

## **RECORD OF HEARING – LOCAL ASSESSMENT REVIEW BOARD**

**IN THE MATTER OF THE** *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000;

**AND IN THE MATTER OF A COMPLAINT** of the assessment valuation on property located at 4617 Lily Court, Cold Lake, Alberta legally described as Plan 1324110, Block 1 Lot 12.

**AND IN THE MATTER OF** a Local Assessment Review Board (LARB) hearing held on September 19, 2018 at 11:00 A.M. in the Council Chambers at City Hall in the City of Cold Lake;

### **BETWEEN**

Geoffrey Sander (Complainant)

-And-

City of Cold Lake (Respondent)

### **BEFORE**

Chris Vining, Chairperson  
Norman Perreault, Member  
Patrick Hort, Member

### **ALSO PRESENT**

Kristy Isert, LARB Clerk  
Stephanie Harris, Recording Secretary  
Troy Birtles, Assessor, Accurate Assessment Group Ltd.

### **CALL TO ORDER**

Chairperson called the meeting to order at 11:01 A.M. and welcomed those in attendance to the hearing.

### **INTRODUCTIONS**

The board members, board clerk, recording secretary for the City of Cold Lake introduced themselves.

### **PURPOSE OF THE LOCAL ASSESSMENT REVIEW BOARD**

The Chairperson stated that the purpose of the Local Assessment Review Board is to set out an assessment complaint system for property owners who have concerns about their property assessment or about other matters on an assessment or tax notice made by the City of Cold Lake's taxation and assessment authorities. If an interested person disagrees with a decision

made by the City of Cold Lake's taxation and assessment authorities, he or she may file a notice of appeal with the Assessment Review Board in accordance with the *Municipal Government Act*. This notice triggers a hearing before the Assessment Review Board. The Board draws upon the knowledge, experience and expertise of its broad spectrum of Members. Each case will be considered on its merits.

### **APPEAL OVERVIEW**

The Chairperson asked the clerk to summarize the appeal. The clerk outlined the reason for the hearing as follows:

The Local Assessment Review Board has received an appeal from Mr. Sander for property located at 4617 Lily Court, Cold Lake, legal land description Plan 1324110, Block 1 Lot 12. Mr. Sander is appealing the assessment amount of \$283,900 from the 2018 assessment notice. Mr. Sander requests his property be valued at \$170,000.

The Chairperson asked the Clerk if all notices had been given within the designated time frame. Clerk advised that all notices were given within the designated time frames. Mr. Sander's appeal was received on May 10, 2018 before the appeal deadline of May 14, 2018. The Notice of Hearing was sent to the Appellant on June 20, 2018 well before the notification deadline date of August 14, 2018. The Appellant did not file any disclosure. The Respondent's disclosure was provided on September 10, 2018, prior to the deadline date of September 11, 2018. The deadline for rebuttal evidence was September 17, 2018. No rebuttal evidence was received.

### **CONFLICT OF INTEREST**

Chairperson asked the board if any member had a conflict of interest in hearing the appeal.

None were expressed.

### **OBJECTIONS TO ANY BOARD MEMBER**

The Complainant was not present at the hearing, nor did he advise that he was unable to attend the hearing; as such the Chairperson was not able to ask if the Complainant had any objections to any of the board members hearing the appeal.

The Chairperson asked that all questions/statements be directed through the Chairperson and that names be clearly stated for the record. The Chairperson further asked that all cell phones be turned off.

### **INTRODUCTION OF THE PARTIES TO THE APPEAL**

The Complainant was not present, and no one appeared on his behalf.

Respondent, Troy Birtles, Accurate Assessment was present. Mr. Birtles is the appointed assessor for the City of Cold Lake.

## **SUMMARY OF THE PROCEDURE**

The Chairperson advised that the Assessment Review Board's usual practice is to have the Complainant present all their evidence first, once this presentation is complete. Then the Respondent and the panel will have the opportunity to ask questions. Next, the Respondent presents their evidence and once the Respondent's presentation is complete, then there will be an opportunity for the Complainant and the panel to ask questions. Finally, there will be an opportunity for closing comments where both parties will have an opportunity to present their argument and summarize their evidence for the panel.

The Chairperson asked if everyone is satisfied with this procedure today, or if there were any questions.

The Respondent agreed to this procedure and no questions were expressed.

## **COMPLAINANT STATEMENT**

The Complainant was not present to provide information to the board.

