the property captured by the assessment of other properties?

What is the correct assessment value for the subject property?

POSITION OF THE PARTIES:

Position of the Complainant

10. The Complainant requested a nominal value of \$100 to reflect two facts about the subject property;
- I. that the property forms part of a public roadway used to access the marina, storage garage and parking. And
 - II. given the restrictions on title, and the development agreement restrictions imposed by the municipality.
11. The Complainant further explained that any value, for assessment purposes, is already captured with the assessment of 174 boat slips within the marina given the taxpayer is required to provide access on, over and through the parcel for access to the marina.
12. The Complainant provided examples of the 174 boat slip assessments (averaging \$50,000 per boat slip) showing the same municipal address as the subject property except for the boat slip number.
13. The Complainant explained that the boat slip owners have access to their slip through the subject property by means of the public access. Without the access the value of the slips would be significantly less.
14. In rebuttal, the Complainant presented that the Respondent provided the same evidence in this hearing as it did for a different hearing though the values are very different in each assessment.
15. The Complainant explained that a fence was installed for liability reasons and the hours of operation are dictated by the financial viability of the service being provided.
16. The Complainant indicated that the municipality, which had considered purchasing the subject property, rejected a value of \$657,540 further showing that the assessment is not accurate.
17. The Complainant argued the sales evidence of the Respondent is not similar to the subject property and, regardless of the perception that lake shore property is worth more than other similarly designated land, there is no evidence to support the assessed value.

18. The Complainant provide its interpretation of the term special purpose property in context to the Alberta assessment regime to illustrate the property is not special as purported by the Respondent.
19. The Complainant included several board and court decisions and argued the merits of the subject being either a public roadway with no assessible value or the value is captured in the value of the boat slips. In either case, a nominal value of \$100 is appropriate.
20. The Complainant further argued that the Respondent failed to address the issues of the complaint.
21. The Complainant provided a witness regarding the relationship between the marina boat slips and the subject property.

Position of the Respondent

22. The Respondent explained the history of the site indicating that the subject parcel was once part of a 4.9-acre lakefront property that sold in 2010 for \$3,350,000 and was subsequently subdivided into numerous parcels in 2013 and 2014. The subject parcel is now 0.52 acres and contains an improvement with a boat launch.
23. The Respondent argued that the Complainant accepted a value of \$1.189 million dollars, within the assessment cycle, from the municipality that included 10 boat slips and a 2-year lease of 1,623 square feet of commercial space.
24. The Respondent urged that a standard of reasonableness must be exercised in the valuation of this special property. The term special was rescinded at the hearing.
25. The Respondent indicated that the subject property is developed with a boat launch and has a slight irregular shape. There are access easements and building restrictions; however, it is not registered as a road plan.
26. The Respondent argued that the placement of a fence and the addition of exorbitant boat launch fees with restrictive hours of operation has removed the public access.
27. The Respondent explained the subject property is the only property of its kind with a boat launch within the municipality. This combined with the high demand for access to the lake increases the value of the property.
28. The Respondent also confirmed there are no other properties to compare based a price per square foot.
29. The Respondent argued that the municipality and the Complainant agreed on a value for the land – showing a willing buyer and willing seller arrangement. The sale was rejected due to legal concerns and not the price which shows that the assessment is accurate.
30. The Respondent provided five sales of non-residential land to support its assessment:
 - I. 4620 and 4622 43 Street sold as two separate parcels of 0.08 acres (3,422 square feet) at a value of \$29.22 per square foot. The sales occurred in August 2016 between one vendor and one purchaser. The lots are part of a previous fire hall and have redeveloped

-
- into a retail store. These sales are in the centre of town and considered an inferior location.
- II. 10 Pelican Place sold as a single parcel of 0.24 acres (10,548 square feet) at a value of \$20.38 per square foot. The sale occurred in October 2016. The lot was purchased to develop a small-scale retail building. This sale on the south end of town is considered an inferior location.
 - III. 5038 49 Street sold as two separate parcels of 0.16 and 0.18 acres (7,170 and 7,880 square feet) at a value of \$29.28 and \$26.65 per square foot. The sales were not used to calculate the assessment and are considered *post facto* and are provided for comparison purposes. The sales occurred in October 2018 between one vendor and one purchaser.
31. The Respondent recorded the sales as five separate transactions and calculated a mean of \$26.65 and a median of \$29.22.
 32. The Respondent argued that these sales more than support its \$25.88 per square foot assessment.
 33. The Respondent summarized by arguing that the subject property is in high demand with outside sources proving that it would cost far more for the municipality to replicate it and build a new boat launch. The Respondent requested that the assessment be confirmed at \$609,380.

BOARD FINDINGS and DECISION

REASONS

34. The Board heard evidence regarding the relationship between the marina boat slips and the subject property and finds the witness is not credible for the purposes of this decision because the witness is not an owner, an assessed person or an expert witness.
35. The Board considered all the evidence presented and finds the sales presented by the Respondent are not comparable to the subject property for location, access to Lakeshore Drive, and land use designation.
36. The Board finds no market evidence from either party to establish a market value for the subject property. The Respondent provided an unsolicited sale attempt that was involving the municipality that did not conclude. The Board does not accept this evidence as an indication of market value.
37. The Board considered the merits of the subject being assessed as a roadway and deferred a decision on this point in favour of the argument regarding value being captured within the other assessments.
38. The Board finds the subject property is servient to the adjacent parcel containing the 174 boat slips with the same municipal address and the subject property's value is captured in the approximate \$50,000 assessment value of each boat slip.

-
39. The assessment value is changed to a nominal value of \$100.
40. It is so ordered.

DECISION SUMMARY

41. The subject property improvement values and land value are changed resulting in an overall change of assessment to a nominal value of \$100.
42. Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 13 day of December, 2019 and signed by the Presiding Officer on behalf of all the panel members whom agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.


For J. DAWSON
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.

<u>NO.</u>		<u>ITEM</u>
1.	A.1	– Hearing Materials provided by Clerk (13 pages)
2.	C.1	– Complainant Disclosure (398 pages)
3.	R.1	– Respondent Disclosure (22 pages)
4.	C.2	– Complainant Rebuttal Disclosure (315 pages)