

## **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 2202 28 Street, Cold Lake, Alberta legally described as Plan 0220571 Block 1, Lot 1A.

**AND IN THE MATTER OF** a Local Assessment Review Board (LARB) hearing held on July 25, 2019 at 9:00 A.M. in the Council Chambers at City Hall in the City of Cold Lake;

### **BETWEEN**

Hussein Elkadri & Hiam Kadri (Complainant)

-And-

City of Cold Lake (Respondent)

### **BEFORE**

Chris Vining, Chairperson  
Allison Untereiner, Member  
Carole St. Onge, Member

### **ALSO PRESENT**

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

### **CALL TO ORDER**

Chairperson called the meeting to order at 9:08 A.M. and welcomed those in attendance to the hearing.

### **INTRODUCTIONS**

The board members, board clerk and 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 complaint 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.

### **COMPLAINT OVERVIEW**

The Chairperson asked the Clerk to summarize the complaint. The Clerk outlined the reason for the hearing as follows:

The Local Assessment Review Board has received an complaint from Hussein Elkadri and Hiam Kadri on May 9, 2019 for property located at 2202 28 Street, Cold Lake, legal land description Plan 022 0571 Block 1, Lot 1A. The complaint is in relation to the assessment amount of \$1,508,200 from the 2019 assessment notice. The Complainants request their property be valued at \$1,300,000.

The Chairperson asked the Clerk if all notices had been given within the designated time frame. The Clerk advised that all notices were given within the designated time frames. The complaint was received on May 9, 2019 before the complaint deadline of May 13, 2019. The Notice of Hearing was emailed to the Complainant on June 17, 2019 and mailed to the Complainant on June 18, 2019 before the notification deadline date of June 19, 2019. The Complainant did not file any disclosure. The Respondent's disclosure was provided on July 16, 2019, prior to the deadline date of July 17, 2019. The deadline for rebuttal evidence was July 22, 2019. No rebuttal evidence was received.

### **CONFLICT OF INTEREST**

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

None were expressed.

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

The Complainant did not have 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 HEARING**

The Complainant, Hussein Elkadri, was present.

Respondent, Troy Birtles, Accurate Assessment was present. Mr. Birtles is the appointed assessor for the City of Cold Lake. Josh McMillan was also present. Mr. McMillan is a Residential Property Assessor at Accurate Assessment.



## **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 Complainant and the Respondent agreed to this procedure and no questions were expressed.

## **COMPLAINANT STATEMENT**

The Complainant stated his name and confirmed he is the owner of the property in question.

The Complainant expressed that last year's property assessment was too high at \$1.7 million dollars and after speaking with the Assessor last year he was told that this year's property assessment would come down. He expressed that with the economic problems we are having, he can't get his money back.

The Complainant stated that he called the assessor regarding his assessment last year and then when he saw this year's assessment, this was enough. He explained that the assessor told him they could not reduce the assessment to \$1,300,000 but the Assessor could drop it by \$100,000 to \$1,400,000. The Complainant stated that he did not agree with this offer and decided to proceed with a hearing.

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

**Chris Vining, Chairperson:** Asked the Complainant to clarify his discussion with the City Assessor.

**Hussein Elkadri, Complainant:** Stated that he spoke to the City Assessor and got an independent appraisal done. The appraisal was for \$1,300,000. The Complainant clarified that he sent a copy of the appraisal to the Assessor and they discussed it. The Complaint stated that the City Assessor told him he could do \$1,400,000 this year and then next year reduce the assessment again. The Complainant stated that he spent his own money to get an assessment for his house but since the City Assessor would not agree to \$1,300,000 he came to this hearing.

**Chris Vining, Chairperson:** Asked the Complainant to confirm whether he had two separate assessments done?

**Hussein Elkadri, Complainant:** Stated that he also had Elaine Cross, his friend, give an opinion as a real estate agent with a lot of experience in this market. She said the house was worth \$1,300,000 or \$1,400,000 but is not worth \$1,700,000.