The reason for complaint from Section 5 of the Assessment Review Board Complaint Form was read onto the record:

"This is a new house under construction. 1) I paid \$70,000 for the lot but it was assessed at a higher amount. The assessor said the higher amount was "fair market value" based on averages of other sales, but in fact FAIR MARKET VALUE is what I PAID for it, not some provincial average. I want the assessed value of the lot reduced to the amount I paid for it. 2) At the end of 2017 this new house was just a shell. The siding was not even complete. There was no wiring and no plumbing installed. All we had were partition walls and insulation, and a temporary installation of a used gas furnace. The total value of all construction materials was much less than \$100,000. Even today with the plumbing, electrical, siding and drywall in place the bank will not value the house at \$200,000, so how can the assessment be higher when there was less invested? I want the assessment of the building lowered to \$100,000."

## **QUESTIONS FROM LARB MEMBERS TO THE COMPLAINANT**

None were expressed.

## **QUESTIONS FROM THE RESPONDENT TO THE COMPLAINANT**

None were expressed.

## **RESPONDENT STATEMENT**

Mr. Birtles reported the following:

1. Review of the legislation noted in the assessor's report. The legislation was explained to be important because it sets the standards for the assessment and the disclosure of evidence for the appeal.
2. Explanation of the findings of the assessor's report including explanation that:



- a) The assessment is audited annually by the Province of Alberta;
- b) No evidence was submitted by the complainant except the original complaint letter;
- c) The total value of the property is \$283,900, \$77,800 for the lot, therefore \$206,100 for the building itself.
- d) The construction started in the fall of 2017, the current assessment shows the incomplete status of the house as of December 31, 2017.
- e) An assessment of an incomplete build is done by noting the incomplete items and pulling them out of the assessment (for example, the heating, cabinets etc. were removed). When the items are complete, they are added back on and then a Supplementary Assessment is done.

3. Explanation of the quality standards from the assessor's report:

- a) First measurement: The median assessment to sales ratio must fall between 95-105%.
- b) Second measurement: There must be a coefficient of dispersion less than 15
- c) Of the 310 approved sales, the median ASR was 5.6%, and 52 sales of vacant COD was 6.5%. Those statistics meet the quality standards.
- d) The median ASR ratio for this property was 99.6% and COD was 8.3% which also meets the quality standards.
- e) Each assessment must reflect the characteristics of the property as of the year prior.
- f) All statistics meet the quality standards set out in the regulation.

4. Explanation of the market analysis from the assessor's report:

- a) Comparison report of similar properties was adjusted for any differences between the properties.
- c) Comparable vacant lots were used to determine the market value of the land. The lowest sale of a vacant lot was the subject property at \$70,000 and the highest was \$122,000. The two comparable lots were sold at \$80,000. The assessments are based on mass appraisals. This property was assessed at \$77,800 due to the two other properties being sold at \$80,000.
- b) Comparables for completed homes were pulled from a different subdivision (Tricity Mall area) because the other homes in the subject properties' subdivision are 20 years older, so they do not compare. The sale price per square foot was calculated based on the comparable properties to establish a market value for a completed home. Then the items which are incomplete were removed from the assessment. This is how the assessed value of improvements is calculated.

5. The assessor stated that the assessment was fair, equitable and met the quality standards under the legislation.

**Chris Vining, Chairman:** Interjected, stated that he realized he was out of turn and he would come back to it.

**Norman Perreault, Member:** I have a question. Where is this near?

**Troy Birtles, Assessor:** Brady heights is to the east, and the new school is to the west, Holy Cross.

**Chris Vining, Chairperson:** Yes, behind the Holy Cross school.

**Troy Birtles, Assessor:** These were the 4 best comparables.

**Norman Perreault, Member:** But these are not near this place- these are at the mall?

**Troy Birtles, Assessor:** Yes, these are up by the mall, that's right, in a perfect world I would have 4 on that street.

**Norman Perreault, Member:** Ya, you should- next time

**Troy Birtles, Assessor:** Yes, next time yes.

**Chris Vining, Chairperson:** Okay...

### **QUESTIONS FROM LARB MEMBER TO THE RESPONDENT**

**Patrick Hort, Member:** Did you enter the home?

**Troy Birtles, Assessor:** My assessor Josh, he took photos from the curb but we don't take pics inside.

**Patrick Hort, Member:** Did he not take photos of the state of the interior of the home?

**Troy Birtles, Assessor:** I will look at the summary here, he has visual exterior and information from the owner. There is photos from April for the visual exterior.

**Patrick Hort, Member:** On December 31<sup>st</sup>, do we know the state of the electrical?

**Troy Birtles, Assessor:** We had a conversation with owner in the spring and the owner informed us.

**Patrick Hort, Member:** So the information was provided to you by home owner?

**Troy Birtles, Assessor:** Yes, on page 12.

**Patrick Hort, Member:** So you did not enter the home, so you don't know the state of the electrical work? What value did put on the electrical not being finished. I see what you have on page 14, but what I don't see is the percentage or what is the dollar value?

