

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:

MNP LLP – Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) – Respondent

BEFORE:

Members:

George Zaharia, Presiding Officer

Joshua Gogo, Member

Keith Haxton, Member

Staff:

Anita Hawkins, Clerk

BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[1] A hearing was convened on November 3, 2020 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	50663770
Civic Address	130 Eagle Ridge Blvd, Fort McMurray
Owner	East Village Ridge Development Ltd.
File Number	ARB 20-018

[2] The subject property includes two buildings that are three-storey wood framed walk-up apartments located in the Eagle Ridge North Neighbourhood of the Timberlea area of Fort McMurray. The first building's year built/effective year built is 2014 and the second building's year built/effective year built is 2015. Each of these buildings have seventy-nine suites – seven one-bedroom suites and seventy-two two-bedroom suites. Construction started on a third building in 2018, but it is not part of this assessment. The two buildings are in average condition with no major exterior or interior renovations having taken place. Due to its effective age, the subject property is included with strata 3 properties.

[3] The subject property is valued using the income approach with the 2020 assessment set at \$15,619,930 (\$98,858/door).

PROCEDURAL MATTERS

[4] The CARB derives its authority to make decisions under Part 11 of the *Municipal Government Act*, R.S.A. 2000, c. M-26.

[5] The parties confirmed that they had no objections to the composition of the Board. The Board confirmed it had no bias in relation to the matters.

[6] The hearing was conducted by way of video conference. The parties consented to the use of this technology.

PRELIMINARY MATTERS

[7] There were no preliminary matters.

ISSUES

Issue identified on the complaint form	Assessment Amount	Requested Value
An Assessment Amount	\$15,619,930	\$14,504,220

MERIT MATTERS

Position of the Complainant

[8] It is the position of the Complainant that the subject property is over-assessed as a result of relevant information being overlooked to capture its market value. The only parameter that the Complainant took issue with was the capitalization rate (cap rate) used in establishing the requested reduced assessment of the subject property.

[9] In support of increasing the cap rate from 6.5% to 7.0%, the Complainant provided one sale of a comparable property within the market area. The sales report showed that the comparable property sold December 27, 2018 for \$3,500,000, included 50 suites, and sold with a cap rate of 7.0%.

[10] The Complainant questioned the 20% decrease in the year over year assessment of the subject property compared to the 40% decrease in assessment of its sales comparable. The 2019 assessment of the subject property was \$19,905,500, which was \$4,285,570 more than the 2020 assessment of \$15,619,930, for a difference of 21%. The 2019 assessment of the sales comparable was \$6,946,000, which was \$277,275 more than the 2020 assessment of \$4,173,250, for a difference of 40%.

[11] In conclusion, based on increasing the cap rate from 6.5% to 7.0%, the Complainant requested the Board to reduce the 2020 assessment of the subject property from \$15,619,930 to \$14,504,220.

Position of the Respondent

[12] The Respondent provided an overview of its disclosure.

- a) Property assessments are prepared in accordance with the requirements of the *Municipal Government Act*, RSA 2000, cM-26, (MGA) and the *Matters Relating to Assessment and Taxation Regulation*, 2018, Alta Reg 203/17, (MRAT). The legislation requires the municipality to prepare assessments that represent market value by application of the mass appraisal process.
- b) Property assessments represent an estimate of the value of the fee simple estate in the property as it existed on December 31, 2019 and would have realized if it had been sold on July 1, 2019 on the open market and under typical market conditions from a willing seller to a willing buyer.
- c) Mass appraisal is the legislated methodology used for valuing individual properties, and involves 1) stratifying properties into groups of comparable properties, 2) common property characteristics are identified for the properties in each group, and 3) a uniform valuation model is created for each property group.
- d) A single property appraisal is the valuation of a particular property as of a given date, while mass appraisal is the valuation of many properties as of a given date, using standard procedures and statistical testing.
- e) The multi-residential group consists of properties with eight or more dwelling units.

