



Local Assessment Review Boards

REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER LARB 2016-016

IN THE MATTER OF A COMPLAINT filed with the Regional Municipality of Wood Buffalo Local Assessment Review Board (LARB) pursuant to Part 11 of the *Municipal Government Act* being chapter M-26 of the revised statutes of Alberta 2000.

BETWEEN:

BCMI Investment Group Ltd – Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) – Respondent

BEFORE:

Members:

D. Gorman, Presiding Officer

S. Odemuyiwa, Member

Staff:

S. Soutter, Clerk

BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[1] A hearing was convened on Friday, September 30, 2016 in the Regional Municipality of Wood Buffalo in the Province of Alberta to consider the complaints about the assessment of the following properties:

File Number	Roll Number	Civic Address	Owner
ARB 16-098	30700550	141 McGhee St, Fort McMurray AB	BCMI Investment Group Ltd
ARB 16-099	30700570	133 McGhee St, Fort McMurray AB	BCMI Investment Group Ltd
ARB 16-100	30700700	156 McGhee St, Fort McMurray AB	BCMI Investment Group Ltd
ARB 16-101	30700710	152 McGhee St, Fort McMurray AB	BCMI Investment Group Ltd

[2] The subject lands are located in a brand new residential subdivision, within a golf course community.

[3] The complaints are related to four separate lots located in the Saline subdivision of which two lots are vacant (141 and 152 McGhee Street) and two lots have partially constructed dwellings (133 and 156 McGhee Street). Two of the lots were purchased at \$325,000 and the other two at \$256,000 each.

[4] Present state of the subdivision is vacant land with streets and two houses.

PROCEDURAL MATTERS

[5] The LARB derives its authority to make a decision under Part 11 of the *Municipal Government Act*, R.S.A. 2000, c. M-26.

[6] The parties confirmed that they had no objections to the composition of the Board.

[7] The Board confirmed it had no bias in relation to the matters.

PRELIMINARY MATTERS

[8] No preliminary matters were raised.

ISSUES

File No.	Issue identified on the complaint form	Assessment Amount	Requested Value
ARB 16-098	An Assessment Amount	\$461,250	\$218,000
ARB 16-099	An Assessment Amount	\$289,130	\$218,000
ARB 16-100	An Assessment Amount	\$312,760	\$277,000
ARB 16-101	An Assessment Amount	\$559,030	\$277,000

[9] The four assessment complaints were scheduled to be heard consecutively on September 30, 2016. The Parties agreed that all the properties have issues which are common and as such the same evidence will be presented for all four cases.

[10] The Board agreed to hear the evidence on all four cases at the same time.

[11] As such only one written decision will be issued for all four complaints.

MERIT MATTERS

[12] The Complainant presented testimony from the following witnesses:

- a) Rob Denis – Appraiser, Chalifour Denis and Associates;
- b) Mike Walsh – CEO Saline Creek Developments Inc.

[13] Although Mr. Denis was introduced as an expert witness, section 464 of the Act states that the LARB is not bound by the rules of evidence. The Complainant clearly wished to comply with the typical procedure for introducing opinion evidence.

[14] The LARB considered Mr. Denis's experience. It chose not to qualify him as an expert but to rather accept his opinion and expected that he would adhere to professional standards in providing his opinion.

Complainant's evidence

[15] The Complaint alleged that the assessments for all four lots were too high and that after a re-assessment which resulted in a reduction by 10%, it still did not bring the assessments to market value.

[16] The Complainant presented appraisal evidence that the developer relied upon, to show the difference between these lots and the comparative lots that the municipality relied upon to come to their conclusions and show the significant difference between the two properties.

[17] The Complainant made submissions regarding how the market changed between May 2014 and July 2015 and how it decreased, based on market valuations and residential lots and residential properties during that time.

[18] Mr. Denis, an appraiser, was retained by the Complainant to value each of the individual lots to provide evidence of fair market value.

[19] The Appraiser looked a number of factors such sales of reasonably similar lots, values of existing homes, meetings with highest volume producers and most knowledgeable realtors. Their most common concerns were lack of infrastructure, noise, being very close to the airport which was in the process of being expanded. The Appraiser noted that there were no sales in the area to rely upon and so he relied on sales in other communities in the region.

[20] The appraisal showed a reduction in market value of residential properties between May 2014 and July 1 2015. As there were no previous sales to use as a comparison they opted to use a paired sales approach. During that time vacant lots dropped in value. They selected two properties that were from the same builder with same attributes. The only difference was a 15 month time period had elapsed. The first house sold for \$890,000 in May 2014 and the second sold in June 2015 for \$836,000, a difference of \$54,000. This decrease should apply to the lot value. Vacant lots are valued at their highest and best use, when valuing the land.

[21] Mr. Walsh, the Developer, spoke to the normal process of marketing the development, and marketing techniques used.

[22] Mr. Walsh indicated that he met with the RMWB with regard to reducing the lots assessments, this resulted in a 10% reduction but was not applicable to the two lots that had partially completed improvements. The land value of those assessments was not changed.

