

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. Piche – Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) – Respondent

BEFORE:

Members:

K. Haxton, Presiding Officer

N. Mahgoub, Member

J. Gogo, Member

Staff:

D. Soucy, 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:

Assessment Roll Number	8340888480
Civic Address	6622 Draper Road
Owner	T. Piche, T. Joseph
File Number	ARB 19-002

[2] The subject property is a rural residential property consisting of a 3-bedroom bungalow with an attached garage, which has been under construction since 2015 and is situated on a 2.479-acre lot.

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.

[3] The Complainant raised an objection to the composition of the Board, noting that the Assessment Review Board members were local residents who were appointed by the Municipality. It was clarified that as per *Municipal Government Act* s.460.1(1), complaints against a residential assessment must be heard by a local assessment review board, which is an independent body comprised of members who were appointed by Council not municipal administration, and who meet the qualifications set by the Minister of Municipal Affairs.

[4] Following the clarification, the Complainant confirmed they had no objection to the Board.

[5] The Respondent confirmed that they had no objections to the composition of the Board.

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

PRELIMINARY MATTERS

Issue

[7] The Respondent requested that a portion of his submission be struck from the record, specifically within Exhibit R1 Respondent's Submission page 15, under Comments, the portion "Also, the plans that have been submitted in their disclosure...the appropriate revision should be made." As there was no objection raised by the Complainant, this portion of Exhibit R1 was struck from the record.

ISSUES

Issue identified on the complaint form	Assessment Amount	Requested Value
An Assessment Amount	\$916,140	\$487,914.40

MERIT MATTERS

Position of the Complainant

[8] The Complainant confirmed their position appealing the assessment of a building still under construction and the land assessment of the subject property.

[9] The Complainant indicated that there had been no work done on the building from August 2018 to July 2019 and referred to pictures contained in Exhibit C1 and Exhibit C2, noting that the drywall was partially complete, painting was not done, nor were the fireplace inserts installed.

[10] The Complainant noted that the square footage of the building and attached garage total 4,262 square feet as depicted on the house plans contained in Exhibit C1, and not the 4,562 square feet noted in the Respondent's Exhibit R1.

[11] The Complainant referred to the Preliminary Inspection tally sheet contained in Exhibit C1, noting it is used by CMHC (Canada Mortgage and Housing Corporation) as well as banks to calculate the percentage of completion of a house.

[12] The information as entered on this form by the Complainant resulted in a 53.5% completion rate for the house, noting that this was up from the 49% completion rate provided in their evidence for the 2018 Assessment Complaint. The Complainant did note that the interior stairs were not complete as was submitted by the Respondent, Exhibit R3.

[13] The Complainant referred to the publicly available information on the internet contained in Exhibit C1 regarding the cost per square foot to build an average wood-framed single-family residence with an unfinished basement in Alberta.

[14] The Complainant referred to the Summary Cost Sheet for Residential Build (Exhibit C1), which was based on the construction costing and the value of the land transfer provided in Exhibit C1, as noted in paragraphs 10 and 11. The information as entered in this form resulted in the total requested assessed value of \$487,914.40.

[15] The Complainant provided a sample 2016 Schedule of Values for a 2000 square foot home that is used by financial institutions to set up a draw schedule for payments as work is completed. The Complainant noted that based on this sample schedule and the previously noted land sale in Draper, the total assessed value would be \$482,259.25, which is very similar to the requested value of \$487,914.40.

[16] The Complainant provided a land title certificate (Exhibit C1) for a 2.47 acre lot adjacent to the subject property showing a transfer of land in September 2017 for a value

of \$220,500 as proof of what the assessment for the land should be, stating that this property was nearly identical in size to the subject property.

[17] The Complainant referred to tables from the Fort McMurray Realtors that provided the average sale price of a single family detached house in Fort McMurray, Sapræ Creek, Gregoire Lake and Anzac, noting that the average sale price in May 2018 was \$561,955 (Exhibit C2) and in January 2019 it was \$531,600 (Exhibit C1). The Complainant noted that the subject property should be assessed for an amount similar to the May 2018 average.