- f) The income approach used to value the subject property best reflects the typical actions of buyers and sellers when purchasing income-producing properties.
- g) For the 2020 tax year, there are 85 apartment buildings in the RMWB from which 47 responses were received to the annual request for information (RFI) requests.
- h) The apartment buildings were grouped into three distinct stratifications.

Strata	Age Categories	# Properties
1	Pre 1980 Eff. Year Built	33
2	1980 - 1999 Eff. Year Built	15
3	> 2000 Year Built	37

- i) Typical Market Rent is the rent currently prevailing in the market for properties comparable to the subject property. Current market rents are used to form the basis of the valuation as opposed to actual rents, because in many cases actual rents reflect historical revenues derived from leases negotiated before the valuation date. In determining potential gross income, the assessor is not bound by the contractual rent between the landlord and tenant but must determine rental income based on what is typically paid in the market at the time of valuation.
- j) Vacancy Allowance is a deduction from the potential gross income for typical vacancy, assuming current market conditions and typical management. Vacancy losses are best described as an allowance for vacant space. These allowances are usually expressed as a percentage of potential gross income. It is determined for each market area by analyzing reported vacancies from the owner's annual financial statements. The vacancy allowance includes an allowance for tenant inducements. The following table illustrates the vacancy allowances utilized for the 2020 Assessment valuation for the three strata:

Strata	Vacancy %
1	27%
2	32%
3	36%

- k) Expense Ratio is a deduction from the effective gross income (EGI) for typical expenses related to the property taxes, utilities, management, insurance, etc. Depreciation and mortgage interest are not allowable expenses. The expense ratios used for the 2020 Assessment valuation for the three strata:

Strata	Expense Ratio
1	55%
2	50%
3	50%

[13] The Respondent provided three charts based on the three strata that had been developed to categorizes the multi-residential properties in the municipality. For the subject property which falls into strata 3,

- a) the typical rents used were \$1,400 for a one-bedroom suite and \$1,700 for a two-bedroom suite,
- b) the expense ratio was 50.0%, and
- c) the vacancy rate was 36%.

[14] The Respondent provided an analysis of the request for information (RFI) submitted by the subject property owner, and determined that the average rents for furnished one-bedroom suites in the Diamond building was \$1,500/month and for furnished two-bedroom suites was \$2,250/month. Average rents for furnished one-bedroom suites in the Empire building was \$1,700/month and for furnished two-bedroom suites was \$2,750/month.

[15] Upon auditing other complexes, it was determined that the difference between furnished and unfurnished one-bedroom suites was \$100/month and the difference for two-bedroom suites was \$150/month. By deducting the amount for furnishings and combining the rents of the two buildings that form the subject property, the rents achieved by the subject property were determined to be \$1,400/month for one-bedroom suites and \$2,100/month for two-bedroom suites.

[16] The Respondent provided a chart that showed actual values attributed to the subject property as follows: one-bedroom rent - \$1,400/month; two-bedroom rent - \$2,100/month; vacancy rate – 36.08% and expense ratio – 39.51%.

[17] Through the process of mass appraisal, the values applied to determine the assessment of the subject property were as follows: one-bedroom rent - \$1,400/month; two-bedroom rent - \$1,700/month; vacancy rate – 36.0% and expense ratio – 50%.

[18] The Respondent concluded its analysis by stating that *“the subject property has benefitted through the modelling process in that the property assessment utilizes rents equal to or lower than the reported actual rents, an equal vacancy ratio and a higher expense ratio than the actual property has reported.”*

[19] The Respondent provided a response to the Complainant's issue that had suggested the assessed value for the subject property should be based on a cap rate from a single multi- residential sale. The sales report stated that the property sold for \$3,500,000, at a cap rate of 7% and a 44% vacancy but there was absolutely no mention of income or expenses. The Respondent questioned how the cap rate was determined and what time period was used to establish the income and expenses. If they were not from the time of sale, then the cap rate is inaccurate.

