

**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:**

Trevor and Deirdre Matthews – Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) – Respondent

**BEFORE:**

S. Schaffer, Presiding Officer

A. Green, Member

N. Mahgoub, Member

Staff:

A. Hawkins, Clerk

**BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

[1] A hearing was convened on August 17, 2024, 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> | 50661210                                  |
| <b>Civic Address</b>          | 161 Diamondstone Ridge, Fort McMurray, AB |
| <b>Owner</b>                  | Trevor and Deirdre Matthews               |
| <b>File Number</b>            | ARB 24-004                                |

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**PROCEDURAL MATTERS**

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

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

**PRELIMINARY MATTERS**

***Issue***

[5] Are pages 5 through 12 of the Complainant's Rebuttal (C-3) new evidence?

***Position of the Respondent***

[6] The Respondent objected to the inclusion of pages 5 through 12 as they introduced new evidence, therefore should be stricken from the rebuttal submission.

***Position of the Complainant***

[7] The Complainant presented that the new sale comparisons were included in the rebuttal in response to the Respondent's submission, which indicated that the original comparisons presented were not admissible based on the July 1, 2023 valuation date.

**PRELIMINARY DECISION**

[8] It is the decision of the Local Assessment Review Board to strike pages 5 to 12, and any other references related to those pages, from the Complainant's Rebuttal submission.

**REASONS ON PRELIMINARY DECISION**

[9] Pages 5 to 12 of the Complainant's Rebuttal submission include evidence not disclosed in the original Complainant Disclosure.

[10] The Board referenced *Matters Relating to Assessment Complaints Regulation, 2018*, s. 6 which states that "A local assessment review board panel must not hear (b) any evidence that has not been disclosed in accordance with section 5."

[11] The Board agreed that information provided on pages 5 to 12 of the rebuttal does not respond to the Respondent's evidence and as such is deemed to be new evidence and cannot be considered at this time.

[12] It is so ordered.

### **ISSUES**

| <b>Issue identified on the complaint form</b> | <b>Assessment Amount</b> | <b>Requested Value</b> |
|---|--------------------------|------------------------|
| An Assessment Amount                          | \$744,660                | \$617,500              |

### **MERIT MATTERS**

#### ***Position of the Complainant***

[13] The Complainant presented that the property was purchased in 2023 for \$617,500.00 and that no improvements have been made, therefore, the assessment amount of \$744,660 does not accurately reflect the most probable selling price as of July 1, 2023.

[14] The Complainant offered as evidence a chart of 10 comparable residential sales, including the sale of the subject property (Exhibit C-2). The properties had the following ranges:

- a) 4-6 bedrooms, with the average being 5 bedrooms;
- b) 3-5 bathrooms with the average being 3 bathrooms;
- c) 1,955 square feet to 2,370 square feet with an average of 2,208 square feet;
- d) build year ranging from 2007 to 2014;
- e) selling price from \$550,000 to \$630,000 with an average of \$606,700;
- f) sale dates ranging from April 14, 2023 to September 2, 2023.

[15] The Complainant also offered as evidence the Alberta Real Estate Association January 2023 and March 2024 Fort McMurray, Anzac, Gregoire Lake, Saprae Creek Monthly Statistics reports (Exhibit C-2), noting that the reports reflect that average home prices decreased by 14.9% in 2022 and by another 9.4% in 2023.

[16] In rebuttal, the Complainant submitted that the assessment should be based on the value of the subject property rather than based on the sale of neighbouring properties.

[17] The Complainant presented that the sale of the subject property, was completed on May 29, 2023, therefore is not a post-facto sale and should be accepted by the Board.

[18] The Complainant presented photographic evidence (Exhibit C-2) on properties located at 343 Prospect Drive, 232 Gravelstone Road, 129 Diamondstone Ridge, 174 Prospect Drive, and 109 Diamondstone Ridge in comparison to the subject property and argued that the comparables submitted as evidence by the Respondent are the highest sales within a 2-block radius.

[19] The Complainant presented that the Alberta Real Estate Association Report (Exhibit C-2) indicates the average home in Fort McMurray and surrounding areas decreased by 14.9% in 2022 and by another 9.4% in 2023 while the Assessment report shows valuation going up from, 2021 to 2023, which is not reflective of what is happening in the market.

***Position of the Respondent***

[20] The Respondent provided a 91-page assessment disclosure package (Exhibit R-1), a 13-page 2024 Single Family Residential Assessment Guide (Exhibit R-2) and a 58-page RMWB Law & Legislation Brief (Exhibit R-3).

[21] The Respondent opened their presentation explaining that “market value” is defined in the *Municipal Government Act* as being 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.

