



Complaint ID 0262 1537
Roll No. 30001623765

LOCAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATES: FRIDAY MAY 27 and TUESDAY MAY 31, 2022

PRESIDING OFFICER: D. DEY
BOARD MEMBER: R. IRWIN
BOARD MEMBER: S. ROBERTS

BETWEEN:

DANIEL GILLILAND

Complainant

-and-

REVENUE & ASSESSMENT SERVICES
For The City of Red Deer

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 City of Red Deer as follows:

ROLL NUMBER: 30001623765

MUNICIPAL ADDRESS: 4645 42 ST CRES, Red Deer, AB

ASSESSMENT AMOUNT: \$278,400

The complaint was heard by the Local Assessment Review Board beginning on May 27, 2022 and concluding on May 31, 2022, via Video Conference within the Province of Alberta.

Appeared on behalf of the Complainant: Daniel Gilliland, Property Owner

Appeared on behalf of the Respondent: Jason Baumbach, Property Assessor, City of Red Deer
Kurtis Hall, Property Assessor, City of Red Deer

DECISION: The assessed value of the subject property is confirmed at \$278,400.

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 standard quality two-bedroom, one bathroom, 1158 square foot bungalow-style residence that was built in 1994 with an effective year of 1996. The effective year takes into account renovations completed in 2017. The side-by-side (row style) multiple housing unit has a front attached garage and a below grade crawl space located on a 3333 square foot lot.

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] There was a preliminary issue recognized by the Board in respect to the Complainant Rebuttal not being received by the Respondent.

PRELIMINARY MATTER – COMPLAINANT REBUTTAL SUBMISSION**Position of the Complainant**

- [6] The Complainant explained that for his initial submission of the Assessment Review Board Complaint, he hand delivered 4 hard copies to Red Deer City Hall for staff to distribute. He further explained that he submitted the Rebuttal by email to the Clerk before the May 24, 2022 deadline.
- [7] The Complainant then told the panel he thought he had complied with directions properly and that all documents were processed and distributed through the Clerk.
- [8] The Complainant emphasized that he desired the Rebuttal document to be included as evidence for the hearing.

Position of the Respondent

- [9] The Respondent stated that the Rebuttal document had not been received by Assessment Services. As such, they were not able to review the Rebuttal prior to the hearing, were unprepared to address its contents and did not wish to have it submitted as evidence.
- [10] Upon questioning by the Board, the Respondent commented that if they would be given some time to review the Rebuttal document, they would be willing to allow it to be submitted as evidence.

Board Findings and Decision

- [11] The Board understands that the Complainant believed he had properly submitted the Rebuttal document and that the Clerk would distribute it in the same fashion as his initial Assessment Review Board Complaint. The complaint form directs that submission be made to the person and address shown on the assessment notice or tax notice.

- [12] The Board reviewed exhibit A.1, page 3, which is the Notice of Hearing dated April 7, 2022 sent by the Central Alberta Assessment Review Board to both the Complainant and the Respondent. The notice advises that the Complainant and Respondent must share with the opposing party and the Board all information they plan to present at the hearing by specified deadlines.
- [13] The Board finds that the wording in the Notice of Hearing places the responsibility for sharing hearing materials on the Complainant and Respondent, not the Clerk. This is consistent with section 5 disclosure of evidence of the *Matters Relating to Assessment Complaints Regulation* ["MRAC"]. However, the Board understands the Complainant's belief about how materials would be distributed due to his experience in filing the initial complaint.
- [14] The Board considered the fairness of the Complainant's position of wanting the Rebuttal to be included as evidence for the hearing versus the Respondent's position of not being able to address its contents without being given adequate time to review it.
- [15] After discussion with all Parties, it was agreed that it would be reasonable to allow the Respondent until May 31 to review the Rebuttal. The Complainant verified that he would immediately send his Rebuttal to the Respondent by email.
- [16] The Board determined that the best course of action would be to adjourn the hearing until May 31, 2022 at 1 pm, when the Respondent would be willing to allow the Rebuttal to be included as hearing evidence.
- [17] No additional preliminary or procedural matters were raised by any party.

POSITION OF THE PARTIES

Position of the Complainant

- [18] The Complainant stated that it was unfair to base property assessments on market value and commented that reductions to property assessments should be granted for public utility influences and commercial/traffic noise.
- [19] As evidence of public utility influences on the subject property, the Complainant brought the Board's attention to photos in Exhibit C.1 which shows large utility service boxes and a fire hydrant adjacent to the lot.
- [20] The Complainant stated that there is heavy traffic on his roadway due to the Parkvale Lodge, nearby townhouses, and the Farmer's Market. It is common for drivers to make illegal U-turns to be able to park in front of the townhouses, and the seniors' complex driveway is very busy.
- [21] The Complainant stated that homeowners should not be assessed on unattached goods (chattels) inside the house such as appliances.
- [22] The Complainant then described his purchase of the subject property as a situation that included "undue stimulus" because of the possession date of his previous house, and felt his \$280,000

purchase price was higher than the reasonable market value for this property type in the Parkdale location.