[20] In addition, one sale does not make a market, and the sale of an individual property may not represent market value as it does not allow for statistical testing. The Respondent stated that for assessment purposes, it is legislated to value the "Fee Simple" interest of a property. "Fee Simple" interest in real estate attempts to capture the pure market value, assuming the property was unencumbered and available for lease at market conditions, whereas valuing the "Leased Fee" interest in real estate only captures the value associated with the actual income stream (contract rent), present on one site at the time of sale.

[21] The Respondent advised that the sale comparable provided by the Complainant was from a different neighbourhood, and because of its age (effective year built is 1981), it is valued in a different strata. To expect two properties with over 30 years difference in age to have similar income and expense streams and therefore similar cap rates is not fair and inequitable.

[22] The Respondent provided a chart showing the 2020 assessments of all strata 3 multi-residential properties that ranged from \$78,759/door to \$150,639/door resulting in an average of \$101,906/door and a median of \$95,065/door. The subject property's assessment at \$98,858/door falls between the average and median values and falls within the range of all the assessments of the strata 3 properties.

[23] The Respondent commented on the Complainant's requested reduced assessment stating that the request would result in a per door assessment of \$91,798. This value would be substantially lower than the rest of the predominantly two-bedroom complexes in the strata and in fact lower than complexes with predominantly one-bedroom or bachelor units, making this valuation completely inequitable.

[24] In response to the Complainant's argument that the year over year reduction in assessment of the subject property was only half of the reduction in assessment of its sales comparable, the Respondent stated that the two properties are very different in age and it would be unlikely that the two properties would devalue at the same rate. In addition, each year's assessment is independent of the previous year's assessment since the assessments

are based on market value on the valuation date.

[25] The Respondent stated that the onus of proving the incorrectness of the assessment rests with the Complainant to provide sufficiently compelling evidence upon which a change to the assessment can be based.

[26] In conclusion, the Respondent requested the Board to confirm the 2020 assessment of the subject property at \$15,619,930.

DECISION

[27] It is the Decision of the CARB to confirm the 2020 assessment of the subject property at \$15,619,930.

REASON FOR DECISION

[28] The Complainant's only support for a reduction in the 2020 assessment of the subject property was based on one sale of a similar property. This is contrary to the section 5 of the *Matters Relating to Assessment and Taxation Regulation*, 2018 (MRAT) that mandates: *An assessment of property based on market value*

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) *must reflect typical market conditions for properties similar to that property.*

[29] The Board found that the sales comparable provided by the Complainant lacked comparability to the subject property in that the sales comparable was built in 1981, thirty-three years before the subject property.

[30] The Complainant's request is also contrary to section 293(2) of the Municipal Government Act RSA 2000 chapter m-26 that mandates: "*If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located*". The Board found that by establishing that the typical rent applied to the subject property fell within a range of the rents achieved by similar properties, the Respondent had considered the assessments of similar properties in the municipality.

[31] The sale that the Complainant relied upon showed a sales cap rate of 7.0%, which was then the basis of the requested 7.0% cap rate that the Complainant wanted to be used in establishing the assessed value of the subject property. However, without providing what the income and expenses upon which the cap rate was determined, the Board placed no weight on the 7.0% cap rate.

[32] The Complainant had argued that the rate of reduction in the 2020 assessment of the subject property was only half of that experienced by its sales comparable. To place any weight on this argument would be to assume that the properties are the same or at least very similar. The Board was persuaded by the Respondent's argument that to suggest two buildings thirty-one years different in age would devalue at the same rate is questionable. As well, since each year's assessment is based upon different variables (typical rents, expenses, cap rates, sale prices, etc.), it follows that each year's assessment is independent of the previous year's assessment.

[33] The Complainant provided no other evidence to support its position that the assessment of the subject property was not equitable compared to other comparable properties.

[34] The Respondent provided an outline of its methodology to assess properties in its municipality. The Board found that the methodology used by the Respondent was consistent with legislated requirements.