[22] A valuation model with multiple regression analysis is used to determine the degree of correlation and relationship of property attributes to value. The Respondent’s valuation model used the direct sales approach for single family dwelling units. Single family residential assessments represent:

- a) an estimate of the value;
- b) of the fee simple estate in the property;
- c) as it existed on December 31, 2023;
- d) as if it had been sold in that condition on July 1, 2023
- e) on the open market;
- f) under typical market conditions;
- g) by a willing seller to a willing buyer.

[23] The Respondent presented that in conversation with the Complainant, the Complainant stated that they had bought the house in 2023 for \$617,000 and therefore that sale amount should be the current assessed value.

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[24] The Respondent presented that in determining a property sale date, the Municipality uses the date the title of a property is transferred. The legal title transfer for the subject property is dated August 22, 2023 (Exhibit R-1), therefore the sale would be considered a post-facto sale and not be considered for the 2024 tax year.

[25] The Respondent described the subject property as a two-storey single-family detached house, which was built in 2014, approximately 2,172 square foot in size, with a finished basement and an approximately 573 square foot garage, located in the Stone Creek North neighborhood in Timberlea. The house contains 6 bedrooms, 4 full bathrooms, 1 three-piece bathroom and central air conditioning and is considered of above average quality.

[26] The Respondent presented five comparable properties to justify the accuracy and reasonableness of the current assessed value of \$733,480, revised down from \$744,680 to account for its interior and exterior condition from excellent to good. When a property is built, it starts off in excellent condition and at 10 years is dropped to a good condition, due to the natural wear and tear on a property (Exhibit R-1).

a) 343 Prospect Drive

- i) This property is located south of the subject property and has an interior lot.
- ii) The house size is 1939 square feet which is 233 square feet smaller than the subject property.
- iii) The lot size is 3231 square feet, which is 2547 square feet smaller than the subject property.
- iv) It has 2 full bathrooms, 1 half bathroom and no central air conditioning.
- v) The house was built in 2022, making it 8 years newer than the subject property.
- vi) It has a garage size of 264 square feet, which is 309 square feet smaller than the subject property.
- vii) It has an unfinished basement and sits across from the pond.
- viii) It sold in June 2023 for \$670,000. Its sale price, time adjusted to the valuation date of July 1, 2023 is \$669,263 or \$345.16 per square foot.

b) 232 Gravelstone Road

- i) This property is located southeast of the subject property and has an interior lot.
- ii) The house size is 2080 square feet which is 92 square feet smaller than the subject property.
- iii) The lot size is 4424 square feet, which is 1354 square feet smaller than

- the subject property.
  - iv) Its garage is 554 square feet which is only slightly smaller than the subject property.
  - v) It has 3 full bathrooms, 1 half bathroom, air conditioning and 4 bedrooms.
  - vi) The house was built in 2011, making it 3 years older than the subject property.
  - vii) It has a developed basement, but not a suite.
  - viii) The title transferred in January 2023 for \$715,000. Its sale price, time adjusted to the valuation date of July 1, 2023 is \$706,635 or \$339.73 per square foot.
- c) 129 Diamondstone Ridge
- i) This property is located down the same street as the subject property and it has an interior lot.
  - ii) The house size is 2065 square feet, which is a little more than 100 square feet smaller than the subject property.
  - iii) The lot size is 4919 square feet, which is roughly 850 square feet smaller than the subject property.
  - iv) It has 3 full bathrooms, 1 half bathroom, air conditioning and 7 bedrooms.
  - v) It was built in 2012, making it 2 years older than the subject property.
  - vi) It has a garage size of 502 square feet, which is 71 square feet smaller than the subject property.
  - vii) It has a developed basement with a suite like the subject property.
  - viii) It abuts a pond whereas the subject property does not.
  - ix) The title transferred in May 2023 for \$740,000. Its sale price, time adjusted to the valuation date of July 1, 2023 is \$737,632 or \$357.21 per square foot.
- d) 174 Prospect Drive
- i) This property is located south of the subject property and has an interior lot.
  - ii) The house size is 2115 square feet which is slightly smaller than the subject property.
  - iii) The lot size is 5388 square feet, which is 390 square feet smaller than the subject property.
  - iv) The house was built in 2021, making it 7 years newer than the subject property.
  - v) The garage size is 480 square feet, which is 93 square feet smaller than the subject property.
  - vi) It has 2 full bathrooms, 1 half bathroom, no central air conditioning, an unfinished basement and it backs onto the greenbelt.
  - vii) The title transferred in August 2022 for \$765,000. Its sale price, time adjusted to the valuation date of July 1, 2023 is \$747,864 or \$353.60 per square foot.

