

# Central Alberta

Regional Assessment Review Board

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Decision #: LARB 0310 596/2013

Complaint ID: 596

Roll No.: 00034900

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## REGIONAL ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: October 17, 2013

PRESIDING OFFICER: A. KNIGHT

BOARD MEMBER: V. KEELER

BOARD MEMBER: R. SCHNELL

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BETWEEN:

ROBERT KERKKAMP

Complainant

-and-

TOWN OF SYLVAN LAKE

Respondent

This is a complaint to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by the Assessor of Red Deer County and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	00034900
MUNICIPAL ADDRESS:	5103 48 Avenue
ASSESSMENT	\$198,490

The complaint was heard by the Regional Assessment Review Board (hereinafter referred to as "the Board") on the 17 day of October, 2013, at the Municipal Government Building, in Council Chambers, at the Town of Sylvan Lake.

Appeared on behalf of the Complainant: Robert Kerkkamp

Appeared on behalf of the Respondent: Cal McArthur  
Jason Pohl (Observing)

### **JURISDICTION**

The Central Alberta Regional Assessment Review 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 the *City of Red Deer Assessment Review Board Bylaw 3441/2009*.

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

No procedural or jurisdictional matters were raised by either party.

### **PRELIMINARY MATTER**

The following Preliminary Matter was brought forth:

The Complainant advised that two corrections needed to be made to the hearing materials that were filed with the Board and the Respondent. The Complainant requested to amend the 2012 Assessment Information (2011 Assessment) total on page 2 of Exhibit A.1. from \$245,350.00 to \$202,620.00.

The Complainant also requested a correction to Exhibit C.2, page 4, with the title "Explanation of Google Earth Satellite Photos (2), paragraph 4, "The corner of 51 Street and 47 Avenue...", amended to 47A Avenue.

The Board made the amendments to both Exhibit A.1 and Exhibit C.2.

### **BACKGROUND**

The subject property is an 839 square foot single family dwelling built in 1930, located at 5103-48 Avenue in the Town of Sylvan Lake. The lot is approximately 13,000 square feet. The subject property assessed as follows:

Improved (House)	\$25,310
Land	<u>\$173,180</u>
Total	\$198,490

### **ISSUES AND FINDINGS**

#### **1. Should the assessed value of the property be reduced because of the new infrastructure?**

[1] **Complainant:** The Complainant agreed with the 2013 Assessment Improved value of \$25,310 , but disputed the Land Value of \$173,180.00

[2] The Complainant argued that the improvement made to 51<sup>st</sup> street (51<sup>st</sup> Street Improvements) resulted in the street being at a higher elevation than the subject property which has the effect of creating natural drainage onto the subject property. The Complainant presented to the Board photographs of the street to support this assertion (Exhibit C.1, pages 7, and 8).

[3] Less than a year after it was installed there is cracking in the sidewalk and asphalt adjacent to the subject property. The Complainant argued that the cracking indicates that there is too much subsurface water.

[4] Google Earth satellite photos were provided to the Board showing the “tremendous amount of asphalt and concrete” that was used for the 51<sup>st</sup> Street Improvements. The Complainant argued that these materials are impervious to water, causing the diversion of water onto the subject property. It is the Complainants position that the poor road infrastructure on 51<sup>st</sup> street has decreased the value of the subject property.

[5] The Complainant stated that landscaping completed by the Town directs excess water onto the subject property. Attempts to mitigate the additional drainage by installing a berm and shrubs, have had very little success.

[6] In response to the sales comparisons presented by the Respondent, the Complainant noted that only the total assessed value for the sales comparisons have been presented. Without a breakdown of the Improved and Land assessed values for each property, the Respondent’s sales comparisons do not establish that the subject assessed Land value is correct.

[7] The Complainant advised that the subject property was transferred to him, from his father, for the value of \$150,000, in 2005.

[8] The Complainant’s position is that the assessed value of the land should be \$150,000.00, less the assessed value of the house.

[9] **Respondent:** The Respondent advised the Board that a reduced assessment is being recommended. Upon re-inspection and further research it was determined that the house should have an effective year of 1935, and a CDU (Condition, Desirability, and Utility) rating of fair which should be changed to poor. As a result, the Respondent recommends a reduced assessment for the house from \$25,310, to \$22, 330.

[10] The Respondent asserted that the road improvements that were done were made to the same standard as every other improvement within the municipality; the streets were reconstructed to conform to the latest adopted design & construction standards of the Town of Sylvan Lake. The Respondent referred to his disclosure materials, Exhibit R.1, Tab 6, in which Alan Gassor e-mailed the Complainant stating that a “shallow open ditch of limited effectiveness was replaced with monolithic curb and gutter to keep surface water from the walk and roadway on the driven area and direct it to a new catch basin at the intersection.” Further, the Respondent stated that “the landscaping of the disturbed boulevard area was completed by grading and handwork with topsoil and then placement of sod to encourage vegetation.”