[35] The Respondent provided the information that it had collected from property owners through the RFI process to establish the typical values (rents, vacancy rates, and expense ratios) that were used to calculate the assessment of the subject property. The RFI process is mandated by the MGA at section 295(1) that states "*A person must provide, on the request by an assessor, any information necessary for the assessor to carry out its duties and responsibilities.....*" Although not every property owner responded to this RFI, the Respondent received sufficient responses to establish the typical values used in calculating the assessed values for the 2020 assessment year.

[36] The Respondent had grouped the multi-residential apartment buildings into three groups based on their ages. Of the eighty-five multi-residential apartment buildings, thirty-seven properties fell into strata 3 based on their year built being 2000 or newer. The subject property fell into this strata. Of the thirty-seven properties, the Respondent received responses to its requests for information from fifteen property owners that formed for the basis of the typical rents, expense ratio, and vacancy rate applied to all the thirty-seven properties in that strata. The Board found that the Respondent had complied with legislated requirements that mandate how assessments of properties in Alberta are determined.

[37] In selecting the typical rents, expense ratio, and vacancy rate to be applied to the subject strata, the Respondent had selected the median values that resulted from the requests for information that for rents were lower than the averages and choose the higher vacancy rate to be used in calculating the assessments. The Complainant had no issue with the applied 50% expense ratio. The Board found that the typical rental rates and vacancy

rate reflected the information provided by the property owners and the typical rates were determined and applied to the properties in that strata as mandated by legislation.

[38] The Respondent had provided the 2020 assessments of all strata 3 multi-residential properties that ranged from \$78,759 to \$150,639/door with the subject property's assessment at \$98,858/door falling within the range of all of the assessments of the strata 3 properties. The Board found the assessment of the subject property equitable compared to the other properties in the same strata.

[39] The Board was persuaded that the 2020 assessment of the subject property at \$15,619,900 was fair and equitable. Section 467(3) of the *Municipal Government Act*, RSA 2000, c M-26 states that "*An assessment review board must not alter any assessment that is fair and equitable, taking into consideration the assessments of similar property or business in the same municipality.*" The Board found that the assessment of the subject property was equitable compared to similar properties.

[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").

DISSENTING OPINION

[41] There was no dissenting opinion.

[42] The decision of the Composite 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
30th day of November 2020.

Section 17 (1) FOIP

George Zaharia, Presiding Officer

APPENDIX A

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

Exhibit Number	Description
C1	Complainant's Brief (22 pages – pages 13 & 14 were struck)
R1	Respondent's Brief (39 pages)
R2	Law and Legislation Brief (58 pages)

APPENDIX B

REPRESENTATIONS

Person Appearing	Capacity
Walid Melhem (MNP)	Representative for the Complainant
Julie Peyton	Assessor, Regional Municipality of Wood Buffalo

APPENDIX C

LEGISLATION

MUNICIPAL GOVERNMENT ACT R S A 2000 Chapter M-26

s 1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

Duties of assessors

293(1) In preparing an assessment, an assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

(2) If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.

(3) The municipal assessor must, in accordance with the regulations, provide the Minister or the provincial assessor with information that the Minister or the provincial assessor requires about property in the municipality

Duty to provide information

295(1) A person must provide, on request by an assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.

(2) The Alberta Safety Codes Authority or an agency accredited under the Safety Codes Act must release, on request by an assessor, information or documents respecting a permit issued under the Safety Codes Act.

(3) An assessor may request information or documents under subsection (2) only in respect of a property within the municipality for which the assessor is preparing an assessment.

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

(5) Information collected under this section must be reported to the Minister on the Minister's request.

Decisions of assessment review board

s 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

s 467(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- (a) the valuation and other standards set out in the regulations,
- (b) the procedures set out in the regulations, and
- (c) the assessments of similar property or businesses in the same municipality.

MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION, 2018

Mass appraisal

5 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.