[18] The Complainant referred to an undated MLS listing of vacant land for sale at 0 Garden Lane with a listing price of \$175,000, Exhibit C2, noting that there were no comparable sales in Draper within the timeframe required for the assessment market analysis.

[19] The Complainant provided a table listing three properties Draper that sold between December 2018 and January 2019 and indicated that he was unable to find any sales in Draper during the valuation period of July 1, 2017 and June 30, 2018.

[20] The Complainant disagreed with the Respondent being able to provide a sur-rebuttal at the hearing; however, it was noted that the Respondent is permitted to respond to or rebut the Complainant's rebuttal evidence at the hearing.

[21] The Complainant did not agree with the Respondent's lowering of the overall assessed value of \$857,890 (Exhibit R3) which is based on the square footage of the house and garage in the building plan provided by the Complainant (Exhibit C1), rather than the square footage listed in the Respondent's Exhibit R1.

[22] The Complainant concluded that the percentage of completion stated by the Respondent was inaccurate and should reflect the proposed 53.5% completion rate noted in Exhibit C1, that the land value should be lowered to \$220,500 which is based on the land transfer referred to in Exhibit C1, and that the comparable sales data used to determine market value should be taken from sales within Anzac rather than Sapræ Creek Estates as Anzac is more similar to Draper in relation to infrastructure and amenities.

Position of the Respondent

[23] The Respondent presented the subject property as a 2.479-acre lot located in Draper with improvements that consists of a partially complete bungalow that has 3,591 square feet of living space above grade and a 971 square foot attached garage (Exhibit R1). The Respondent noted that the Assessment Department could not accurately determine the square footage of the bungalow and attached garage without detailed plans as the subject property does not have an approved development or building permit from

the Municipality for the improvements or the required building and safety code inspections completed. In the Respondent's Sur-rebuttal (Exhibit R3) the square footage was amended to 3,404 square feet of living space above grade and an 858 square foot attached garage as depicted in the Complainant's building plan (Exhibit C1).

[24] The Respondent spoke to the definitions of assessment, property and parcel of land and provided an overview of the mass appraisal methodology and the appraisal process (Exhibit R1).

[25] The Respondent identified three Approaches to Value - Sales Comparison Approach, the Income Approach and the Cost Approach. The Cost Approach is used to obtain market estimates for properties under construction as market values could not be accurately predicted by the income or sales comparison approaches. The Respondent stated that the Cost Approach was used in the valuation and testing of the subject property as there are a limited number of partially constructed homes going on the market (Exhibit R1).

[26] The Respondent provided an overview of the detailed property breakdown in the Customer Report of Assessment produced by the Assessment Department, and photographs taken in May 2018 and April 30, 2019 showing the amount of construction on the bungalow and attached garage (Exhibit R2).

[27] The Respondent submitted that the value of the improved portions of the property (bungalow and attached garage), were calculated utilizing the Assessment Department's Percentage Complete Chart, which is derived from the Percentage Distribution Table of the 2001 Provincial Cost Manual. The cost value of the bungalow and attached garage at 69% complete was added to the land value to obtain the 2019 assessment.

[28] The Respondent indicated that the property being at 69% completion level for the year ending December 31, 2018 does not include the fascia or soffit on the exterior cover, fully-completed drywall or ceiling finishes, the cabinets, doors, trim, plumbing fixtures, flooring, the rest of the interior finishes and the deck, and noted that landscaping and driveways are not assessed.

[29] The Respondent presented a table of three comparable land sales, which occurred between June and October 2018 in rural residential market areas, noting that the subject property falls slightly below the three comparable properties in assessment per acre based on the median sales price per acre (Exhibit R1).

