
Complaint ID 0051 1534
Roll No. 3060

LOCAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: October 28, 2021

PRESIDING OFFICER: A. Gamble
BOARD MEMBER: R. Irwin
BOARD MEMBER: S. Roberts

BETWEEN:

BERNICE KADATZ

Complainant

-and-

VILLAGE OF CARBON
REPRESENTED BY WILDROSE ASSESSEMENT SERVICES

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 Village of Carbon as follows:

ROLL NUMBER: 3060

MUNICIPAL ADDRESS: 1006 Railway Street, Plan 8510541, Block 32, Lots 1 & 2, Carbon, AB

ASSESSMENT AMOUNT: \$ 364,910

The complaint was heard by the Local Assessment Review Board on the 28th day of October 2021, via Video Conference, in the province of Alberta.

Appeared on behalf of the Complainant: Bernice Kadatz

Appeared on behalf of the Respondent: David Clark, Wildrose Assessment Services

DECISION: The assessed value of the subject property is confirmed as \$364,910.

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 2.63 acre parcel located to the south and across the bridge from the main area of the Village of Carbon. When the Complainant purchased the property in 2018, Lots 1 and 2 were separate titles. Since then, the two titles have been consolidated. The property has 2 main improvements including a house with attached garage and an archrib style structure.
- [3] Kneehill Creek borders the north property boundary. Aberdeen Avenue, which is a municipal road, borders the east property boundary. Railway Street, which is a municipal stub road, is adjacent to an undeveloped road allowance and is south of lot 1 of the subject property.
- [4] Railway Street and the land west of it were formerly “CPR Station Grounds” as shown on a map dated May 30, 1984 from the Palliser Regional Planning Commission, which was included in the Hearing Materials package.
- [5] The former CPR Station Grounds, except for the Railway Street stub, is now privately owned by the Alberta TrailNet Society.
- [6] Access to the subject property is gained by first travelling on Railway Street and then proceeding on a gravel road on the Alberta TrailNet Society property, which leads to the subject property’s driveway. There is an access agreement with the Alberta TrailNet Society which allows the property owner legal access to her land. The agreement states that road users are “responsible for normal repair and maintenance”.
- [7] The gravel road on the Alberta TrailNet Society property is also used for property access by a neighbour to the west of the subject property, and by the general public.

PRELIMINARY MATTERS

- [8] The Presiding Officer confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [9] Neither party raised any objection to the panel hearing the complaint.
- [10] The Complainant advised the Board that the subject property’s civic address, which appears on the 2021 Taxation Notice & Property Assessment as 1006 Railway Street, may be incorrect because Railway Street is a very short stub road and she is unsure whether her property is actually on Railway Street. It was noted that the assessment also indicates the legal land location of the property is Plan 8510541, Block 32, Lots 1 & 2.

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- [11] Both the Complainant and the Respondent agreed that the legal land location on the notice is correct, and that there is no disagreement as to which property is the subject property for this matter.
- [12] Section 4 of the Complaint Form identifies one matter for this complaint. The Complainant marked box #9 which is “whether the property or building is assessable”. Section 5 of the Complaint Form indicates that the requested assessed value is \$3972.34. The Complainant stated that she found it difficult to determine which of the thirteen options on the form was most relevant to her unique situation, and that she likely made a mistake by choosing box #9. The Complainant commented that in hindsight box #3, “an assessment amount”, would have been a better choice. Also, the requested assessed value of \$3972.34 actually represents 80% of her current taxes payable, and not the requested assessed value.
- [13] The Respondent was understanding of the Complainant’s error and graciously agreed to continue with the hearing addressing the assessed value rather than whether the property or building is assessable.
- [14] No additional preliminary or procedural matters were raised by any party. Both parties indicated that they were prepared to proceed with the complaints.
- [15] 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