**Troy Birtles, Assessor:** How to calculate that- starts as a cost number and then you compare the sell to market value which is the market adjustment factor.

**Patrick Hort, Member:** Do you have that info on your computer? Where I am going with this, is how much dollar value was put into the home? You can easily work backwards. There is excellent information on completed structures and I agree with the value of land. The grey area- is how much has been put into the property such as electrical or plumbing? I know that it is not insulated, you are looking basically a stick construction frame house with a roof and siding.

**Troy Birtles, Assessor:** Well the windows and doors are in, and we excluded the electrical, the floor finish, cabinets, drywall, exterior finish, the basement floor etc. We based it off the foundation, roof, windows and doors etc.

**Patrick Hort, Member:** Does the computer give you a value for the structure? For the frame, windows doors and roof? Is the value of structure like 30%? Or 50%?

**Troy Birtles, Assessor:** The state of this home is just a lock up basically.

**Patrick Hort, Member:** Is this 50% then?

**Troy Birtles, Assessor:** Maybe, 57% but the heating and plumbing are taken out too.

**Patrick Hort, Member:** So 50% of the construction is done?

**Troy Birtles, Assessor:** Yes, about 50%.

**Chris Vining, Chairperson:** At 100% in those ones- that part is complete?

**Troy Birtles, Assessor:** Yes 100 is complete, over to the right under total if that is 0 or empty then you are not adding on, see where it says 130 for heating, if that is 100 then there would be a number added. Every house has a roof and certain roofs aren't worth more. If the heat is done than those items will add to it. Items on the bottom is where they are accounted for. But to answer your question yes, construction is roughly 50% done.

**Chris Vining, Chairperson:** On page 14 is the assessed value, is that where you assess the value of the build?

**Troy Birtles, Assessor:** The way it sat, yes.

**Chris Vining, Chairperson:** Then add cost of land?

**Troy Birtles, Assessor:** Yes assuming the home is complete- pull the unfinished items out and put them back in when it is complete. On page 8 is the improvements of the house and on page 15 is the garage.

**Patrick Hort, Member:** The Structure with the garage is 206- so that's the number?

**Chris Vining, Chairperson:** The garage is on there at page 15?

**Troy Birtles, Assessor:** Yes, \$315,000 for the garage.

**Chris Vining, Chairperson:** Yes.

**Patrick Hort, Member:** Can we take a recess- prior to, making a decision? I just have a few questions and thoughts.

**Chris Vining, Chairperson:** Called recess at 11:22 a.m.



*Troy Birtles leaves the room.*

*11:32 a.m. Hearing resumes and Troy Birtles re-enters.*

**Chris Vining, Chairperson:** So my question is for fair market value- does that correlate linearly between market value and size of the property?

**Troy Birtles, Assessor:** The \$270 average sale price per square foot?

**Chris Vining, Chairperson:** Like if you add 270 dollars per square feet-, is that in accordance with market value?

**Troy Birtles, Assessor:** If there were comparisons that's what I would use, but no it's not linear correlation but similar to one. The \$270 per square foot should be adjusted downward a little but I don't have data like that or I would have had it in my report. If I had those comparables, I would have used it in my report.

#### **QUESTIONS FROM THE COMPLAINANT TO THE RESPONDENT**

Complainant not present.

#### **SUMMARY OF REBUTTAL BY COMPLAINANT**

Complainant not present.

#### **SUMMARY OF REBUTTAL BY RESPONDENT**

None.

#### **RESPONDENT CLOSING COMMENTS**

There has been no further evidence by the complaint, only the original assessment complaint. This assessment reflects the incomplete nature of the property as of December 31<sup>st</sup>. The market evidence supports the statistics audited by the province that also meet the quality standards. I make no recommendation for adjustment at this time.

#### **COMPLAINANT CLOSING COMMENTS**

Complainant not present.

#### **FINAL QUESTIONS TO THE COMPLAINANT OR RESPONDENT**

None were expressed.

#### **CHAIRPERSON TO THE COMPLAINANT**

As the complainant was not present, the Chairperson could not ask the complainant if he felt he had the opportunity to present all the information he wanted to present to the board.

#### **CHAIRPERSON TO THE RESPONDENT**

The Chairperson asked the assessor if he felt he had the opportunity to present all the information he wanted to present to the board.

The assessor responded "yes".

### **LARB HEARING CLOSED**

The Chairperson declared the hearing closed at 11:35 A.M.

The Chairperson advised that the legislation requires a written decision with reasons within 30 days, and gives the Clerk an additional seven days to issue it. The Chairperson further advised that the board would make every effort to meet or beat those requirements, and the Clerk would forward the Panel's decision to the parties ASAP but not later than October 19, 2018.

### **DECISION**

The complaint is allowed and the assessment for roll no. 4000030412 is reduced from \$283,900.00 to \$258,231.45.

