



Board Order 2023-005

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

BETWEEN:

Pacific Investments GP Ltd. - Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) – Respondent

BEFORE:

Members:

Gregory Krischke, Presiding Officer

Kulwin Arora, Member

Sean Schaffer, Member

Staff:

Anita Hawkins, Clerk

BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[1] A hearing was convened on September 15, 2023 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	8302099930
Civic Address	Plan 1025452 Block 1 Lot1
Owner	Prairie Investments GP Ltd.
File Number	ARB23-002

PROCEDURAL MATTERS

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

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

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

PRELIMINARY MATTERS

Issue

[4] Are pages 3 and 4 of the Complainant's Rebuttal (C-3) new evidence?

Position of the Respondent

[5] The Respondent objected to the inclusion of pages 3 and 4 of C-3 as they introduced new evidence contrary to the provisions of the *Municipal Government Act*.

Position of the Complainant

[6] The Complainant asked that pages 3 and 4 of C-3 be included as they were not available within the timeline required for the initial submission and further illustrate the position that the subject lands are unlikely to attract potential buyers.

PRELIMINARY DECISION

[7] The Board denied inclusion of pages 3 and 4 of C-3.

REASONS ON PRELIMINARY DECISION

[8] Pages 3 and 4 of C-3 and references to this two-page letter contain new evidence not disclosed in the original Complainant disclosure.

[9] The Board referenced the MGA, *Matters Relating to Assessment Complaints Regulation, 2018* s. 10 (b) which states "A composite assessment review board panel must not hear (b) any evidence that has not been disclosed in accordance with section 9."

[10] The Board also referenced *GLS Chevrolet Cadillac Ltd v Calgary (City)*, 2013 ABQB 318 which stated, in part, that "rebuttal is intended to respond to the municipality's evidence, not to prove what should have been proven in the first place."

ISSUES

Issue identified on the complaint form	Assessment Amount	Requested Value
An Assessment Amount	\$26,867,240	\$13,000,000

MERIT MATTERS***Position of the Complainant***

[11] COVID 19, low oil prices, and barriers to pipeline construction have impacted the demand for industrial sites. The current economic environment continues to significantly erode land values. Susan Lore, of The Lore Group, a local realtor provided a letter that “the Lands have been on the market for sales to developers with no offers to date”. This has not been reflected in the most recent land valuations made by the Regional Municipality of Wood Buffalo (RMWB) on the subject property.

[12] Demand for industrial buildings in the Fort McMurray area is very low, with an average of only one building being built every 18-24 months.

[13] The RMWB would not approve an area structure plan for the Prairie Creek Industrial Park (subject) unless it was developed to an urban standard with curb and gutter, lights, paved roads, storm sewers, and municipal services. Although the subject is deemed to be in the urban service area, it is almost 15 kms south of downtown in the main hamlet area.

[14] The RMWB indicates the subject property “sits entirely in the Urban Service Area with electricity, natural gas, phone and internet services currently being offered”. In reality, the municipal services, acknowledged by the Respondent, are 2-5 kms north of the subject. Approximately 800 acres of the subject is still in its original state. To strip the land, much of which is muskeg, at least three feet of overburden must be removed.

[15] Upon questioning, the Respondent indicated there have been no industrial land sales since 2020 and most development permits have occurred in the Airport Industrial area.

[16] A photograph of the sale sign for the subject, taken by the Respondent, is somewhat misleading. The sign is ten years old and corresponds with the only sale of a lot on the subject lands. Halliburton, the purchaser, has not developed the parcel and it remains vacant to this day.

[17] The Respondent identified two large parcels of land as equity comparables. One is government owned and the other owned by a post-secondary entity. The Complainant's assumption is that both are tax exempt and thereby not at all financially impacted by their assessed values.

[18] The chart of Market Comparison Properties presented by the Respondent are vastly different from the subject and do not provide the equivalent attributes to be used as comparables. For instance, the undeveloped land with no services (Tobin) is 400 times smaller than the subject. Also, the sales data for industrial land in Fort McMurray over the last seven plus years proves the demand is nonexistent with the three improved land sales sold between 2017 and 2019; and the two comparables from rural areas without sewer and water sold in 2016 and 2017.

