

**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:**

T. O'Neill – Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) – Respondent

**BEFORE:**

Members:

K. Haxton, Presiding Officer

J. Gogo, Member

N. Mahgoub, Member

Staff:

A. Hawkins, Clerk

**BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

[1] A hearing was convened on Monday, July 22, 2019 in the Regional Municipality of Wood Buffalo in the Province of Alberta to consider a complaint about the assessment of the following property:

<b>Assessment Roll Number</b>	10112270
<b>Civic Address</b>	1335 201 Abasand Drive
<b>Owner</b>	Trent O'Neill
<b>File Number</b>	ARB 19-001

[2] The subject property is an interior 3 bedroom, 1 bathroom unit, located on the 2<sup>nd</sup> floor of a 3-story apartment style condo complex with elevators, laundry facilities, heated underground parking and backs onto a natural green space with walking trails.

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**PROCEDURAL MATTERS**

The LARB derives its authority to make decision under Part 11 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 (MGA).

[3] There was no objection to the composition of the Board.

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

**PRELIMINARY MATTERS**

[5] There were no preliminary matters raised.

**ISSUES**

<b>Issue identified on the complaint form</b>	<b>Assessment Amount</b>	<b>Requested Value</b>
An Assessment Amount	\$218,440	\$150,000

**MERIT MATTERS**

***Position of the Complainant***

[6] There was no one present on behalf of the Complainant.

[7] In a letter dated February 26, 2019, attached to the Complaint Form (Exhibit C1), the complainant noted “*the current assessment has taken a significant increase in value from when the residence was last occupied*” and listed the following annual assessment amounts:

*2019 - \$218,440;*

*2018 - \$49,050;*

*2017 - \$88,160;*

*2016 - \$143,100 and*

*2015 - \$177,660.*

[8] In the same letter, the Complainant also noted *“Our market evaluations taken in January or 2019 represent two very similar units to 1335-201 Abasand drive. Unit #1333 – 201 Abasand drive was recently listed around the \$150,000.00 value MLS# FM0152766, this unit has just recently sold for 129,000.00. Unit 1331-201 Abasand drive was also listed in the \$150,000 range and has now seen a price decrease to \$135,000 MLS# FM154097. Both of these two units are on the same floor and have the same square footage and amenities as the property I am appealing.”*

[9] The Complainant further provided the following comments in the February 26, 2019 letter *“I believe that the standardized process being used for valuation, while most effective during market value conditions, does not reflect the market valuation for this property due to the fluctuations seen with the fire and subsequent rebuild. I also believe there is an error with the assessment program when it clearly is moving abruptly against a downward trending market.”*

#### ***Position of the Respondent***

[10] The Respondent provided that residential condominium properties are assessed using multiple regression analysis, which adjusts for attributes that impact market value, in order to arrive at a typical market value (Exhibit R1). The legislation requires the Municipality to prepare assessments that represent market value by application of the mass appraisal process; market value being defined by the MGA as the amount that a property might be expected to realize if it is sold on the open market by a willing seller to a willing buyer (Exhibits R1 and R2).

[11] The Respondent presented that residential condominium assessments represents an estimate of the value of the fee simple estate in the property, as it existed on December 31, 2018 and as if it had been sold in that condition on July 1, 2018, on the open market, under typical market conditions, by a willing seller to a willing buyer. The assessment is a prediction of the resulting value when these specific, defined conditions are met (Exhibit R1).

[12] The Respondent provided that the subject property, Suite 1335-201 Abasand Drive, is located in a 3-story apartment style condo complex with elevators, laundry facilities, heated underground parking and backs onto a natural green space with walking trails. It is one of the newest structures in Fort McMurray, with construction having started in 2017, completed in 2018 with an occupancy date of December 1, 2018.

[13] The Respondent offered that as construction of the complex was not completed until late fall of 2018, there were no units listed on MLS until August 2018 and no sales occurred until January 2019, which is past the valuation date of July 1, 2018, therefore it was necessary to compare the subject property to other similar units within the Municipality.

[14] The Respondent referenced comparable sales of 4 units, with sale prices varying from \$273,000 in September 2017 to \$221,500 in January 2018, but noted that while these units are similar in location, condition, age and size, these units are only 2 bedrooms rather than 3 bedrooms as in the subject property. In addition, although 3 of the units have 2 bathrooms rather than 1 like in the subject unit, the number of bathrooms in an apartment-style condominium does not affect values and therefore, cannot be considered a factor in the development of the values for these units (Exhibit R1).