- [23] The Complainant suggested that the assessed value should be reduced from \$278,400 to \$240,000. When questioned by the Board the Complainant disclosed that the \$240,000 requested amount was a starting point for negotiation and he stated somewhere between \$240,000 and \$278,000 would be fair.
- [24] The Complainant presented his list of 5 comparable properties with sale prices ranging from \$235,000 to \$265,000 to support his position.
- 4630 42 Street Crescent sold for \$235,000 on August 22, 2020 and its assessment was \$244,000.
 - 14 Dale Close in Deer Park sold for \$247,500 on March 5, 2021 and its assessment was \$239,700.
 - 47 Rowell Close is a half duplex with a full basement and a lot size of 4525 square feet which sold for \$265,000 on February 12, 2021 and is assessed at \$268,000.
 - #6, 5125 62 Street a row house locate in Village Park Estates built in 1994 sold on June 9, 2021 for \$252,000 and has an assessed value of \$263,000.
 - 4646 42 Street Crescent (across the street) is an exact replica of the subject property that sold for \$246,500 and its assessment is \$278,400.
- [25] The Complainant explained he felt his house having a crawl space made it inferior to houses with basements, therefore his property should be assessed at a lower value.

Position of the Respondent

- [26] The Respondent advised the Board that although the Complainant believes assessing property using a mass appraisal or market value approach is unfair, it is in accordance with the guiding legislation for assessors.
- [27] The Respondent stated that reductions in property assessment must be supported with market evidence to warrant any adjustment. The Respondent reviewed two nearby sales that back onto a busier roadway than the subject property and found that neither had an assessment reduction for traffic influences. It was also noted that the utility boxes the Complainant referred to are not located on the subject property and were there at the time he purchased the property.
- [28] The Respondent stated that house sales that include appliances are typical. If exceptional appliances or inclusions are present they may be considered when determining the assessed value of properties. The Respondent was not aware of any exceptional chattels at the subject property but noted that renovations and upgrades were reported on a previous request for information sent out by the City.
- [29] With respect to Assessment Equity, the Respondent stated that there are 32 properties within the 42 Street Crescent area of Parkvale all sharing the same building type. They range in size from 1030

square feet to 1401 square feet and the assessment range is between \$240,800 and \$311,100. The median assessment is \$252 per square foot. The subject property is assessed at \$240 per square foot (Exhibit R1, PDF 14/40).

- [30] With respect to fairness the Respondent provided four comparable sales of similar properties in the same area as the subject property. The comparable sales had adjusted sales price per square foot ranging from \$230.04 to \$267.76 with the subject property being at the lower end of this range at \$241.80 per square foot.
- [31] The Respondent referred to the Complainant's comparables and noted that 4630 42 Street Crescent has a smaller house size and lot size, which accounts for its lower assessment than the subject property. 4646 42 Street Crescent (across the street) was sold on January 12, 2022, outside of the valuation period of July 1, 2020 to June 30, 2021, and cannot be considered for this assessment period.

BOARD FINDINGS and DECISION

- [32] The Board reviewed legislation regarding how properties are to be appraised (Appendix B, attached). Accordingly, the Board finds that the method used by the appraisers to determine the subject property's assessed value is correct according to the relevant legislation.
- [33] The Board considered the Complainant's concerns regarding traffic noise and the utility boxes. The Board was not convinced by the Complainant's testimony, or any market evidence presented at the hearing, that a reduction in the assessment was warranted based on these factors.
- [34] The Board considered the Complainant's argument that chattels should not be included in assessments, and the Respondent's position that although exceptional chattels are not normally assessed, standard appliances are typically included in house sales. The Board agrees that standard appliances are typically included in house sales. Given that there was no evidence provided by the Complainant showing that the subject property has exceptional chattels, the Board does not agree that the subject property's assessment should be reduced due to chattels.
- [35] The Board reviewed comparable properties provided by both parties. The Board finds the Respondent demonstrated assessment equity through the comparison of the subject property (\$240 per square foot) with five assessments of similar properties within the 42 Street Crescent area which ranged from \$237 per square foot to \$265 per square foot.
- [36] The Board reviewed the comparable sales presented by the Complainant and found the following:
- 4630 42 Street Crescent, which sold on August 22, 2020 for \$235,000, was the same as the Respondent's Sale No.3 which was given an adjusted sale price of \$230.49 per square foot. This was lower than that of the subject property which was \$241.80 per square foot. The Board notes the lower price per square foot is due to the property being a smaller house on a smaller lot.