[19] The property value is over assessed in today's market and would be more appropriately set at \$13,000,000.

Position of the Respondent

[20] The International Association of Assessing Officers (IAAO) and the Appraisal Institute of Canada recognize the applicability of the following three approaches to value for use in mass appraisal: 1. Cost Approach 2. Income Approach and 3. Sales Comparison Approach. For the 2022 Annual Assessment for 2023 taxation year the RMWB used the sales comparison approach to estimate the market value of undeveloped land. This was deemed to be the most appropriate method for the valuation of undeveloped land as it mirrors the actions of buyers and sellers in the marketplace.

[21] Sales occurring from July 01, 2015, to June 30, 2022 were used in the valuation and testing of undeveloped land. Through the review of sales, the collective actions of buyers and sellers in the marketplace are analysed to determine the contributory value of specific property characteristics that drive market value. Once the values have been determined they are applied to the industrial land inventory to derive the most probable selling price. Seven years, instead of the usual five years, was used as there were very few industrial land sale transactions during the COVID 19 pandemic.

[22] Two equity comparable properties were presented. The first, North Parsons Creek Development, is 1731.492 acres in size and zoned UE. It is generally flat with many areas of muskeg that would need to be removed before development. The 2022 assessment was \$26,589.55 per acre. The second, Keyano Industrial Lands, is 611.04 acres in size. It has an undulating topography and slopes from north to south. The rocky and sandy soil on this site is superior to the other development parcels. The 2022 assessment was \$31,593 per acre.

[23] Upon questioning by the Complainant, the Respondent stated that the North Parsons Creek Development was owned by the provincial government and the municipality receives a great in lieu of taxes which may or may not match the assessment amount. The Keyano Industrial Lands are owned by the College but, unlike the institution, pay taxes on all of the industrial land.

[24] Three improved land sales were presented. All were zoned BI, services were available to the lot line and were mostly or fully developed. Comparable 1 was a 1.1 acre site located in the MacKenzie Industrial Park which sold on March 06, 2017 for \$1,272,727 per acre. Comparable 2 was a 2.99 acre site located in the Airport Industrial Park which sold on September 18, 2018 for \$735,785 per acre. Comparable 3 was a 1.73 acre site located in the MacKenzie Industrial Park which sold on May 16, 2019 for \$1,589,595.

[25] Two rural examples of BI properties without water or sewer services, located 10 kms south of the subject property, were presented. 271 Richard Road was a 2.162 acre site that sold on July 06, 2016 for \$774,745 per acre. 311 Richard Road was a 2.147 acre site which sold on July 21, 2017 for \$652,072 per acre.

[26] Only one sale of industrial land occurred during to COVID 19 period. 111 Tobin was sold on August 23, 2021, for \$125,000. The lot size was 2.52 acres with little to no muskeg and there were no water or sewer services to the site but there was electricity and gas at the lot line. It is zoned BI like the subject and is located along highway 881. The price per acre was \$49,603. The Respondent considered this to be a property most like the subject.

[27] The Respondent asserted that, from an equity perspective, the subject property is assessed properly at \$28,230 per acre. The assessed value falls between the larger parcel (1,731.492 acres) at \$26,590 per acre and the smaller parcel (609.175 acres) at \$31,662 per acre.

[28] Proving the incorrectness of an assessment is the responsibility of the Complainant who must provide sufficiently compelling evidence on which a change to the assessment can be based. As the Complainant did not provide any sales of properties with lower sales prices or any compelling real estate evidence concerning the subject property, the Respondent asserted that the Complainant did not meet the burden of proof needed to reach a lower valuation for the property.

[29] The Respondent asked that the assessment of the subject property be confirmed at \$26,867,240.

DECISION

[30] It is the Decision of the CARB to reduce the 2023 assessment to \$13,000,000.

REASON FOR DECISION

[31] The Board found the Complainant's disclosure sufficient to meet the intent of Burden of Proof. *Beta Management v Edmonton (City)*, 2017 ABQB 571 writes that the Complainant has an "evidential" burden to bring some evidence that could support its position. At that point, the Assessor has an evidential or "tactical" burden to respond.