[15] The Respondent presented that the Complainant did not submit any rebuttal to the disclosure documents and instead chose to rely on the information provided in the original filing documents (Exhibit C1).

[16] The Respondent spoke to the three main points of concerns raised by the Complainant:

- change in assessed value over a period of 5 years;
- listings for multiple units and a sale of one unit in the same condominium complex; and
- perceived flawed nature of the valuation process.

[17] With respect to the change in assessed value over a period of 5 years, the Respondent presented that the Complainant references occupancy as opposed to completion. Based on correspondence with the complex manager, all units in the condominium complex were deemed complete as of December 31, 2018 (Addendum C to Exhibit R1) and were assessed as such. The final year mentioned in the Complainant's submission, the 2016 assessed value, was based on the condition of the property on December 31, 2015. The existing structure at that time was built in 1972 and valued much lower than any newer structures in the municipality. The subject property is now one of the newest condo complexes in the municipality and has been valued as such.

[18] In response to the Complainant's reference to the listings and sale price of units located in the complex, the Respondent offered that MLS listings cannot be considered in the valuation process, only arms-length, valid sales in an open market between a willing and knowledgeable seller and a willing and knowledgeable buyer can be considered. As of the date the disclosure was prepared (July 11, 2019) the unit identified by the Complainant was still listed on MLS by the same owner and has not sold.

[19] With respect to the last concern raised by the Complainant, the Respondent provided that the mass appraisal process is used to ensure fair and equitable values from one year to the next, regardless of fluctuations in the market throughout the year.

[20] The Respondent offered that Assessors are legislated as to valuation dates and must value a property based on its condition on December 31, as though it had existed in that condition on July 1 of the same year.

[21] The Respondent reiterated that the Complainant did not include any actual sales that occurred within the legislated valuation period and that the 2019 assessed value was developed based on actual sales of similar properties that did occur prior to the legislated valuation date of July 1, 2018.

[22] The Respondent requested that the Board confirm the assessed value for the subject property at \$218,440 as proven by the comparable sales data provided.

### **DECISION**

[23] It is the Decision of the LARB to confirm the assessment of \$218,440.

### **REASON FOR DECISION**

[24] 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").

[25] The Board considered the Complainant's evidence in Exhibit C1 as it relates to the downward trend in assessments between the years 2015 and 2018 but accepted the Respondent's clarification that while the 2015 assessment was based on the condition of a 48 years old building, the 2019 assessment is based on the condition of a one year old building. The mass appraisal approach is used to ensure fair and equitable values on the condition of properties, on an annual basis, regardless of fluctuations in the market throughout the year.

[26] The Board agreed with the Respondent that in the submission of the Complainant (Exhibit C1), the Complainant provided real estate listings but failed to provide actual sales data, therefore the Board could not consider this evidence as only valid sales can be considered.

[27] The Board accepted the Respondent's comparable sales data (Exhibit R1) which utilized sales of similar apartment-style condominium units within the downtown core of the Municipality that are similar in size and age and occurred prior to the valuation date of July 1, 2018.

[28] The Board is satisfied with the submission of the Respondent that the assessment of the subject property, determined using the direct sales approach, has been conducted in accordance with provincial legislation.

[29] While the Board recognizes the position of the Complainant, the Board is bound by legislation in making its decision and can only consider evidence presented by the parties. In the absence of substantial evidence provided by the Complainant, the Board is not convinced the assessment is incorrect. For these reasons, the assessment is confirmed.

[30] It is so ordered.

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**DISSENTING OPINION**

[31] There was no dissenting opinion.

[32] 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  
1st day of August 2019.

FOIP s.17(1)

Keith Haxton, Presiding Officer

**APPENDIX A**

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DOCUMENTS RECEIVED AND CONSIDERED BY THE LARB

<b>Exhibit Number</b>	<b>Description</b>
C1	Complaint Form
R1	Respondent's RMWB Assessment Disclosure (21 pages)
R2	Respondent's Law & Legislation Brief (57 pages)
R3	Respondent's Assessment Guide (17 pages)

**APPENDIX B**

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REPRESENTATIONS

<b>Person Appearing</b>	<b>Capacity</b>
Paula Fudge	Assessor, Regional Municipality of Wood Buffalo
Julie Peyton	Assessor, Regional Municipality of Wood Buffalo