### **REASON FOR DECISION**

Based on the information presented to the board, the reason for the decision is as follows:

- (1) The complainant did not attend the hearing, however, the hearing proceeded in the complainant's absence in accordance with section 463 of the *Municipal Government Act* RSA 2000, Chapter M-26 because all persons required to be notified were given notice of the hearing and no request for postponement or an adjournment was received by the board.
- (2) Section 460(7) of the *Municipal Government Act* RSA 2000, Chapter M-26 states that:  
  
A complainant must:
  - (a) Indicate what information shown on an assessment notice or tax notice is incorrect,
  - (b) Explain in what respect that information is incorrect,
  - (c) Indicate what the correct information is, and
  - (d) Identify the requested assessed value, if the complaint relates to an assessment.
- (3) The complainant did not submit any evidence to support the complaint or attend the hearing to present his case. The complainant wrote on his complaint form that the assessment should be reduced but provides no evidence to show that the valuation, quality standards, or procedures as set out in the regulations were not followed by the assessor. Further, the complainant did not provide any comparable properties for consideration. In accordance with section 9(2) of the *Matters Related to the Assessment Complaints Regulation* AR 310/2009, the board may only consider evidence which was disclosed in accordance with section 8 of the *Matters Related to the Assessment Complaints Regulation* AR 310/2009.
- (4) The LARB has the authority under section 467(1) of the *Municipal Government Act* RSA 2000, Chapter M-26 to make a change to an assessment roll or tax roll or decide that no



change is required. However, section 467(3) of the *Municipal Government Act* RSA 2000, Chapter M-26 states that:

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.

(5) The board accepts the evidence of the assessor that in accordance with the *Municipal Government Act* RSA 2000, Chapter M-26 land is valued as vacant, and then the building value is added to the assessment.

(6) Assessment of the Land: The complainant requested that the assessed value of the land be reduced to the amount that he paid when it was purchased. The board accepts that the assessed value of a property is determined through mass appraisal not necessarily the specific price paid when purchased. The board accepts that the appropriate assessment value of the subject property land utilizing vacant comparable sales would be \$77,800.

(7) Assessment of the Improvements: The complainant requested that the assessed value of the improvements consider the total value of all construction materials added to the property. The board accepts the assessor's submission that the appropriate assessment methodology for incomplete improvements is to calculate the property's market value as if complete based on the July 2017 market conditions, then remove the incomplete items from the assessment. As such, the board did not consider an actual value of construction materials added to the property. The board accepts the assessors evidence that

- a. At the time of assessment, the property was 50% complete.
- b. The assessment complied with the required valuation, quality standards and procedures under section 10 of the *Matters Relating to Assessment and Taxation Regulation* AR 220/2004.
- c. The average sale price per square foot of the four (4) comparable properties used should be "adjusted downward a little" because the comparable properties used to arrive at an average sale price per square foot were all smaller than the subject property.
- d. There were no appropriate comparables closer to the subject property's size or the assessor would have used them in calculating the average sale price per square foot.

Despite the complainant not providing any evidence to challenge the assessor's report, the board determined that the evidence presented by the assessor in relation to section 467(3)(c) *Municipal Government Act* RSA 2000, Chapter M-26 showed that the assessment of the property was unfair and inequitable in accordance with section 467(3) of the *Municipal Government Act* RSA 2000, Chapter M-26 due to the comparable properties being smaller than the property in question and the assessors submission that extrapolating the complete market value per square foot for the subject property from the market value per square footage of smaller comparable properties was not entirely

accurate because the market value would have increased at a non-linear rate taking into consideration variables other than size. The non-linear relationship between size and market value would necessitate a slight reduction of the average sale price per square foot used to determine the complete market value of the subject property.

- (8) The board deems it appropriate to calculate the assessed value of the improvements by utilizing the sale price per square foot of \$254.15 (the lowest sale price per square foot of the comparables utilized by the assessor). The board finds the assessed value of the subject property's improvements at the time of assessment to be \$180,431.45 calculated as follows:

- a. \$254.15 per square/foot multiplied by 1,726 (square foot of the subject property improvements) = \$438,662.90
- b. \$438,662.90 - \$77,800 (the assessed land value of the subject property) = \$360,862.90
- c. \$360,862.90 divided by 50% (the percentage of the property completed at the time of the assessment) = \$180,431.45

The board finds the assessment value of the land to be \$77,800 and the assessed value of the improvements to be \$180,431.45. As such, the assessed value of the subject property should be reduced from \$283,900 to \$258,231.45 to reflect a reduction of the assessed value of the improvements from \$206,100 to \$180,431.45.

Dated this 16 day of October, 2018



**ASSESSMENT REVIEW BOARD**  
Chris Vining, Chairperson