

**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:**

Philip Osborne – Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) – Respondent

**BEFORE:**

Alex McKenzie, Presiding Officer

Nayef Mahgoub, Member

Kulwin Arora, Member

Staff:

Anita Hawkins, Clerk

Kathleen Elhatton-Lake, Legal Counsel

**BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

[1] A hearing was convened on August 25, 2023, 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>	71020170
<b>Civic Address</b>	36 Birch Road, Fort McMurray, AB
<b>Owner</b>	Philip Osborne
<b>File Number</b>	ARB 23-009

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**PROCEDURAL MATTERS**

- [2] The Board 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.
- [5] No other preliminary matters were raised by the parties.

**ISSUES**

Issue identified on the complaint form	Assessment Amount	Requested Value
An Assessment Amount	\$328,780	\$280,000

**MERIT MATTERS**

***Position of the Complainant***

- [6] The Complainant confirmed during the hearing that the assessed value being sought was \$280,000 not the \$268,500 stated on the complaint form.
- [7] The Complainant purchased the property in November 2021 for \$268,500. The Complainant submits that this sale represented the true value of the property at that time. The sale was made by a willing seller to a willing buyer. The Complainant was not aware of any undue pressure in the sale.
- [8] The property has 3 beds, 1 bath, and is on a 7,150 sq. ft. lot. The property was built in 1967 and needs a new roof, the driveway is cracked and the siding needs maintenance. The spring flood of 2020 had caused extensive damage to the basement. In response to questions from the Board, the Complainant identified that the basement had been stripped to the studs.

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[9] In 2022, the Respondent assessed the property at \$349,930. The Complainant requested an in-person review of the property. Two municipal staff attended at the property and conducted an approximately 10-minute inspection. The Respondent revised the assessed value for 2022 to \$297,790. The Complainant submits that current assessment of \$328,780 is an arbitrary increase of \$30,990 more than the 2022 revised assessed amount, and is \$60,280 more than the purchase price of November 2021, despite no substantial improvements to the property being made.

[10] The Complainant provided three properties currently listed for sale as comparables.

[11] 47 Centennial Drive: Asking price of \$315,000.

- a) 3 beds, 2 baths, 993 sq. ft. on 8250 sq. ft. lot, built 1968 with a finished basement.

The Complainant stated that 47 Centennial Drive is within a block of the subject property and has a finished basement and 2 bathrooms. Given these additional qualities, the asking price of \$315,000 supports the requested assessed value for the subject property of \$280,000.

[12] 397 Diefenbaker Drive: Asking Price of \$275,000.

- a) 3 beds, 2 baths, 890 sq. ft. on 3565 sq. ft. lot, built 2002.

The Complainant identified that 397 Diefenbaker Drive is slightly smaller than the subject property.

[13] 280 Beaton Place: Asking Price: \$295,000.

- a) 5 beds, 2 baths, 1282 sq. ft. on 5671 sq. ft. lot, built 1985.

[14] In response to questions from the Board, the Complainant identified that the three comparables he provided were market listings, not actual sales data. He acknowledged that there was no information in his disclosure which spoke to sales, except for the information regarding the sale of the subject property.

[15] The Complainant identified that he did not object to the overall methodology used by the Respondent. He wanted to provide more accurate information so a better assessment could be issued.

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***Position of the Respondent***

[16] The Respondent submitted that the assessment represents an assessment of market value being the price a property might reasonably be expected to sell for, if sold by a willing seller to a willing buyer after appropriate time and exposure on the open market.

[17] The Respondent uses a valuation model with multiple regression analysis to determine the degree of correlation and relationship of property attributes to value. The Respondent's valuation model uses the direct sale approach for single family dwelling units.

[18] The Respondent provided the following additional information regarding the property. The property has:

- a) a double detached garage;
- b) central air conditioning;
- c) an update kitchen and furnace; and
- d) no basement development.

[19] The subject property was inspected in the previous year. The Respondent prepared a revised assessment using the valuation model and the information gathered during the inspection.

[20] The Respondent provided four comparable sales to the LARB but noted that the valuation model uses the direct sales information for sales across the municipality for a five-year period. There are 2,150 sales of single-family dwelling units used in the valuation model. Each sale is validated by the Respondent to identify the circumstances of the sale.

[21] The Respondent reviews all land title transactions (sales) within the municipality to determine if they are valid sales to include in the valuation model. Sales may not be considered representative of the market value if the seller is unduly motivated such as settling an estate.