- [16] The Complainant stated that due to the unique location of her property, access is not to the same standard as other properties in the Village of Carbon which have paved roads that are constructed and maintained by the municipality. She commented that the gravel road on the Alberta TrailNet Society property that leads to her driveway requires drainage improvements and that during spring runoff the road can become impassable. According to the access agreement, such improvements are the responsibility of the users. Maintenance of the road such as snow removal and grading are also the responsibility of the users. The access agreement states that the road can be used by the general public, so the Complainant does not believe that it is right for her to be financially responsible for these costs.
- [17] The Complainant stated that the assessed value of the subject property needs to reflect the costs of improving drainage and maintaining the road, and requested an 80% reduction in taxes.
- [18] The Complainant stated that the Respondent did make an adjustment to the property’s assessed value based on dust concerns.
- [19] During questioning from the Board, the Complainant stated that when she purchased the property in 2018 she was not aware of the access agreement, as it was signed by a previous landowner.
- [20] The Complainant argued that property access and assessed value are related, and for this reason the assessed value of the subject property should be reduced.

Position of the Respondent

- [21] The Respondent stated that the subject property was assessed using the direct comparison approach. However, because he understood from the complaint form that the matter under consideration was whether or not the property or buildings were assessable, data about direct comparisons are not included in his disclosure document.
- [22] Because the gravel access road to the property is not on municipal land but is on land privately owned by the Alberta TrailNet Society, and there is legal access to the subject property through an access agreement, the Respondent stated that the road is essentially considered the same as a private driveway. Therefore, the municipality is not responsible for its maintenance.
- [23] The Respondent explained that the Complainant purchased the subject property in 2018 (at that time 2 separate lots) for \$405,000. The 2018 assessment for the two lots combined was \$381,560. The 2019 assessment was \$366,630. The original 2020 assessment for the subject property was \$371,410. However, when the Complainant expressed a concern about dust from the unpaved road, a 5% revision was made to the land value to account for this nuisance concern.
- [24] The Respondent respectfully requested that the assessed value of \$364,910 be confirmed.

BOARD FINDINGS and DECISION

- [25] Regarding the preliminary matter about the subject property's civic address, the Board notes that both the Complainant and the Respondent acknowledged they were talking about the property at legal land location Plan 8510541, Block 32, Lots 1 & 2, whether or not it is properly identified as 1006 Railway Street. The Board finds that all agree on the location of the subject property, regardless of its civic address.
- [26] Regarding the preliminary matter about what issue is before this Board, both the Complainant and Respondent agreed that although "whether the property or building is assessable" was checked on the complaint form, the complaint is about "an assessment amount". The Board understands that there are thirteen options on the form to choose from, and it can be difficult to discern which is most applicable to a particular situation. The Board appreciates the Respondent's understanding and flexibility on this matter and his agreement to continue with the hearing, and finds that the most appropriate matter to consider is "an assessment amount".
- [27] The Complainant argued that the condition and maintenance of the access road to the subject property is not to the same standard as other properties in the Village of Carbon. This results in a direct financial cost to her, therefore her taxes payable should be reduced to 80% or \$3972.34. The Board finds that it does not have the jurisdiction to set property taxes, therefore we cannot consider the property tax reduction suggested by the Complainant.
- [28] The Complainant stated that access to property and its assessment amount are related. Due to the below village standard of this subject property's access, its assessment should be reduced. However, the Complainant did not suggest an assessment amount and did not provide any

comparable data for the Board to review. An Assessment Review Board can only consider evidence provided during a hearing, and cannot do its own research. Without specific data, which is the Complainant's responsibility to provide, the Board has no means to re-evaluate an assessment. Therefore, the Board finds that it cannot change the assessed value of the property due to lack of detailed information from the Complainant.

DECISION SUMMARY

[29] The Board finds that the Respondent's assessed value is confirmed as \$364,910.

[30] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 12th day of November, 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.



A. Gamble, 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 Hearing Materials – 16 pages provided by Clerk
2. C Complainant Submission 4 pages
3. 4 Respondent Submission – 14 pages