

**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:**

Joanne Williams – Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) – Respondent

**BEFORE:**

Alex McKenzie, Presiding Officer

Nayef Mahgoub, Member

Sean Schaffer, Member

Staff:

Anita Hawkins, Clerk

**BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

[1] A hearing was convened on September 9, 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>	40434450
<b>Civic Address</b>	129 Farrell Crescent, Fort McMurray, AB
<b>Owner</b>	Joanne Williams
<b>File Number</b>	ARB 23-004

[2] The subject property is a bilevel home located at 129 Farrell Crescent, in the Dickinsfield neighbourhood of Fort McMurray.

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**PROCEDURAL MATTERS**

- [3] The LARB derives its authority to make decision under Part 11 of the *Municipal Government Act*, R.S.A. 2000, c. M-26.
- [4] The parties confirmed that they had no objections to the composition of the Board.
- [5] The Board confirmed it had no bias in relation to the matters.

**PRELIMINARY MATTERS**

- [6] There were no preliminary matters raised by either party.

**ISSUES**

- [7] Issues identified on the complaint form:
- a)* School support,
  - b)* An assessment amount.

**MERIT MATTERS**

**Issue 1 – School Support**

***Position of the Complainant***

- [8] The Complainant is of Catholic faith and asks that the school declaration be changed from Undeclared to Catholic.

***Position of the Respondent***

- [9] The Respondent has no issues processing this change and will do so immediately.

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**DECISION**

[10] It is the Decision of the LARB to confirm that the school support declaration be changed from Undeclared to Catholic.

**REASON FOR DECISION**

[11] The Board accepted the Complainant's declaration of faith and the Respondent's willingness to make the required school support declaration change.

[12] It is so ordered.

**Issue 2 – An Assessment Amount**

<b>Assessment Amount</b>	<b>Requested Value</b>
\$440,910	\$400,000

***Position of the Complainant***

[13] The Complainant began their presentation describing two significant factors that negatively affect the subject property. First, the subject property backs onto Thickwood Boulevard, a high traffic major road that generates high traffic noise. Second, the dwelling of the subject property is constructed with a wood foundation and not a concrete foundation.

[14] The Complainant submitted that other nearby properties in the neighbourhood of the subject property have been selling around \$400,000 and that these homes are older and of average quality.

[15] The Complainant referred the Board to the table of comparables provided in their disclosure package. The information contained in this table was the best data that could be found based on what was publicly available. The Complainant noted that many of the dwellings of these properties are similar in size or larger, have larger lot sizes, have concrete foundations or are located away from major roadways with high traffic noise, yet have sold for less than what the subject property was assessed at.

[16] The Complainant noted that local real estate agents have advised that houses built with wood foundations tend to sell about \$40,000 to \$50,000 less than comparable houses built with concrete foundations.

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[17] The Complainant then referred the Board to the “Market Evaluation” report that was created by a local realtor. The comparables provided in this report were pulled from the MLS system and are properties that are comparable to the subject property.

[18] The Complainant explained to the Board that the comparables presented by the Respondent do not compare to the subject property. These comparables were either in locations that would not be subject to traffic noise or were constructed with a concrete foundation. The Respondent’s comparables do not account for traffic noise from Thickwood Boulevard and wood foundation construction that must be accounted for in the assessment of the subject property.

[19] In closing, the Complainant reaffirmed that the assessment of the subject property is too high and asked the Board to adjust the assessment of the subject property to \$400,000. The current assessment value does not account for negative factors like traffic noise or wood foundation construction instead of a concrete foundation.

Questions from the Respondent

[20] The Respondent had no questions for the Complainant.

Questions from the Board

[21] The Complainant confirmed that although the “Market Evaluation” report noted an estimated value of the subject property in 2022 as being in the range of \$400,000 and \$420,000, the lower end of that range should be what is considered.

[22] The Complainant re-emphasized that traffic noise from Thickwood Boulevard and the wood foundation construction of the subject dwelling are factors that negatively affect the value of the subject property. It was confirmed that there was no evidence provided to quantify, or value, how much of a negative effect on value these factors would have.

[23] The Complainant identified 121 Robin Crescent and 157 Wapiti Crescent from the “Market Evaluation” report as the comparables that most closely matched the subject property.

