Wood Buffalo
TRIBUNALS
Composite Assessment Review Board

Board Order 2020-007

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:

Dan Cayer – Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) – Respondent

BEFORE:

Members:
George Zaharia, Presiding Officer
Alex McKenzie, Member
Nayef Mahgoub, Member

Staff:
Darlene Soucy, Clerk

BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

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

[2] The parties confirmed that they had no objection to the composition of the Board. The Board confirmed it had no bias in relation to this matter.

[3] The hearing was convened on October 17, 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	71012080
Civic Address	10111 Fraser Avenue, Fort McMurray
Owner	Dan Cayer
File Number	ARB 20-042

[4] The subject property is a three-storey walk-up apartment located in the Lower Townsite neighbourhood of Fort McMurray. It has an effective year built of 1980 and has thirty-two suites comprised of one bachelor, fifteen one-bedroom, and sixteen two-bedroom suites. Due to its effective age, the subject property is included with strata 2 properties.

[5] The subject property is valued using the income approach with the 2020 assessment set at $2,611,550 ($81,610/door).

PROCEDURAL MATTERS

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

PRELIMINARY MATTERS

Position of the Respondent

[7] The Respondent stated that the Complainant's disclosure (appraisal of the subject property) was received October 17, 2020, and therefore should not be accepted as evidence for the merit hearing. The only document received in proper time, which in the case for this hearing was June 1, 2020, was the complaint form.

Position of the Complainant

[8] The Complainant stated that it had become aware of the merit hearing October 2, 2020 when it received the Respondent's disclosure, claiming that it had not received the notice of hearing letter dated July 20, 2020 outlining the disclosure requirements.

PRELIMINARY DECISION

[9] It is the decision of the Board to not admit into evidence the Complainant's disclosure (appraisal) for this merit hearing.

REASONS ON PRELIMINARY DECISION

[10] Section 9(2) of the *Matters Relating to Assessment Complaints Regulation*, 2018 (MRAC) mandates that if a complaint is to be heard by a composite assessment review board the complainant must, at least 42 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

[11] Since the Complainant's disclosure (appraisal) was not received until October 17, 2020, section 10 of MRAC applies that mandates that a composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 9.

ISSUES

Issue identified on the complaint form	Assessment Amount	Requested Value
An Assessment Amount	$2,611,550	$1,650,000

MERIT MATTERS

Position of the Complainant

[12] The Complainant held that the sale price was the market value of the subject property, referencing the definition of market value being the amount that a property might be expected to realize if sold on the open market by a willing seller to a willing buyer.

[13] The Complainant stated that the subject property had been listed on the open market for $1,595,000 and that it had purchased the property April 30, 2020 for $1,650,000 ($51,562/door), much less than the assessed value of $2,611,550 ($81,610/door).

[14] It was the position of the Complainant that as a taxpayer, it should not have the subject property assessed at a value higher than market value.

[15] The Complainant stated that there had been a lot of changes in Fort McMurray that affected property values and that the assessment did not recognize these changes.

[16] The Complainant requested the Board reduce the assessment of the subject property from $2,611,550 to $1,650,000.

Position of the Respondent

[17] The Respondent provided an overview of the methodology used and the steps used to derive the assessment of properties in the municipality.

a) Property assessments represent an estimate of the value of the fee simple estate in the property as it existed on December 31, 2019, and what it 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.

b) Mass appraisal is the legislated methodology used to value individual properties and involves: 1) stratifying properties into groups of comparable properties, 2) identifying common property characteristics for the properties in each group, and 3) creating a uniform valuation model for each property group.

c) The multi-residential group consists of properties with eight or more dwelling units.

d) For multi-residential properties such as the subject property, the assessment was determined using the income approach. This approach best reflects the typical actions of buyers and sellers when purchasing income producing properties.

e) The financial information provided by the property owners during the annual request for information (RFI) supports the use of the income approach. For the 2020 assessment, of the eighty-five multi-residential apartment buildings, there were forty-seven responses to the RFIs.

f) The eighty-five multi-residential properties were stratified into three distinct stratifications based on their effective age. Strata 1included thirty-three buildings with an effective year built of pre 1980. Strata 2 included fifteen buildings with an effective year built of 1980 to 1999. Strata 3 included thirty-seven buildings with an effective year built of 2000 and newer.

g) Typical market rent is the rent currently prevailing in the market for properties comparable to the subject property. Market rents are used to establish the assessed value as opposed to actual rents because in many cases, actual rents reflect historical values negotiated before the valuation date.

h) Vacancy allowance is a deduction from the potential gross income (PGI) for typical vacancy, best described as an allowance for vacant space. The typical 2020 vacancy allowance for strata 1 properties was 27%, for strata 2 properties was 32%, and for strata 3 properties was 36%.

i) Expense ratio is a deduction from the effective gross income (EGI) for typical expenses related to the property such as property taxes, utilities, management, insurance, etc. The 2020 expense ratios for the three strata are: strata 1 – 55%, strata 2 – 50%, and strata 3 – 50%.

j) The capitalization rate (cap rate) reflects the relationship between the net operating income (NOI) and the total price or value of the property. The 2020 cap rates for the three strata are: strata 1 – 7.5%, strata 2 – 7.0%, and strata 3 – 6.5%.