**Chris Vining, Chairperson:** Asked the Complainant to clarify if the 2018 City assessment was \$1,700,000?

**Hussein Elkadri, Complainant:** Stated that he was not happy with the 2018 assessment and talked with the City Assessor that year as well. The Complainant confirmed it cost him over \$900 to get the appraisal done but if his assessment is reduced, he feels he will get his money back.

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

**Troy Birtles, Assessor:** Asked the Complainant to clarify what he means when he said he wants to get his money back. Does he mean the money for the appraisal?

**Hussein Elkadri, Complainant:** Stated that he spent over \$800 to get the appraisal done, if he saves \$400 this year and then again next year, he will get this money back over the two years.

**Troy Birtles, Assessor:** Asked the Complainant to clarify if the money he refers to is the money paid in taxes.

**Hussein Elkadri, Complainant:** Stated, that it was.

**Chris Vining, Chairperson:** Stated that it seems the Complainant means the decreasing tax roll.

**Troy Birtles, Assessor:** Asked the Complainant if he was paying \$1,000 less in his tax bill, even though the assessment was the same as it is today, would we even be having this hearing?

**Chris Vining, Chairperson:** Restated the question around whether the Complainant is concerned with his tax bill or the assessed value of his property, explaining that the tax bill is determined by the mill rate and the assessed value.

**Hussein Elkadri, Complainant:** Stated that he would like to pay his taxes based on what his house is really worth.

#### **RESPONDENT STATEMENT**

Mr. Birtles reported the following:

- The relevant legislation is listed in the report for reference purposes.
- The assessment aims to achieve market value at July 1, 2018. Last year's assessment was \$1,625,000 as of July 1, 2017. The 2019 assessment evaluation date is July 1, 2018.
- The Complainant only submitted the appraisal with his complaint. This is the only evidence that can be considered.
- Overview of the property including its history, address and statistics (size, lakefront property, detached garage etc.), assessed values of the house, garage, land etc.
- Explanation that market value is the evaluation standard so sales evidence is reviewed.
  - The property is described as large, beautiful and very unique, and there is nothing in the City quite like it. Without a similar property selling, sales data from properties that have sold are used and then adjusted for different variables in the subject property. There is no magic formula to adjust for different variables.



- Of the six (6) lake properties used, the last two (2) comparable sales were internal sales and it is unclear how the sale price was reached. To assess the subject property these two sales were considered, but not solely used to set the subject property's assessed value. The focus of the sales comparables utilized was the four (4) actual sale transaction properties. This report is suggesting that the average value is \$1,508,450 which is very close to assessed value. This report is used in defense, not to create the assessment.
- With limited comparable sales within the City limits, nine (9) lakefront property sales from the outlying area were also considered. The average sale price of the comparables is \$456.54 per square foot, and the subject property is \$437.41 per square foot. There is no one comparable that is really a good one, however, with the number of comparables listed, the average of them here has some merit.
- Explanation of the property appraisal submitted by the Complainant included explanation of the Cost Approach (which yielded a value for the subject property of \$1,592,800) and Direct Sales Comparison Approach wherein the large adjustments were made to adjust for differences between the comparable properties and the subject property.
- Explanation that assessment data is audited by Municipal Affairs and quality standards have been met and exceeded.

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

**Chris Vining, Chairperson:** Asked for clarification on whether the chart showing comparables sale price per square foot uses only the house or does it take into consideration the land.

**Troy Birtles, Assessor:** Confirmed that the size and other buildings are taken into account as well.

**Chris Vining, Chairperson:** Asked for clarification on whether the lakefront properties are reduced for land.

**Troy Birtles, Assessor:** Stated that adjustments for variables are used because in a perfect world, there would be a handful of comparable sales, but there were none of similar size here.

**Chris Vining, Chairperson:** Asked for clarification on how the land value of \$389,100 is determined given that the current assessment takes into account the land value, the house, and the garage creating value.

**Troy Birtles, Assessor:** Stated that the value of the land is how much it is worth as a vacant property. Then consideration is made for the buildings and improvements. A model was used to value the garage. The assessment was not simple because there were no comparable properties with the same characteristics as the subject property.

**Chris Vining, Chairperson:** Asked for clarification on the valuation of the house and the garage.

**Troy Birtles, Assessor:** Stated that he used the market modified cost approach. This takes into consideration the physical characteristics such as type of home, size etc., variables known and then the cost manual is applied and modified to meet the market value. For example, in Cold

Lake, the market is declining. The original value doesn't change because market value is the evaluation standard. This standard is used across the City for all properties.

**Carole St. Onge, Member:** Asked the Respondent to summarize the difference between the \$1,300,000 value from the Complainant's appraisal and \$1,500,000 value from the assessment and how the property is actually assessed versus what one could expect to get in a sale?

**Troy Birtles, Assessor:** Responded that the \$1,300,000 value from the appraisal is intended to represent the value of what one could sell the property for. However, the Assessor's opinion is that conclusion is flawed because the comparable properties used were so limited and the value from the cost approach was \$1,592,800. The Respondent questioned why the cost approach was not used when there were few comparable properties.

**Carole St. Onge, Member:** Asked the Respondent to clarify why he told the Complainant that the value of the property could be reduced by \$100,000?

**Troy Birtles, Assessor:** Clarified that during a discussion, the Complainant was explained the impact if the assessment could be reduced because the Complainant did not agree with the original assessment. The Assessor confirmed he had already reviewed the Complainant's appraisal and the flaws were identified.

**Carole St. Onge, Member:** Asked the Assessor to clarify why the Complainant had this impression?

**Josh McMillan, Assessor:** Stated that he spoke with the Complainant and asked him if, hypothetically, the assessed value could be reduced to \$1,400,000 would they be able to meet in the middle and agree. The Complainant had answered that he would not agree to this.

**Troy Birtles, Assessor:** Clarified that "this is what we were up against", the assessment was reviewed to see if there were any errors, however Josh McMillan had a conversation with the Complainant, and reviewed the file finding no errors.

**Hussein Elkadri, Complainant:** Stated that the house did not cost that much when it was built during the high season. It cost around \$600,000 or \$680,000. I did not pay this though. We do not have the city services available to us but we do have a nice lot on the lake and it is big land.

**Chris Vining, Chairperson:** Asked how the difference was calculated between \$813,000 and when it was built?

**Troy Birtles, Assessor:** Stated that the assessment is not based on actual cost. For example, one can build a building and save fees if one has the skills needed to build the house. However, when that property is sold, one expects what the neighbor gets. The Assessor confirmed that it is not that the cost of building is irrelevant but it is not used at all in the approach used.

**Carole St. Onge, Member:** Asked for clarification whether the comparable properties listed on page eleven (11) and twelve (12) of the Assessor's report are on their own water and septic.



**Troy Birtles, Assessor:** Stated that these properties are in the MD.

**Carole St. Onge, Member:** Asked for clarification whether the comparable properties listed on page seven (7) of the Assessor's report are on their own water and septic.

**Troy Birtles, Assessor:** Stated that the last two (2) properties are directly south of the City property. The top four (4) properties are just regular properties in the City, fully serviced.

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

No questions.

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

None.

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

**Troy Birtles, Assessor:** Requested clarification on whether the cost to construct the home was \$680,000.

**Hussein Elkadri, Complainant:** Stated that he was the contractor and built the home and it took three (3) years to build.

**Troy Birtles, Assessor:** Asked, the price paid when the property was purchased with the shop already on it.

**Hussein Elkadri, Complainant:** Stated, \$950,000 he believes.

**Troy Birtles, Assessor:** Asked, so \$950,000 plus \$680,000?

**Hussein Elkadri, Complainant:** Stated that when he bought the land, it was during a busy time and high peak for real estate. Now the land is only worth \$350,000.