[22] The Respondent submitted that the sale of the subject property was not representative of market value as the sale occurred after title was transferred to the beneficiary of the estate (Exhibit R-1 – Addendum “B”). When a sale involves settling an estate, it will generally not be considered a valid sale of the purposes of an appraisal and statistical evaluation as one or more party may be unduly motivated.

[23] In response to questions from the Board, the Respondent noted that the sale of the subject property was not a typical sale reflective of market value as it was an estate sale, and the sale price was significantly lower than sale prices in the area at that time.

[24] The Respondent provided details regarding four comparable sales from 2021. Three of the comparables were located in the downtown area and one was located in the Thickwood neighborhood.

[25] The Respondent stated that the comparables presented by the Complainant were not representative of market value as a financial institution could be identified as the seller for each listing indicating that these were foreclosure listings. Further, these comparables are not actual sales data but rather market listings. Evidence from after July 1, 2022, cannot be used in setting value for an assessment.

### **DECISION**

[26] It is the Decision of the LARB to confirm the assessment of \$328,720.

### **REASON FOR DECISION**

[27] In coming to its conclusion, the Board has reviewed carefully the provisions of the MGA, the *Matters Relating to Assessment Complaints Regulation* (“MRAC”) and the *Matters Relating to Assessment and Taxation Regulation* (“MRAT”).

[28] The issue before the Board is if the assessment exceeds the market value of the subject property.

[29] The Board considered the Complainant’s submissions regarding his purchase of the property in November 2021. The Board acknowledges that the Complainant was a willing purchaser, however, the definition of “market value” in the *Municipal Government Act* (“MGA”) is “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” (MGA, s. 1(1)(n)).

[30] The Board acknowledges that the Complainant may not have been aware of the circumstances of the sale of the subject property by the seller. The sale of the property was by the remaining joint tenants following the death of one of the joint tenants.

[31] The Board finds as fact that the sale of the subject property to the Complainant in November 2021, was not representative of market value. In coming to this conclusion, the Board has considered the evidence of the circumstances of the sale from the Respondent and the evidence of the comparable sales from the Respondent.

[32] The Board considered the market listings put forward by the Complainant as comparables. These are current and active market listings and not sales information. The Board gave no weight to these listings as they are not sales data and are dated after the legislated date of July 1, 2022. Further, these properties are listed by financial institutions and the Board accepts the submission on the Respondent that they are foreclosures. The Board accepts that foreclosures do not meet the definition of “market value” defined in the MGA, s. 1(1)(n).

[33] The Board considered the comparables put forward by the Respondent. The LARB notes that the Respondent stated their valuation model was based on 2,150 sales of single-family dwellings. The full set of information was not put before the Board. As such, the Board considered the four comparables sales provided by the Respondent. The sales dates for the comparables from the Respondent occurred between July 15, 2021, and November 30, 2021.

[34] The Board noted that one of the sales is located in the Thickwood neighborhood. The Board gave little weight to this comparable as it was not in the same neighborhood as the subject property.

[35] The three comparable sales in the downtown neighborhood provided by the Respondent have a time adjusted sales value of between \$318-\$380 per square foot. The assessment of the subject property was \$327 per square foot.

[36] The Board considered the information provided about each sale and determined that the properties were comparable to the subject property as they were of comparable size on similar sized or smaller lots. Two of the comparables did not have basement developments similar to the subject property. The Board recognizes that the condition of the comparables ranged. The Board accepts the submissions of the Complainant that the subject property requires work to be done and accepts that this resulted in the subject property being assessed at the lower end of this range at \$327 per square foot.

[37] The Board confirms the assessment of \$328,780.

[38] It is so ordered.

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**DISSENTING OPINION**

[39] There was no dissenting opinion.

[40] 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 22<sup>nd</sup> day of September 2023.

**FOIP s. 17(1)**

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Alex McKenzie, 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>
	ARB 23-009 Complaint Form (2 pages)
C-1	ARB 23-009 Complainant Disclosure (5 pages)
C-2	ARB 23-009 Complainant Rebuttal (6 pages)
R-1	ARB 23-009 Respondent Disclosure #1 (27 pages)
R-2	ARB 23-009 Respondent Disclosure #2 (22 pages)
R-3	ARB 23-009 RWMB Law Brief (58 pages)

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**APPENDIX B**

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**REPRESENTATIONS**

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<b>Person Appearing</b>	<b>Capacity</b>
Philip Osborne	Complainant
Julie Peyton	Supervisor, Assessment, Regional Municipality of Wood Buffalo
Paul Frank	Legal Counsel, Regional Municipality of Wood Buffalo

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**APPENDIX C**

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**LEGISLATION**

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*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 201/2017*

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