[11] The Respondent argued that the road improvements done are considered regular maintenance, done by the town and that they have no impact on the market value of the subject property.

[12] The Respondent presented a table of four vacant sales comparables (of Exhibit R.1, tab 1, page 5). The vacant land sales show a mean average per square foot value of \$22.09 per sq.ft. compared to the subject at \$13.32 per sq.ft. The Respondent stated the subject lot, at 13,000 sq.ft. is double the size of the average lot in Sylvan Lake at 6,500 sq. ft. The subject lot has been assessed significantly lower than the \$22.09 per sq.ft. shown by the vacant lot sales due to ‘economies of scale’.

[13] The Respondent indicated that the assessments for the Town of Sylvan Lake, with respect to vacant parcels, range from \$108,150 to \$155,893, representing 281 parcels with an average lot size of 6,500 square feet. The assessments for improved parcels range from \$311,900 to \$326,100, for 4042 parcels. The Respondent asserted that this information clearly demonstrates that the subject property has been equitably assessed.

[14] The Respondent presented a table outlining the Assessment Sales Ratios for the different 'market zones' within Sylvan Lake (Exhibit R.1, page 17). An Assessment to Sales Ratio is the current assessment expressed as a percentage of a sales price. The legislation requires that Assessment to Sales Ratios must fall between 95%-105% (plus or minus 5% tolerance). The Assessment to Sales Ratios from the subject property's market zone is 99.7%, well within the legislated range.

[15] The Respondent provided the following five sales comparables:

	Subject Property	Comp. #1	Comp. #2	Comp. #3	Comp. #4	Comp #5
Sale Date	N/A	05/04/2012	09/30/2011	08/18/2011	01/30/2012	08/09/2011
Bldg. Size	839 sq.	976 FT sq.	570 FT sq.	817 FT sq.	1,335 FT sq.	881 FT sq.
Land Size	13,000.00 F	7500.00 F	7500.00 F	7500.00 F	6500.00 F	6500.00 F
Sale Price	N/A	\$215,000.00	\$163,000.00	\$165,000.00	\$217,350.00	\$212,500.00
Adj. Sale Price	N/A	\$214,800.00	\$162,300.00	\$164,200.00	\$216,700.00	\$211,400.00
Assessed Value	\$198,490.00	\$208,800.00	\$159,300.00	\$168,300.00	\$220,500.00	\$216,300.00

[16] The Respondent asserted that these comparables were the most comparable in age, characteristic, and location. It is the Respondent's position that the subject property has been correctly assessed.

[17] Lastly, the respondent argued that the 2005 transaction from the Complainant's father to the Complainant was not an arms-length transaction.

**18] Board Finding:** The Board finds that the assessed value of the property should not be reduced because of the new infrastructure.

[19] In reaching this decision the Board considered MRAT s.4(1)(a), which states:

"4(1) The valuation standard for a parcel of land is  
 (a) Market value."

[20] The Complainant presented numerous oral arguments and photographic evidence with respect to the impact that the 51<sup>st</sup> Street Improvements had on the subject property. Unfortunately, the Complainant did not provide any evidence to establish how much, if any, of an impact the 51<sup>st</sup> Street Improvements had on the market value of the subject property.

[21] Section 460(7) states that a Complainant must:

- 1) indicate what information shown on an assessment notice or tax notice is incorrect;
- 2) explain in what respect that information is incorrect;
- 3) indicate what the correct information is; and,
- 4) identify the requested assessed value, if the complaint relates to an assessment.

[22] In other words, it is not enough for a Complainant to show that an assessment is incorrect; it is the Complainant's burden to establish what the correct information is. This means that even if the Complainant had been able to show that the 51<sup>st</sup> Street Improvements did in fact negatively impact the market value of the subject property, it is the responsibility of the Complainant to provide sufficient evidence, possibly by way of an Appraisal, an opinion of value from a Realtor, or opinions of experts pertinent to the circumstances, to establish how much of an impact there was on the market value of the subject property.

[23] Turning to the recommended assessed value put forward by the Respondent, in consideration of the information presented by the Respondent and in the absence of any evidence to the contrary, the Board accepts the Respondent's recommended assessed value.

### **SUMMARY**

[24] For the reasons noted above the assessed value of the subject property is VARIED as follows:

Roll # 00034900      \$ 198,490.00 to \$195,510.00.

Dated at the City of Red Deer, in the Province of Alberta this 31<sup>st</sup> day of October, 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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Al Knight, 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).**

**APPENDIX "A"**

Documents Presented at the Hearing  
and considered by the Board

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NO.

ITEM

1. A1 – Hearing Material
2. C1- Submission of Robert Kerkkamp
3. R1 – Submission of the Town of Sylvan Lake
4. C2 – Rebuttal of Robert Kerkkamp