#### **RESPONDENT CLOSING COMMENTS**

There was no additional market evidence submitted. Therefore the Assessor makes no recommendation for any change to the assessment.

#### **COMPLAINANT CLOSING COMMENTS**

Stated that he would like to pay the taxes to the City for how much his house is worth. He stated that he has a fantastic relationship with the City.

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

None were expressed.

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

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

**Hussein Elkadri, Complainant:** "Yes".

#### **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.

**Troy Birtles, Assessor:** "Yes, I do".

#### **LARB HEARING CLOSED**

The Chairperson declared the hearing closed at 9:49 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 board's decision to the parties as soon as possible.

#### **DECISION**

The complaint is denied and the assessment for roll no. 138201 is confirmed at \$1,508,200.

#### **REASON FOR DECISION**

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

- (1) 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.
- (2) The board considered the evidence of valuation from both the cost approach and the sales comparison approach:

##### Cost Approach:

The board accepted the evidence from the Complainant's appraisal report valuing the subject property through the cost approach at \$1,592,800.

##### Sales Comparison Approach:

The board acknowledged that although the Complainant's appraisal and the Assessor's assessment utilize three (3) of the same property sales as comparables, the Appraiser and Assessor adjusted the values differently to account for the difference in characteristics between the comparable properties and subject property. The board accepted the evidence of both parties that there was a lack of current sales of similar properties (as none of the comparable properties were as new, as large, of the same quality, nor did they include large



outbuildings) and as a result large adjustments were made to achieve the net adjusted totals for comparison.

The board accepted the evidence of the Assessor that when good quality comparables are scarce, it is important to look to the outlying areas for more data to support the valuation process. In that regard, the board noted that while the Complainant's appraisal report utilized three (3) comparable properties to reach an assessed value of \$1,300,000 for the subject property, the Assessor considered substantially more market evidence to support an assessed value for the subject property. The Assessor utilized six (6) comparable sales of improved lakefront properties in Cold Lake since July 1, 2017 (supporting an assessed value of \$1,508,450 for the subject property), plus the Assessor considered nine (9) comparable sales from lakefront property in the MD of Bonnyville. The board accepted the evidence of the Assessor that the comparables from the MD of Bonnyville supported an assessed value of \$1,574,150 for the subject property.

- (3) 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.

- (4) The board heard evidence that the Complainant and Assessor had discussions concerning the assessed value of the property prior to the hearing. The board accepted the evidence of the Assessor that he asked the Complainant whether he would hypothetically be satisfied with a \$100,000 reduction in the assessed value of the subject property. The board acknowledged that this may have been interpreted by the Complainant as an assurance that the assessed value could be reduced. The board accepted the Assessor's evidence that he did not intend to guarantee to the Complainant that the assessment would be reduced by \$100,000. The board notes that it is unfortunate that this conversation may have led to a misunderstanding, however the board takes the position that this conversation does not provide evidence in accordance with section 467(3) of the *Municipal Government Act* RSA 2000, Chapter M-26 that the current assessment was unfair or inequitable.

- (5) 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.

- (6) The board accepted the Assessor's evidence confirming 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. The board noted that the Complainant provided an independent appraisal of another professional's opinion of value, but no direct evidence that the City's assessment was incorrect. The board determined that the evidence presented by the Assessor showed that the assessment of the property was fair and equitable in accordance with section 467(3) of the *Municipal Government Act* RSA 2000, Chapter M-26.

The board finds that the assessment amount should not change because the assessment meets the quality standards as set out in the legislation and regulations, statistics and comparable sales evidence support the current assessment, and the Complainant has not submitted sufficient evidence that the assessment should be changed.

Dated this 13 day of August, 2019

  
**ASSESSMENT REVIEW BOARD**  
Chris Vining, Chairperson