- e) 109 Diamondstone Ridge
  - i) This property is located down the same street as the subject property and has a interior lot.
  - ii) The house size is 2224 square feet, which is larger than the subject property.
  - iii) The lot size is 4928 square feet, which is 850 square feet smaller than the subject property.
  - iv) It has 3 full bathrooms, 1 half bathroom, central air conditioning and 4 bedrooms.
  - v) The house was built in 2011, making it 3 years older than the subject property.
  - vi) The garage size is 559 square feet, which is slightly smaller than the subject property.
  - vii) It has a finished basement, but it is not a suite, and it backs onto a pond.
  - viii) The title transferred in January 2023 for \$800,000. Its sale price, time adjusted to the valuation date of July 1, 2023 is \$790,640 or \$355.50 per square foot.

[27] The Respondent submitted that taking all the comparables into consideration and their time adjusted sales prices, the assessed value of the subject property as of July 1, 2023, of \$733,480 fits within the range of time adjusted sales prices of the comparables.

[28] The Respondent further submitted that a key attribute difference the subject property has from the comparables is that it does not back onto, nor sit across from a pond or greenbelt. However, looking at the sale prices per square foot, it is reasonable to conclude that the subject property not backing onto or sitting across from a pond or greenbelt is accounted for, with the subject property having the lowest price per square foot.

[29] The Respondent submitted that based on the sale dates, 7 out of the 9 comparables provided by the Complainant would be considered post-facto, leaving 132 Diamondstone Ridge and 133 Gravelstone Way as valid sales to be used as comparables.

[30] The Respondent submitted that an examination of the marketing history for the subject property and the two comparables which sold prior to the July 1, 2023 valuation date, indicate that sale of the subject property and 133 Gravelstone Way do not reflect typical market value conditions and distress is a reasonable explanation for why these sales do not reflect market value. The primary indicator that these sales were done under distress is the fact that they have large decreases in their listing prices in a short period of time, being a decrease in value of 11.66% in a span of 45 days for 161 Diamondstone Ridge and a decrease in value of 10.13% over the span of 35 days for 133 Gravelstone Way.

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[31] The Respondent submitted that examination of the sale of 132 Diamondstone Ridge identified corporate relocation in the MLS listing. One of the criteria for market value is that it assumes a willing buyer and a willing seller, with no advantage or undue motivation by either party. The undue motivation in this case would be selling the home for the purpose of relocating for work.

[32] The Respondent submitted photographic evidence comparing attributes of the subject property with attributes from 132 Diamondstone Ridge, 133 Gravelstone Way, 129 Diamondstone Ridge, 109 Diamondstone Ridge, 232 Gravelstone Road, and 174 Prospect Drive properties, noting that the subject property contains features that none of the comparables have, it features elements common with some of the comparables, and lacks other features that the comparables have. Taking these factors, along with taking the building quality elements into consideration, the comparables range from \$699,263 and \$790,640, which supports a revised 2024 assessed value of \$733,480 for the subject property.

[33] The Respondent presented that the Alberta Real Estate Association Market Report submitted by the Complainant, which shows a decrease in average sale prices of different types of residential properties, does not take into account differences in house size, location, age, build quality, lot size, garage size or other attributes that affect value and as such, cannot be used to establish market value.

[34] In addition, the data contained within the March 2024 Alberta Real Estate Association Market Report is dated following the July 1, 2023 valuation date, therefore cannot be used to establish market value for a particular property.

[35] The Respondent requests that the LARB confirm the assessed value of the subject property at \$733,480.

### **DECISION**

[36] It is the Decision of the LARB to confirm the revised assessment amount of \$733,480.

### **REASON FOR DECISION**

[37] The Board gave more weight to the Respondent's comparables over the Complainant's comparables for the reasons listed below.



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[38] For the subject property, the Board accepts that the Municipality uses the title transfer date to determine when a property is sold. As the subject property was transferred in August 2023, it would be a post facto sale. While the Board recognizes that the subject property was sold in May 2023, it is important for a consistent and accurate ‘source-of-truth’ be used for determining the sale date, and the Board accepts that land transfer date is consistently used by the Municipality.

[39] The Board recognizes that seven of the nine Complainant’s comparables were sold after July 1, 2023. The Board accepts that case law (notably *Edmonton Plaza Hotel Inc. v. Edmonton (City)*) establishes that post facto sales cannot be used to determine value. For this reason, the Board did not consider these properties in its decision.

