

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:

Myshak Sales & Rentals Ltd. – Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) – Respondent

BEFORE:

A. McKenzie, Presiding Officer

D. Gorman, Member

Staff:

S. Soutter, Clerk

BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[1] A hearing was convened on October 29, 2018 in the Regional Municipality of Wood Buffalo in the Province of Alberta to consider a complaint about the assessment of the following property:

Assessment Roll Number	832000640
Civic Address	64 Freestone Way, Fort McMurray, AB
Owner	Myshak Sales & Rentals Ltd.
File Number	ARB 18-077

- [2] The subject property is a rural residential property consisting of a 3555 square foot (330.3 square meter) bi-level home with a 671 square foot (62.4 square meter) attached garage and 144 square foot (13.378 square meter) accessory building (shed) situated on a 1.46 acre (5,910 square meter) lot with no topography issues.

PROCEDURAL MATTERS

- [3] The LARB derives its authority to make decision under Part 11 of the *Municipal Government Act*, R.S.A. 2000, c. M-26.
- [4] The parties confirmed that they had no objections to the composition of the Board.
- [5] The Board confirmed it had no bias in relation to the matters.

PRELIMINARY MATTERS

- [6] There were no preliminary matters raised.

ISSUES

Issue identified on the complaint form	Assessment Amount	Requested Value
An Assessment Amount	\$1,078,550.00	\$969,500.00 (Revised to \$930,463.00)

MERIT MATTERS

Position of the Complainant

- [7] The Complainant submitted that the assessment of the land is not correct. Comparable land sales suggest that the correct value for the land should be \$243,669.
- [8] The Complainants position on the assessment of the improvements indicates a cost per square foot of \$464, much higher than the average cost of \$380 per square foot to build new in the region.
- [9] The Complainant indicates that the Direct Sales Comparison valuation methodology is the more appropriate method. Exhibit C4 was submitted as evidence to show that there is enough data to support using the Direct Sales Comparison method instead of the Cost Approach.

- [10] The Complainant provided as evidence (Exhibit C4) that the value of the property from a Comparable Market Analysis should be \$969,500. The property was listed on the MLS for this amount in August 2017, and for the duration of the listing there were no offers.
- [11] The Complainant also provided evidence (Exhibit C2) that a more current market valuation of the property is \$650,000 to \$700,000.
- [12] The Complainant states that the property was purchased in 2014 and that, other than smoke remediation, no renovations or upgrades were completed. The additional attributes assessed were all completed prior to purchase and were also included in the 2014 MLS listing.
- [13] The Complainant confirmed that there is significant water damage to the residence that occurred as a result of frozen pipes. The damage may have occurred in December 2017 or January 2018. The property was taken off the market once the damage was found. No adjustment is requested for the water damage.

Position of the Respondent

- [14] The Respondent presented three comparable land sales dated between July 1, 2016 to June 30, 2017 (Exhibit R2)

Address	Lot Size (m2)	Sale Amount	Sale Date
157 Janke Lane	8300	\$318,271.00	June 30, 2017
149 Janke Lane	8100	\$335,988.00	Aug 17, 2016
88 Freestone Way	7750	\$340,000.00	Dec 14, 2016

- [15] The Respondent stated that the Assessment department received an inquiry March 7, 2018 regarding the 2018 Property Assessment and a request to complete an interior inspection of the property. Upon inspection, significant water damage was noted, and the Assessor was informed that the damage was found in January 2018, and that the property has been vacant since the 2016 Wildfire.
- [16] The Respondent further stated that the Assessor advised the Complainant, through an agent, that since no one could confirm when the damage occurred prior to the December 31, 2017 condition date no adjustment would be made to the assessment. The Assessor noted that they would monitor the condition of the property for the 2019 tax year.

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- [17] The Respondent stated that the assessment was increased to reflect additional attributes from the MLS listing that were not on the account. This type of review is done daily. The Respondent admitted that these additional attributes should have been added when the property was listed in 2014. They were not added at that time because assessments were contracted to a third party.
- [18] The Respondent outlined the methodology used for valuing individual properties and reiterated that legislation requires the use of mass appraisal in establishing assessments. The cost approach to value was used to assess the subject property and is consistent with how all rural properties are assessed within the municipality.
- [19] The Respondent further provided that although within the Urban center of the municipality there are over 10,000 investigated and validated sales in the last five years, there are less than 200 sales in the same time frame in the rural areas. In addition, with the wide range of properties in the rural areas there isn't enough true comparable data to employ the Direct Sales approach.
- [20] The Respondent explained that the subject property was assessed using the formula:
- $$\text{Land Value} = 2017 \text{ Replacement Cost} - \text{Depreciation}$$
- [21] The Respondent further explained that depreciation is based on a 100 year lifespan and calculated accordingly. Therefore, if average construction cost were used, it would suggest a much higher assessment than the current assessment.
- [22] In closing the Respondent provided that their assessment reflects the correct value for the property using the Cost Approach to value and requested that the 2018 assessment of \$1,078,550.00 be confirmed.

DECISION

- [23] It is the Decision of the Local Assessment Review Board to confirm the assessed amount of \$1,078,550.00.

REASON FOR DECISION

- [24] The Board took note that the Complainant, or agent, was not present for the hearing, but did provide a written presentation (Exhibit C6). This written presentation was taken into consideration.

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- [25] The Board cannot consider any post-facto market valuation evidence. Therefore, the Board could not give any weight to the Appraisal (Exhibit C2) and the Comparative Market Analysis (Exhibit C4). Further, if the Board could consider the Comparative Market Analysis, only those listed as sold could be considered. After reviewing those comparables the Board felt that they are not true comparables as they differ in lot size, building attributes, services available and location.
- [26] The Board cannot consider real estate listings as an indicator of value, the Board can only use actual sales as comparable data.
- [27] The Board gave more weight to how the Respondent calculated depreciation. The Board did see evidence from the Complainant on a depreciation percentage but is not satisfied with how that percentage was determined.
- [28] The Board is satisfied with the use of the Cost Approach methodology for this assessment, the Respondents explanation of the available data supports the rationale for using this method instead of the Direct Sales approach.
- [29] The Board gave no weight to the condition of the improvements as a result of water damage. The board heard evidence from both parties indicating that it is unknown when the damage occurred, and notes that the Complainant is not seeking relief as a result of the damages.
- [30] 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”).
- [31] It is so ordered.

DISSENTING OPINION

- [32] There was no dissenting opinion.

[33] 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
26th day of November 2018.

FOIP s.17(1)



Alex McKenzie, Presiding Officer

APPENDIX A

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

Exhibit Number	Description
C-1.	Complainants Disclosure (1 page)
C-2.	Appraisal – Chalifour Denis (29 pages)
C-3.	Listing Agreement (1 page)
C-4.	Market Analysis – L&G Bibeau (29 pages)
C-5.	Complainants Rebuttal (4 pages)
C-6.	Complainants Written Presentation (3 pages)
R-1	Assessment Brief (9 pages)
R-2	Assessor’s Exhibits (12 pages)

APPENDIX B

REPRESENTATIONS

Person Appearing	Capacity
Dawn Robichaud	Assessor