***Position of the Respondent***

[24] 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.

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Single-family residential assessments represent:

- an estimate of the value;
- of the fee simple estate in the property;
- as it existed on December 31, 2022;
- as if it had been sold in that condition on July 1, 2022;
- on the open market;
- under typical market conditions;
- by a willing seller to a willing buyer.

[25] The Respondent described the subject property. It consists of a 1,202 square foot bilevel home with a 446 square foot attached garage built in 1981 on a 6392 square foot lot. The house is a standard project home of average quality with a wood foundation. Further details on the features of the dwelling were provided to the Board. There is also a 308 square foot shed located on the property; the shed was not included in the assessment of the property.

[26] The Respondent provided three sales comparables to show that the subject property is assessed below comparable properties. The comparables presented have a time adjusted sale price per square foot price range of \$389.57 to \$404.78 whereas the subject property was assessed at \$366.81 per square foot.

[27] The Respondent noted that the three comparables provided to the Board are only a sample of the sales used in their valuation model and that they use the direct sales information for all valid sales for a five-year period up to July 1, 2022.

[28] The Respondent spoke to the first list of fourteen comparable properties provided by the Complainant. Each of these properties were identified to not being valid sales data for reasons such as they were:

- a) bank sales,
- b) active listings and not sales,
- c) post-facto sales after July 1, 2022,
- d) priced sold as is with repairs needed, or
- e) expired listings, no sale.

[29] The Respondent then spoke to the “Market Evaluation” report generated by a local real estate agent. It was noted that although the report suggested an estimated valuation of between \$400,000 and \$420,000, the report indicated a median sale price of the comparables in the report to be \$445,000 with a price per square foot sale price of \$389.67. This data is inconsistent with the estimated valuation provided by the report and confirms the assessment by the Respondent since these median values are higher than what was the subject property was assessed at.

[30] The Respondent further noted that the sales comparable 177 Wapiti Crescent is not a valid comparable. The MLS listing highly suggests it was an unduly motivated sale. This sale included a travel trailer and other incentives in the purchase price. Incentives like these are not considered in mass appraisal methodology. When this comparable is discounted from the remaining comparables in the “Market Evaluation” report, the median sale price per square foot is \$384.93, this is still higher than the subject property assessment, being \$366.81 per square foot.

[31] The Respondent closed by saying that based on the evidence provided, the assessed value of \$440,920 for the subject property is “*fair and equitable*” and well within a reasonable prediction of the value of the property. Additionally, the Assessment Department does sympathize with property owners who are facing challenges in the real estate market; however, they must follow provincial legislation when assessing properties within the municipality.

#### Questions from the Complainant

[32] The Complainant had no questions for the Respondent.

#### Questions from the Board

[33] The Respondent confirmed that they use the title transfer date from the provincial Land Titles department when determining sales dates.

[34] The Respondent explained the methodology in how the time adjustment factors were determined and used to calculate the time adjusted sale price for the purpose of accurately comparing sales data.

[35] The Respondent clarified that the price per square foot was calculated by taking the time adjusted sale price and dividing it by the dwelling size.

[36] The Respondent confirmed that traffic noise may be a factor when determining value; however, there have been no traffic studies done in the last ten years that could be relied upon to provide any adjustments based on traffic noise.

[37] The Respondent confirmed that structure foundation material of a dwelling is taken into consideration as part of the mass appraisal process. The subject property has been confirmed to have a wood foundation and this has been accounted for in this property assessment.

[38] The Respondent would not identify which of the three sales comparables provided would be most comparable to the subject property. It was re-emphasized that these comparables were only a sampling of total comparable properties used for the purpose of mass appraisals.

### **DECISION**

[39] It is the Decision of the LARB to **confirm** the assessed amount of \$440,910.

### **REASON FOR DECISION**

[40] In coming to its conclusions, the Board has carefully reviewed 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] The Board reviewed the “Market Evaluation” report provided in the Complainant’s disclosure. Although the report didn’t specify that the estimated valuation provided is as of July 1, 2022, the comparable sales data contained within were relevant sales data for the purposes of this issue. The Board was satisfied that the sales dates of these comparables were accurate and prior to July 1, 2022.