[30] The Respondent submitted that the land title the Complainant produced for the parcel of land next door to them is not a sale that the Assessment Department can use in

determining market values as it was not an arms-length sale but a bank sale below market value resulting from a foreclosure.

[31] The Respondent provided an overview of the principle of highest and best use which means that the market value of a property depends on the potential use rather than the current use alone. The principle is most obvious in the case of vacant land which commands value based the more profitable the potential use, the higher the demand and market value (Exhibit R1).

[32] The Respondent further submitted that the highest and best use of the subject property is a single-family home based on the Draper Area Development Plan data.

[33] The Respondent presented a table of three comparable improved property sales, which occurred between May 2017 and February 2018 in rural residential market areas, noting that the subject property falls below the three comparable properties in price per square foot for the main building (Exhibit R1).

[34] The Respondent noted that if there are insufficient supply of sales in one area, they use sales from a comparable area. As Sapræe Creek Estates has the most similar land and house sizes to Draper, this was the area used for the comparable sales. The sales presented by the Complainant (Exhibit C2) are past the valuation date of July 1, 2018 and will be used in the 2020 tax year for the 2019 assessment.

[35] The Respondent further submitted that the Fort McMurray Realtors tables submitted by the Complainant only show evidence of the average value of an unknown inventory at a point in time without knowing what the average size of the homes was, where they were located, the year they were built or the condition of the homes. The Respondent stated that the average size of the home in Canada in 2010 was 1,792 square feet and noted that the Complainant's home is above average size on an above average sized lot; therefore, it should not be considered average. The Respondent offered that the Complainant has not provided evidence to support the requested assessment of \$487,914.40

[36] The Respondent provided an overview of pictures taken May 25, 2018 and further images from a site inspection on April 30, 2019 (Exhibit R2) and based on the Complainants pictures from August 2018 (Exhibit C2). The Respondent noted that work had been done on the home since the last valuation period, hence, the increase in percentage complete from 61% in the 2018 assessment to 69% in the 2019 assessment.

[37] The Respondent referenced the 2018 Local Assessment Review Board Order No. 2018-005 (Exhibit R2), indicating that if the Complainant had disclosed details (e.g. receipts) on the actual cost of the building to show the cost associated with the

construction to date, then there would be additional evidence to determine if the assessment and percentage of completion of the bungalow and attached garage is correct.

[38] The Respondent submitted that the Percentage Complete Chart (Exhibit R2), which provided for a 69% completion rate for the subject property, is used on all progressive properties within the Municipality; therefore, it is used fairly and equitably.

[39] The Respondent provided a completed Percentage Distribution Table from the 2001 Provincial Cost Manual for the subject property, which, when using this table, resulted in the current amount of construction to be 67.5% complete (Exhibit R3). The Respondent noted that this calculation should not have included the soffits and eaves trough listed at Stage 2 of the table as they are not complete; therefore, the percentage of completion would be 66.5% using the 2001 table.

[40] The Respondent concluded that due to the information received regarding the square footage of the bungalow and attached garage from the Complainant's submissions, Exhibits C1 and C2, the Assessment Department lowered the assessment of the subject property from \$915,140 to \$857,890, and requested that the Local Assessment Review Board confirm the adjusted assessment of \$857,890.

[41] When the parties were polled by the Chair to see if they felt they had a fair opportunity to present their case to the Board, the Respondent and the Complainant confirmed that they had a fair opportunity to present their case. The Complainant did state that he was not comfortable with the respondent sur-rebuttal process; however, the Board noted that the provisions of the *Matters Relating to Assessment Complaints Regulation* ("MRAC") permit the Respondent to rebut the Complainant's Rebuttal submission.

DECISION

[42] It is the Decision of the LARB to revise the percentage of completion of the improvements to 65.5% resulting in an assessed value of \$482,360 for the bungalow and attached garage, and to confirm the assessed value of the land at \$349,756, resulting in a total revised assessed value of \$832,116.

REASON FOR DECISION

[43] 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”).

[44] The Board agreed with the Respondent that the property sales presented by the Complainant, Exhibit C2, are past the valuation date of July 1, 2018; therefore, the Board could not consider this evidence as only sales during the valuation period of July 1, 2017 to June 30, 2018 can be considered.

[45] The Board agreed with the Respondent that the Fort McMurray Realtors’ tables of the average sale price for a single-family detached home provided by the Complainant (Exhibits C1 and C2) do not provide actual sales data; therefore, the Board could not consider this evidence as only valid sales during the valuation period can be considered.

[46] The Board agreed with the Respondent that the land title the Complainant produced for the parcel of land next door to them (Exhibit C1) is not a sale that can be used in determining market values as it was a non-arms-length bank sale that was below market value resulting from a foreclosure.

[47] The Board accepted the Respondent’s comparable sales data (Exhibit R1), which utilized sales of comparable rural residential properties within Saprae Creek Estates that were similar in size and occurred prior to the valuation date of July 1, 2018 to determine the assessed value of the subject property.

[48] The Board agreed with the assessment of the land, \$349,756, provided by the Respondent (Exhibit R2) which was based on the comparable sales that occurred during the valuation period of July 1, 2017 and June 30, 2018. Had the Complainant provided valid sales data for comparable rural residential properties during the valuation period, the Board would have had evidence to consider if the land assessment was incorrect. In the absence of such evidence to support the requested \$220,500 valuation for the land, the Board is satisfied that the land assessment, which was determined using the sales comparison approach in accordance with provincial legislation, is fair and equitable.

[49] The Board agreed with the Respondent that the subject property was an above average sized home and on an above average sized lot (Exhibit R3); therefore, the Board did not put any weight on the Complainant’s Summary Cost Sheet for Residential Build, Exhibit C1, which used internet data to provide the cost per square foot of construction for an average 2000 square foot home that was then applied to the cost per square footage of the subject property.

[50] The Board accepted the Complainant's square footage of the bungalow and attached garage as supported by the building plans (Exhibit C1), also accepted by the Respondent (Exhibit R3), which would result in a revised assessed value of \$857,890.

[51] With respect to the forms used to determine the percentage of completion for the improvements on the subject property, although the Board understood the calculation used by the Complainant (Exhibit C1), and the calculation used by the Respondent on the Assessment Department's Chart of Percentage Complete (Exhibit R2), heavier weight was given to the calculation provided by the Respondent based on the use of the Alberta 2001 Residential Cost Manual – Residential Component Percentage Distribution Table (Exhibit R3) as the source of the document is verifiable.

[52] The Board has determined that the percentage of completion of 67.5% based on the Residential Component Percentage Distribution Table (Exhibit R2) be amended by removing the 1% applied to the completion of the soffits and eaves trough as the Respondent noted that these improvements had not been completed (Exhibit R1).

[53] Additionally, the Board accepted the Complainant's testimony that the stairs had not been installed, and further amended the percentage of completion by removing the 1% applied to the stairs. The effect of removing these 2 components reduces the percentage of completion of the bungalow and attached garage to 65.5%, resulting in the revised assessed value of \$482,360 for the improvements.

[54] It is so ordered.

DISSENTING OPINION

[55] There was no dissenting opinion.

[56] The decision of the Local Assessment Review Board 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
6 day of AUG 2019.

FOIP s.17(1)

K. Haxton, Presiding Officer

APPENDIX A

DOCUMENTS RECEIVED AND CONSIDERED BY THE LARB

Exhibit Number	Description
C1	Complainant's Submission (17 pages)
C2	Complainant's Rebuttal (17 pages)
R1	Respondent's Submission (16 pages)
R2	Respondent's Appendix of Supporting Documentation (29 pages)
R3	Respondent's Sur-rebuttal (8 pages)

APPENDIX B

REPRESENTATIONS

Person Appearing	Capacity
T. Piche	Complainant
T. Joseph	Complainant
S. Bosgra	Respondent