Position of the Complainant

[23] When the complainant purchased the property in May 2014 it was satisfied that the price it paid was fair market value.

[24] Cost of construction in the community has not diminished. If you accept that market values of residential properties have decreased from May of 2014 to July 2015 the only way a builder can preserve any margin is to modify something else. The square foot cost of improvement in 2015 will be the same in 2014, so the margin has to come from the base land price value.

[25] Purchasers are not prepared to pay the same for a lots south of the Athabasca River as there is less infrastructure, there are no schools, no recreation facilities, no proximate services and no neighbors. This makes these lots less attractive to purchasers. Therefore the Respondent's comparison to lots north of the river is not proper.

Respondent's evidence

[26] The Respondent submitted that the condition of the lots at December 31, 2015, were progressive structures on two of the lots located in the neighbourhood of Saline Creek. This is the municipality's newest neighbourhood, located on the southeast side of the town center, close to the Fort McMurray Airport. It is planned to be a mix of low density single

family, semi-detached and townhomes with some commercial development sites surrounding an 18-hole golf course.

[27] The subject properties are interior lots, with no lake or greenbelt influence and a rear laneway access.

[28] The Respondent stated that by using the cost approach they arrived at a 2016 Assessed values.

[29] Upon discussion between the Developer and the Assessment team a 10% reduction was warranted for the vacant residential lots. This reduction was applied to all vacant lots in order to maintain equity.

[30] However the 141 and 152 McGhee properties had progressive structures and as such are valued differently. Therefore the 10% reduction was not applied. The value for the lots were determined and were reviewed to ensure they were within 5% of market value as required under assessment legislation.

[31] Following an inspection the Saline Creek neighbourhood on November 12, 2015 it was found that the exterior of the structures to be shingled and partially sided. The Respondent was unable to access the interior of the home to determine the level of completion. The Respondent determined the improvement at 44% completion.

[32] Section 289 of the *Municipal Government Act* states each assessment must reflect the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed. The fact that these properties were listed on January 1st as a completed home for \$649,900 (141 McGhee Street) and \$749,900 (152 McGhee Street), suggested the lots were undervalued at only 44% complete for year end on December 31, 2016.

[33] The Respondent then identified that comparable vacant land sales were taken from the Fort McMurray market area. They consisted of lots as close to size as possible with the subject properties and within the similar neighborhoods of Heritage Point, Heritage Crossing and Parsons Creek North.

[34] When comparing the sale values of the above properties to the 2016 actual assessed values of the land, they are within the 5% range for the Assessment to sales ratio indicating that the model for predictions of value meets Provincial Quality Standards as set out in the *Matters Relating to Assessment and Taxation Regulation*, AR 220/2004.

[35] The Respondent added that the majority of the comparable sales were found to benefit from a greenbelt influence as they are adjacent to a municipal nature reserve. According to the 2016 multiple regression analysis it was found that this greenbelt influence attributes approximately an additional \$25,000 in value. They also found that a corner lot location attributes about a \$16,000 detriment to value. Taking into account these adjustments they once again examined the comparable sales and verified that the subject property's initial 2016 Assessment Value of \$321,260 prior to the adjustment made after the complaint was filed, is almost exactly the sale price of the 129 Nicholson Drive comparable property.

[36] The Respondent then examined the Complainant's requested valuation of \$218,000 for the land portion of the 416 square meter property. The listings do not reflect this to be their typical sale price, and this is supported by the fact that even their smallest lots are listed for \$225,000 minimum. In 91 land sales that occurred during the valuation period of July 1, 2014 to June 30, 2015, the only lots that sold for less than \$300,000 were either located in the Gregoire Mobile Park or were less than 260 square meters in size, therefore these lots are not comparable to the subject lands.

[37] With insufficient evidence in the form of sales, it is not a fair or equitable process to rely on list prices, or bulk land transfers.

[38] The Respondent indicated that they reviewed the appraisal report completed by Mr. Denis; however, the effective valuation date of the report is May 15, 2014, approximately a year prior to the July 1, 2015 the valuation date used for the 2016 assessed values.

[39] After examining the comparables in the appraisal report, they agree that the lots are similar in nature to the subject property and are located in neighborhoods comparable to Saline Creek. Nearly all of these sales occurred in 2013 and no GST is reflected in the sale prices indicated. The sales occurring on or before July 1, 2013 are more appropriate indicators of value with respect to the 2014 assessed value. None of the Appraiser's sales were given time adjustments and in a continually changing market like real estate this is required. All of the municipality's assessments fell within the 5% allowable range and the municipality remained of the opinion that all of the values represented fair and equitable representations of market value.

Position of the Respondent

[40] The Respondent described the legislative requirements for mass appraisal and market value used to evaluate the properties.

[41] Residential properties are assessed using multiple regression analysis, which adjusts for attributes that impact market value, in order to arrive at a typical market value for residential properties.

[42] The Regional Municipality of Wood Buffalo has met all governing legislation, regulation and quality standard.

[43] The onus or burden of proof is on the Complainant to provide sufficiently convincing evidence on which a change in the assessment can be based.

[44] Based on the information before the Board, it is the Respondent's position that the assessments reflect the correct value for the properties using mass appraisal methods and the municipality asked that the 2016 assessments be confirmed.

DECISION

[45] It is the Decision of the Local Assessment Review Board to confirm the Assessment of all four lots as:

File Number	Roll Number	Civic Address	Assessment Amount
ARB 16-098	30700550	141 McGhee St, Fort McMurray AB	\$461,250
ARB 16-099	30700570	133 McGhee St, Fort McMurray AB	\$289,130
ARB 16-100	30700700	156 McGhee St, Fort McMurray AB	\$312,760
ARB 16-101	30700710	152 McGhee St, Fort McMurray AB	\$559,030

REASON FOR DECISION

[46] In coming to its conclusion, the Board has reviewed carefully the provisions of the *Municipal Government Act* ("MGA"), the *Matters Relating to Assessment Complaints Regulation* ("MRAC") and the *Matters Relating to Assessment and Taxation Regulation* ("MRAT").

[47] The Board notes that its jurisdiction is found at section 467(3) of the *Municipal Government Act*.

467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

...

(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.

[48] Of particular note is section 467(3) which prohibits the Board from altering an assessment which is fair and equitable, taking into account the considerations in section 467(3)(a) to (c).

[49] Assessments must be prepared in accordance with section 2 of the *Matters Relating to Assessment and Taxation Regulation*, which requires the assessment to be based on mass appraisal, and, notably must reflect typical market conditions for similar properties.

2 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.

[50] The valuation standard for the parcel of land is market value (section 4(2) *Matters Relating to Assessment and Taxation Regulation*).

[51] The Board has considered the Complainant's evidence but is not convinced by it and places less weight on this evidence than the evidence provided by the municipality. The appraisal of the properties does not provide the value of the property as of the valuation date, which is required by the legislation. Further, the values which were provided were not time adjusted. The Board agrees with the municipality that it is necessary to have the values time adjusted, so that the evidence reflects the value as of the valuation dates. As a result of these gaps in the evidence provided by the Complainant, the Board accords them little weight and is of the view that the Complainant's method of calculating the assessment does not meet the legislated requirements set out in the legislation.

[52] Having reviewed the evidence presented by the Complainant, and that presented by the Municipality, the Board is not convinced by the evidence presented by the Complainant, for the reasons set out above. The Board accepts the evidence presented by the Municipality, which was prepared using mass appraisal, and the results of the evidence fall within the variance required by the legislation.

[53] The Board agrees that fairness and equity is a fundamental objective to be met in preparing assessments. Section 467(3(c) requires the Board to consider equity. This subsection requires that the Board must not alter an assessment that is fair and equitable, taking into account assessments of similar property in the same municipality. Although section 2(c) of the *Matters Relating to Assessment and Taxation Regulation* requires that an assessment of property based on market value must reflect typical market conditions for properties similar to that property, the Board recognizes that there were no sales of lands in the vicinity to compare. Therefore, the Board is satisfied with the comparison of lots located to the north of the Athabasca River

[54] The Board agrees that the onus is on the Complainant to prove its case. In the present case, the Board has examined the evidence presented by the Complainant and found that it does not convince the Board that the assessments in question need to be changed. The Board finds that the assessments are fair and equitable in that they were prepared in accordance with the valuation standard in the *Matters Relating to Assessment and Taxation Regulation*. Further, they are fair and equitable having regard for the assessments for similar properties in the municipality. On the basis of the evidence provided, the Board finds that the Complainant has failed to provide evidence to persuade the Board that a change to the assessments is required.

[55] It is so ordered.

DISSENTING OPINION

[56] There was no dissenting opinion.

[57] The decision of the Local Assessment Review Boards is final and binding on all parties, subject only to appeal to the Court of Queen's Bench on a question of law or jurisdiction with respect to the decision in accordance to section 470 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this
31st day of October 2016.

FOIP Act s.17(1)



D. Gorman, Presiding Officer

APPENDIX A

DOCUMENTS RECEIVED AND CONSIDERED BY THE LARB

File No.	Exhibit No.	Description	Exhibit No.	Description
ARB 16-098	C1	Complainants Submission	R1	Respondents Submission
ARB 16-099	C1	Complainants Submission	R1	Respondents Submission
ARB 16-100	C1	Complainants Submission	R1	Respondents Submission
ARB 16-101	C1	Complainants Submission	R1	Respondents Submission

APPENDIX B

REPRESENTATIONS

Person Appearing	Capacity
R. Campbell	President, BCMI Investment Group Ltd.
R. Denis	Appraiser, Chalifour Denis and Associates;
M. Walsh	CEO Saline Creek Developments Inc.
J. Fox	Assessor, Regional Municipality of Wood Buffalo
D. Robichaud	Assessor, Regional Municipality of Wood Buffalo