[42] The Board accepted the Complainant’s claim that 121 Robin Crescent and 157 Wapiti Crescent provided in the “Market Evaluation” report were the properties most comparable to the Complainant’s property. Significant weight was given to these two comparables.

[43] The Board gave some weight to the remaining sales comparables from the “Market Evaluation” report, with exception to 177 Wapiti Crescent, for the purpose of the calculated average noted in this report.

[44] The Board agreed with the Respondent that the comparable, 177 Wapiti Crescent, from the “Market Evaluation” report should not be considered. The Board acknowledges that it is not a valid sale since it would not meet the definition of “*typical market conditions*” as prescribed in *Matters Relating to Assessment and Taxation Regulation* section 5(c):

- (5) *An assessment of property based on market value*
  - (c) *must reflect typical market conditions for properties similar to that property.*

The incentives included in this sale is not conducive to typical market conditions. Thus, the Board gave no weight to this comparable.

[45] The Board gave no weight to the list of properties provided on the page 2 of the Complainant's disclosure. The Board was swayed by the Respondent's explanation as to why they are not valid sales to be used as comparables.

[46] The Board was convinced that the methodology used by the Respondent to calculate the Time Adjustment multiplier is accurate and therefore accepted the time adjusted sales price of both its own sales comparables and the Complainant's comparables.

[47] The Board considered the comparables put forward by the Respondent. It was noted that the Respondent stated their valuation model is based on all valid sales over the last five years up to July 1, 2022. This full set of data was not put before the Board, thus only the three sales comparables provided by the Respondent in their disclosure were considered.

[48] The Board accepted two of the Respondent's comparables, 110 Oaks Crescent and 121 Clenell Crescent and gave significant weight to these two comparables. The Board noted that 121 Clenell Crescent was a comparable provided by the Complainant in the "Market Evaluation" report as well.

[49] The Board gave little weight to the Respondent's comparable, 165 Parmenter Crescent. This dwelling was constructed with a concrete foundation and the Board was swayed by both the Complainant and Respondent that a concrete foundation increases the value of that property and would not make it a reasonable comparable. Therefore, the Board gave no weight to this comparable.

[50] The Board gave equal weight to each of the two sales comparables that were given the most weight by the Board from both the Complainant and the Respondent. When the average of all the time adjusted valuations of these four properties was calculated, the average value was \$435,932.00 or \$363.47/sq.ft. This time adjusted price average is consistent with the current assessment of the property being \$440,910.00 or 366.81/sq.ft, and the average of the comparables in the Complainants "Market Evaluation" report (accounting for the disqualification of 177 Wapiti Crescent) of \$437,337.00 or \$383.68/sq.ft.

[51] The Board was convinced that the assessed value of the Complainant's property of \$440,910.00 is well within a reasonable prediction of value and is "*fair and equitable*" based on the evidence provided to it. The Board is bound by section 467(3), with emphasis on subsection (c), of the *Municipal Government Act*:

*s.467(3) An assessment review board must not alter any assessment that is fair and*



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*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.*

[52] It is so ordered.

**DISSENTING OPINION**

[53] There was no dissenting opinion.

[54] Both parties confirmed that they were given a sufficient and fair opportunity to present their information and arguments to the Board.

[55] The decision of the Local Assessment Review Board 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**

<b>Exhibit Number</b>	<b>Description</b>
Exhibit C-1	Complaint Form (2 pages)
Exhibit C-2	Complainant Submission (36 pages)
Exhibit C-3	Complainant Rebuttal (2 pages)
Exhibit R-1	Regional Municipality of Wood Buffalo Assessment Disclosure (33 pages)
Exhibit R-2	Regional Municipality of Wood Buffalo Law and Legislation Brief (58 pages)

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## **APPENDIX B**

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### **REPRESENTATIONS**

<b>Person Appearing</b>	<b>Capacity</b>
Joanne Williams	Complainant
Dharma Gross	Assessor, Regional Municipality of Wood Buffalo
Julie Peyton	Assessment Supervisor, Regional Municipality of Wood Buffalo

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## **APPENDIX C**

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### **LEGISLATION**

***Municipal Government Act (MGA)***

***Matters Relating to Assessment and Taxation Regulation (MRAT)***

***Matters Relating to Assessment Complaints Regulation (MRAC)***

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