[40] The Board gave significant weight to the Respondent’s evidence that the subject property’s interior features and build quality have more in common with the Respondent’s comparables rather than the valid Complainant’s comparables.

[41] The Board recognizes that the Respondent’s comparables are of similar size and amenities. It is recognized that some of the comparable properties are newer than the subject property and that they all back onto an abutment while the subject property does not. However, the subject property has the lowest cost per square foot of all the comparables and two of the newest properties also lack a finished basement and central air conditioning. The Board accepts these differences would make the properties more comparable.

[42] The Board recognizes the Complainant’s rebuttal evidence showing the exterior build of the homes, but gave more weight to the interior build quality of the homes.

[43] The Board gave little weight to the Complainant’s evidence regarding home sales data from the Alberta Real Estate Association. While it is recognized that this data may be accurate, it is difficult to apply the data to the subject property as it only has one category for single family detached homes covering homes with different amenities in all of Fort McMurray, Anzac, Gregoire Lake, and Sapræ Creek.

[44] The Board gave mixed weight to the Respondent’s evidence regarding typical market conditions. The Board accepts that 132 Diamondstone Ridge’s MLS listing did include information indicating it was for a corporate relocation which could result in a willing seller situation. However, the Board agreed with the Complainant that it was speculative that the subject property and 133 Gravelstone Way’s price drops were because of a motivated seller and not a market adjustment. It was not clear to the Board how the Municipality decides what properties to exclude for being non-market in its mass appraisal, as the Respondent indicated that the opposite situation (keeping a property on market for a

long period with no price adjustment) would be considered a willing buyer/seller and not an unmotivated seller.

[45] The Board recognizes that the burden of proof to change the property's assessment lies with the Complainant. The Board does not feel it has sufficient evidence to adjust the valuation of the subject property to \$617,500.

[46] The Board recognizes that the subject property's assessment was \$744,660 and that the Respondent recommended that the assessment be "confirmed" at \$733,480. The Board accepts the revised assessment amount of \$733,480 as supported by the adjusted rating of the property condition from excellent to good and the comparable data submitted by the Respondent.

[47] 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").

[48] It is so ordered.

#### **DISSENTING OPINION**

[49] There was no dissenting opinion.

[50] The decision of the Local 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 Wood Buffalo, in the Province of Alberta, this 4th day of September, 2024.

**FOIP Section 17(1)**

S. Schaffer, Presiding Officer

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**APPENDIX A**

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**DOCUMENTS RECEIVED AND CONSIDERED BY THE LARB**

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| <b>Exhibit Number</b> | <b>Description</b>   |
|-----------------------|--|
| C-1                   | Complaint Form (2 page)  |
| C-2                   | Complainant Evidence (9 pages)   |
| C-3                   | Complainant Rebuttal (5 pages)   |
| R-1                   | RMWB Assessment Disclosure (91 pages)  |
| R-2                   | RMWB Assessment Guide – 2024 Single Family Residential Assessment Guide (13 pages) |

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**APPENDIX B**

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**REPRESENTATIONS**

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| <b>Person Appearing</b> | <b>Capacity</b>   |
|-------------------------|---|
| D. Matthews             | Complainant   |
| S. Ahensan              | Assessor, Regional Municipality of Wood Buffalo               |
| J. Peyton               | Supervisor, Assessment, Regional Municipality of Wood Buffalo |
| S. Kim                  | Observer, Assessor, Regional Municipality of Wood Buffalo     |

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## APPENDIX C

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### LEGISLATION

#### *Municipal Government Act*

#### *Matters Relating to Assessment and Taxation Regulation*

#### *Matters Relating to Assessment Complaints Regulation*

#### Issues and evidence before panel

- 6 A local assessment review board panel must not hear
- (a) any matter in support of an issue that is not identified on the complaint form, or
  - (b) any evidence that has not been disclosed in accordance with section 5.

#### Disclosure of evidence

- 5(1) In this section, “complainant” includes an assessed person or taxpayer who is affected by a complaint who wishes to be heard at the hearing.
- (2) If a complaint is to be heard by a local assessment review board panel, the following rules apply with respect to the disclosure of evidence:
- (a) the complainant must, at least 21 days before the hearing date,
    - (i) disclose to the respondent and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and
    - (ii) provide to the respondent and the local assessment review board an estimate of the amount of time necessary to present the complainant’s evidence;
  - (b) the respondent must, at least 7 days before the hearing date,
    - (i) disclose to the complainant and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and
    - (ii) provide to the complainant and the local assessment review board an estimate of the amount of time necessary to present the respondent’s evidence;
  - (c) the complainant must, at least 3 days before the hearing date, disclose to the respondent and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing