

Central Alberta

Regional Assessment Review Board

CARB 0310 1123 2018
Complaint ID 1123
Roll No. 00793900

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: October 25 2018

PRESIDING OFFICER: R. Mowbrey
BOARD MEMBER: B. Schnell
BOARD MEMBER: K. Waters

BETWEEN:

SYLVAN LAKE HARBOUR LTD.

Complainant

-and-

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 an Assessor of The Town of Sylvan Lake as follows:

ROLL NUMBER: 00793900
MUNICIPAL ADDRESS: 5230 LAKESHORE DRIVE
ASSESSMENT AMOUNT: \$ 597,730

The complaint was heard by the Composite Assessment Review Board on the 25 day of October 2018, at The Town of Sylvan Lake, in the province of Alberta.

Appeared on behalf of the Complainant:
Jamin Laplante – Sylvan Lake Harbour LTD.
Holly Wyatt

Appeared on behalf of the Respondent:
Calvin McArthur - Wild Rose Assessment Services, on behalf of Sylvan Lake
Kevin Bohlken
Riley Kloss

DECISION: The assessment of the subject property is varied to \$623,450.

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"], and The City of Red Deer, Bylaw No. 3474/2011, *Regional Assessment Review Board Bylaw* (November 14, 2011).

PROPERTY DESCRIPTION AND BACKGROUND

- [2] The subject property is a 22,711 square foot (sf) fully paved property located at 5230 Lakeshore Drive in Sylvan Lake. The subject is irregular in shape and serves as the only boat launch, maintained, paved public access on the south side of Sylvan Lake. The subject is assessed utilizing the direct sales methodology.

PRELIMINARY MATTERS

- [3] The Board Chair confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [4] With respect to the issue of bias, one Board member stated he was acquainted with the assessor, but stated there was no bias. The Presiding Officer asked the Complainant if this was acceptable and the Complainant stated it was.
- [5] Neither party raised any objection to the panel hearing the complaint.
- [6] A preliminary matter was brought forth to the Board. Upon review of the property, the site was also discovered to contain a gas tank and pump which was previously been assessed on the neighboring property at 5220 Lakeshore Drive which is owned by the same owner. This has resulted in an increased assessment of \$25,720 on this property, and a reduction of \$25,720 on 5220 Lakeshore Drive. Both parties agreed to this preliminary matter.
- [7] The Complainant and Respondent confirmed the complaint information before the Board and the Board accepted the documents as presented.
- [8] No additional preliminary or procedural matters were raised by any party. Both parties indicated that they were prepared to proceed with the complaints.
- [9] The Board confirmed the submissions of the parties and entered the following Exhibits into the record:
- A.1 – Hearing Materials provided by Clerk.
 - C.1 - Complainant's Disclosure (26 pages).
 - C.2- Complainant's Rebuttal (24 pages).
 - R.1 Respondent's Disclosure (21 pages)

ISSUES

Does the assessment properly reflect the market value of the subject property?

POSITION OF THE COMPLAINANT

- [10] The Complainant filed this complaint on the basis that the 2018 assessment of the subject property is in excess of market value. In support of this position the Complainant submitted a disclosure package, a rebuttal package and oral argument.
- [11] The Complainant provided pictorials and maps of the subject and other comparable properties. The Complainant provided two properties for equity comparison purposes to the subject. The assessment per sf for the two properties were \$12.80/sf and \$10.38/sf, with emphasis on the lower amount which was nearby at Marina Bay Court, to arrive at total assessment of \$245,000.
- [12] The Complainant advised that the Town of Sylvan Lake put an easement on the property that limits the use of the subject as only a public boat launch. The Complainant stated this easement significantly devalues the land as it removed all potential land use developments on the subject. The Complainant stated the equity comparables therefore have greater potential development options than the subject. The equity comparables are allowed multiple uses for business or residential development. With the subject being locked into only being allowed a boat launch this reduces the overall value of the property.
- [13] During rebuttal, the Complainant stated that the Respondent had submitted that the properties compared are only similar in that "they are close to the lake, but all properties have different shapes, sizes and uses". The Complainant argued that it is unrealistic to disqualify properties based upon the fact that the shape and size do not match the subject.
- [14] During rebuttal, the Complainant stated the go-kart property, with a "sliver" of lakefront view still has a zoning to allow development such as multiple housing with commercial.
- [15] In addition, the Complainant stated the easement and the fact that the property is a special use property should be shown as a negative factor adding no value to the property assessment, severely limiting the sale potential of the property.
- [16] The Complainant asserted that the unexecuted purchase agreement between the Town of Sylvan Lake and the Complainant cannot be considered in assessment valuation of property. The Complainant provided a signed witness statement that the Town of Sylvan Lake has no interest in buying a boat launch, with or without slips as it does not view it as a viable option to provide access to the lake.
- [17] The Complainant stated the Respondent's mention that the subject is a "special use value or special purpose property" is made numerous times in the Respondent's disclosure. The easement forcing the property to be the "special use" of a public boat launch would signify that such the "special value" would come from additional value for launching boats. Since the Town of Sylvan Lake did not view the launch as viable access to the lake and did not

accept the purchase agreement referred to above, the proposed purchase price set forth in that purchase agreement should not be used for assessment purposes.

- [18] During summation, the Complainant stated the Respondent provided no calculations on how the current assessment was calculated. In addition, there was no discussion as to why the assessment of land for the two comparable properties in the same land use district and in close proximity to the subject were of different land values.
- [19] During summation, the Complainant stated that sales to government agencies are invalid for assessment purposes and should not be used to establish market value for properties. This is according to standard on verification and adjustment of sales by the International Association of Assessing Officers.
- [20] In conclusion, the Complainant requests the Board to reduce the 2018 assessment of \$597,730 to the revised proposed assessment of \$271,000.

POSITION OF THE RESPONDENT

- [21] In support of the position that the revised assessment of \$623,450 was correct, the Respondent provided an assessment brief as well as oral argument.
- [22] The Respondent's argument was as follows; "The subject is a very unique property and therefore comparables that are similar are very difficult to find or are non-existent. Therefore, the test of reasonableness must be exercised in the valuation of this special property."
- [23] The Respondent provided pictorials and maps of the subject and surrounding neighborhood.
- [24] The Respondent stated the comparables used by the Complainant are only similar in that they are close to the lake, but would be considered poor comparables as they are different shapes, sizes and uses.
- [25] The Respondent stated the Complainants' argument "that the go-karts are lakefront should be given minimal weight in that only a tiny sliver of the corner is open to the lake, although access or usable area with relation to the lake are unlikely and doesn't add value to the property due to lack of size and restrictions about accessing the lake or developing an improvement with lake view access/view."
- [26] Given the location and access to the lake, the Respondent stated "the subject is a special use property, so when valuing it, this must be considered. The fact that it is the only one of a kind, and that there is high demand for access to the lake, increases the value of the property. Being granted access to the lake requires permits, approvals, and steps from the municipality, the province and sometimes from the federal government which adds significant time and money is the process."
- [27] The Respondent noted that a newspaper article ruled out other potential sites because of environmental and uses related to bank height and water depth. The Respondent stated as follows; "This further emphasizes that while other parties have tried to replicate similar type properties, and haven't been successful, leaving the subject property in even higher

demand and adding more value due to reduced supply and increased demand. This study was done for the entire lake, not just the portion that is the Town of Sylvan Lake.”

- [28] The Respondent stated that comparing other properties is not realistic to value this special property. The Respondent explained the easement on this property “is relevant for the type of special use property that it is. The easement is typical for the type of property and although it restricts the use, the main focus needs to be attributed to the minimal supply and large demand for the type of property.”
- [29] The Respondent referenced a newspaper article depicting a purchase agreement between the Town of Sylvan Lake and the Complainant. The agreed upon purchase price was \$1,189,000 which includes a boat launch, 10 boat slips and a two-year lease for 1,623 sq. ft. of building area on the adjoining property. The Respondent used the median sale price of \$49,900 per boat slip to arrive at \$499,000 value for the 10 boat slips. The two-year lease was assessed at \$32,460. Deducting the value for the 10 boat slips, the two-year lease, the residual land value is \$657,540.
- [30] The Respondent stated that although the purchase agreement was never executed, “the deal was not abandoned due to a lack of agreement of price”. Rather, this agreement shows “a very recent and accurate opinion of value that was agreed upon by both a willing buyer and a willing seller.” The purchase “would have gone through if certain issues weren’t brought up with relation to the boat slips and the dockominium arrangement.”
- [31] The Respondent further stated “that there had been four vacant commercial sales in the past two years and the average price to assessment was 97.4%, and the median sale price to assessment ratio was 100.4%. This information proves that the assessments are either below or at the market value of other similar properties, proving that the assessments prepared are very accurate with relation to other similar properties that have been sold.”
- [32] In summation, the Respondent stated “the subject is a special purpose property that is in high demand, and has been proven by outside sources that the cost for the Town of Sylvan Lake to build and get a new boat launch approved would cost a lot more than previously agreed upon purchase price of \$1,189,000.”
- [33] The Respondent requests the Board to confirm the revised assessment of \$623,450.

BOARD FINDINGS and DECISION


- [34] The Board finds that Use Value is applicable for the assessment of the subject property. The Board finds the subject is unique and is one of special use and special value. The Board acknowledges that many parties have tried to replicate similar type properties, and haven’t been successful. The Board accepts the Respondent’s assertion that comparables to the subject property are hard to find or non-existent.
- [35] The Board finds that the two comparables put forth by the Complainant are not comparable to the subject in terms of establishing market value. The subject is unique and is one of special use. Direct, approved lake access is required for the subject’s special use

as a boat launch in support of Use Value. The Complainant's two equity comparables do not exhibit the same special use the subject and do not support change to the assessment.

- [36] The Board acknowledges there was a purchase agreement that was not executed. However, the Board put little weight on this newspaper article as there were insufficient details to determine the appropriateness of using this article to determine or establish market value for the subject.
- [37] The Board notes the easement appears to allow use of the property to the adjoining "dockominium" (condominium boat slips).
- [38] The Board acknowledges that evidence from both the Complainant and the Respondent is lacking in sufficient detail. The Board is not persuaded by the Complainant's evidence. The onus rests with the Complainant to show the assessment is incorrect.

DECISION SUMMARY

- [39] The Board varies the assessment from \$597,730 to \$623,450 which is in line with the Respondent's' recommendation.
- [40] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 19th day of November, 2018 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.


Robert J. Mowbrey
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

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| 1. A.1 | Hearing Materials provided by Clerk |
| 2. C.1 | Complainant submission(s) 26 Pages |
| 3. C.2 | Complainant rebuttal 24 Pages |
| 4. R.1 | Respondent submission(s) 21 Pages |