[32] The Complainant provided a minimal amount of evidence, therefore the Board weighed all of the evidence provided by both parties to determine if the Complainant's position was valid on a balance of probabilities.

[33] The issue at hand was whether the current assessment was supported through sales of similar lands and assessments of similar properties. It was the Complainant's contention that there had not been any recent sales of industrial property or development of large tracts of land as a result of the 2016 fire, low oil prices, barriers to pipeline construction and the economic downturn.

[34] The Board gave little weight to the Respondent's two comparable properties that were of similar size to the subject. Both are located within the developed area of Fort McMurray, unlike the subject. Both have services to the property line, unlike the subject with services 2-5 kilometres away. Parcel 1, the North Parsons Creek Development, has 1,731 acres assessed at \$26,590.00 per acre and is zoned for both residential and commercial development. It was cleared of vegetation in 2015. This property is owned by the provincial government and is subject to a payment in lieu of taxes. The Respondent indicated the provincial government determines the amount it will pay, which may not be equal to the assessed value. Parcel 2, the Keyano Industrial Lands, has 611 acres assessed at \$31,593.00 per acre. Although the land is sloped with a great deal of undulation which would require leveling or terracing before development, the soil is rocky and sandy which is superior to the subject.

[35] The Board gave weight to the one sale of undeveloped land. 111 Tobin was purchased in August of 2021. The lot is 2.52 acres or \$49,603.00 per acre. There is no sewer or water to the site, but power and natural gas is available at the lot line. It is located adjacent to a major highway, similar to the subject. There is little to no muskeg on the site which is superior to the subject. The Respondent considered this property to be most similar to the subject.

[36] The Respondent provided five improved land sales. Three were urban sales in existing industrial parks and two were from a rural area 10 kilometres south of the subject. The sales occurred between 2016 and 2019. The Board gave no weight to these comparables as they were sales in existing industrial areas and that the Respondent “inferred” that if the subject property had all services available at the lot line, and it was at least mostly developed, it would attract similar prices to the comparables.

[37] The Board found that the subject was unlikely to attract development based on its location, the oversupply of improved land available in the existing industrial parks, and the general lack of industrial land sales in the Fort McMurray area since the fire in 2016.

[38] The Board considered the one piece of undeveloped land, 111 Tobin, as the most similar to the subject. The ease of servicing and preparation of the land for development is superior to the subject. As well, the subject is 400 times larger and so economies of scale would also need to be factored in. The sale price in 2021 was \$49,603.00 per acre.

[39] The Board found the subject to be over assessed at \$26,867,240 or \$28,230.00 per acre and a value of \$13,000,000 to be fair and equitable.

[40] 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”).

[41] It is so ordered.

DISSENTING OPINION

[42] There was no dissenting opinion.

[43] The decision of the Composite Assessment Review Boards is final and binding on all parties. This decision may be judicially reviewed by the Court of King’s Bench pursuant to Section 470(1) of the *Municipal Government Act, RSA 2000, c M-26*.

Dated at the Regional Municipality of Woof Buffalo, this 12th day of October, 2023.

DocuSigned by:
FOIP s. 17(1)

Gregory Krischke, Presiding Officer

APPENDIX A

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

Exhibit Number	Description
C-1	Complaint Form (4 pages)
C-2	Complainant Submission (2 pages)
C-3	Complainant Rebuttal (2 pages)
R-1	RMWB Disclosure (20 pages)
R-2	RMWB Disclosure Appendix (12 pages)
R-3	RMWB Law & Legislation Brief (58 pages)

APPENDIX B

REPRESENTATIONS

Person Appearing	Capacity
Dennis Doherty	Complainant
Kevin Krawchuk	Complainant
Sam Bosgra	Assessor, Regional Municipality of Wood Buffalo
Scott Kim	Assessor, Regional Municipality of Wood Buffalo Respondent - Observer

APPENDIX C

LEGISLATION

Municipal Government Act, R.S.A. 2000, c. M-26

Matters Relating to Assessment and Taxation Regulation, 2018 – AR 203/2017

Matters Relating to Assessment Complaints Regulation, 2018 – AR 202/2017