[18] The Respondent provided three charts showing the responses from property owners to the RFIs, divided into the three separate strata, from which the typical values for market rents, expense ratios, and vacancy rates were determined. No RFI was received from the subject property.

[19] Based on its effective age, the subject property is included in strata 2, and as a result of the RFIs, the typical rates used in determining the assessed value of the subject property are: 1) market rents for bachelor suites - $1,050, one-bedroom suites - $1,300, and two-bedroom suites - $1,500; 2) vacancy allowance – 32%, and 3) expense ratio – 50%.

[20] Using the typical values for strata 2 properties, of which the subject property is one, the NOI was calculated to be $182,808. Applying a cap rate of 7.0% to the NOI, the resulting assessed value of the subject property is $2,611,550.

[21] The Respondent provided a response to the Complainant's issue, which in the case of this hearing is the recent sale price of the subject property. The registered sale date is May 29, 2020, making the sale post facto as it occurred after the legislated valuation date of July 1, 2019. This sale will be used in determining assessments for the 2021 assessment year.

[22] The Respondent provided a chart showing the assessments of all properties included in strata 2 that ranged in assessments per door from $61,665 to $92,198 resulting in an average of $82,384 and a median of $83,460. The $81,609 per door assessment of the subject property falls within the range of all the properties included in

strata 2, and is lower than the average and median values, suggesting that the subject property has been equitably assessed.

[23] The Respondent stated that the assessor is tasked with two main functions under the Municipal Government Act (MGA) being 1) to assess at the valuation standard specified in the legislation, and 2) to assess all properties fairly or equitably.

[24] In conclusion, the Respondent stated that all applicable provincial legislation and regulations were followed and requested the Board to confirm the 2020 assessment of the subject property at $2,611,550.

DECISION

[25] It is the Decision of the CARB to confirm the 2020 assessment of the subject property at $2,611,550.

REASON FOR DECISION

[26] The only support for a reduction in the assessment of the subject property provided by the Complainant was its sale that was registered May 29, 2020 in the amount of $1,650,000. Although a sale price can be reflective of market value, it must be considered relative to the requirements of the *Matters Relating to Assessment and Taxation Regulation* (MRAT) that mandates that the assessment of a property must be prepared using mass appraisal, must be an estimate of the value of the fee simple estate in the property, and must reflect typical market conditions for properties similar to that property. The Board found that just providing a sale of the subject property did not meet legislated requirements.

[27] The valuation date that applied to the assessed value of the subject property is July 1, 2019 as mandated by MRAT. Any transaction that occurred after the valuation date are considered in the following year's assessment. The Board found that the sale of the subject property that was registered May 29, 2020 could not be considered as relevant evidence for the current year's assessment of the subject property.

[28] 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.

[29] 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.

[30] The Respondent provided the information that it had collected from property owners through the RFI process to establish the typical values (rents, vacancy rates, expense ratios, and cap rates) 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 (including the previous owner of the subject property), the Board found that the Respondent received sufficient responses to establish the typical values used in calculating the assessed values for the 2020 assessment year.

[31] The Board was persuaded that the 2020 assessment of the subject property at $2,611,550 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.

[32] 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

[33] There was no dissenting opinion.

[34] 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 [redacted]

FOIP ACT s.17(1)

George Zaharia, Presiding Officer

APPENDIX A

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

Exhibit Number	Description
C1	Complainant's complaint form (1 page)
R1	Respondent's Brief (30 pages)
R2	Respondent's Law and Legislation Brief (58 pages)

APPENDIX B

REPRESENTATIONS

Person Appearing	Capacity
Dan Cayer	Complainant
Julie Peyton	Assessor, Regional Municipality of Wood Buffalo
Barry Campbell	Observer, 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;

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 COMPLAINTS REGULATION, 2018

Disclosure of evidence

9(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a composite assessment review board panel, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 42 days before the hearing date,

(i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, 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

Issues and evidence before panel

10 A composite 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 9.

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.

Valuation date

6 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.