- 14 Dale Close in Deer Park, which sold for \$247,500 on March 5, 2021 with an assessment of \$239,700, was presented by the Complainant as comparable noting its location on a close and having a Preserved Wood foundation with a crawl space. The Board gave little weight to this sale noting it was outside the subject neighbourhood.
- 47 Rowell Close, a half duplex with a full basement and a larger lot size that sold on February 12, 2021 for \$265,000 and an assessment of \$268,000, was also presented by the Complainant as a comparable sale. The Panel notes this sale is for a different type of structure and not in the subject neighbourhood which limits its consideration as a comparable sale.
- #6, 5125 62 Street is a row house located in Village Park Estates which sold on June 9, 2021 for \$252,000 and has an assessed value of \$263,000, was presented as a comparable by the Complainant based on similar date of construction and being on a close. The Board notes this sale was not in the subject neighbourhood and finds this location difference limits it as a comparable sale.
- 4646 42 Street Crescent located across the street from the subject property was presented by the Complainant as a comparable sale. Further, it is an exact replica of the subject property and sold for \$246,500 with an assessment of \$278,400. The Board puts no weight on this sale as it occurred outside of the valuation date for this assessment period and this not in accordance with legislative timelines.

[37] The Board finds the Respondent sales analysis demonstrated fair treatment of the subject property. The Board agrees with the Respondent's suggestion that 4626 42 Street Crescent is a good comparable to the subject property as it is also standard construction, was also built in 1994, was sold within the appropriate valuation period and also has a crawl space. Although the house square footage is smaller than the subject property, its lot size is larger. Its adjusted sale price was \$285,700, its adjusted cost per square foot is \$267.76, and its assessment is \$275,600. Based on this evidence, the Board finds that no change is required for the subject property's assessed value due to it having a crawl space rather than a basement or for the claim that the property was purchased under "undue stimulus" because of the possession date of the Complainant's previous house.

[38] Regarding the Complainant's statement that the \$240,000 requested assessment amount was a starting point for negotiation, the Board advises the Complainant that a request to an assessment board to reduce an assessment amount is not a negotiation process. Section 467(3) of the MGA states:

(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- (a) the valuation and other standards set out in the regulations,
- (b) the procedures set out in the regulations, and
- (c) the assessments of similar property or businesses in the same municipality.

DECISION SUMMARY

[39] The Board finds that the original assessed value is confirmed as \$278,400.

[40] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 29th day of June, 2022 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.



Dennis Dey
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 – 4 pages provided by Clerk
2. C.1	Complainant Submission – 20 pages
3. C.2	Complainant Rebuttal – 3 pages
4. R.1	Respondent Submission – 40 pages

APPENDIX B

Legislative Authorities Considered by the Board

MUNICIPAL GOVERNMENT ACT, RSA 2000, CHAPTER M-26 (THE MGA)

Proceedings before assessment review board

464(1) Assessment review boards are not bound by the rules of evidence or any other law applicable to court proceedings and have power to determine the admissibility, relevance and weight of any evidence.

Notice to attend or produce

465(1) If, in the opinion of an assessment review board hearing a complaint,

- (a) the attendance of a person, or
- (b) the production of a document or thing,

is required for the purpose of the hearing, the board may, on application, cause a notice to be served on a person requiring a person to attend or to attend and produce the document or thing.

(2) An application under subsection (1) must be made in accordance with the regulations made under section 484.1(n.1).

(3) If a person fails or refuses to comply with a notice served under subsection (1), the assessment review board may apply to the Court of Queen's Bench and the Court may issue a warrant requiring the attendance of the person or the attendance of the person to produce a document or thing.

MATTERS RELATING TO ASSESSMENT COMPLAINTS REGULATION, 2018**Disclosure of evidence**

5(1) In this section, “complainant” includes an assessed person or taxpayer who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a local assessment review board panel, the following rules apply with respect to the disclosure of evidence:

- (a) the complainant must, at least 21 days before the hearing date,
 - (i) disclose to the respondent and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and
 - (ii) provide to the respondent and the local assessment review board an estimate of the amount of time necessary to present the complainant’s evidence;
- (b) the respondent must, at least 7 days before the hearing date,
 - (i) disclose to the complainant and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and
 - (ii) provide to the complainant and the local assessment review board an estimate of the amount of time necessary to present the respondent’s evidence;

- (c) the complainant must, at least 3 days before the hearing date, disclose to the respondent and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION, 2018

Mass appraisal

5 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.