

# **Claresholm CARB 2013-1**

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## **Claresholm Assessment Review Board**

### **DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

***Darleen Reid, COMPLAINANT***

and

***The Town of Claresholm (as represented by Ryan Vogt, Benchmark Assessment Consultants Inc.), RESPONDENT***

before:

***Mary Axworthy, PRESIDING OFFICER***

***Doug MacPherson, BOARD MEMBER***

***Bob Milton, BOARD MEMBER***

This is a complaint to the Claresholm Assessment Review Board in respect of a property assessment prepared by the Assessor (Benchmark Assessment Consultants Inc.) of The Town of Claresholm and entered in the 2013 Assessment Roll as follows:

**ROLL NUMBER:** 12864000

**LOCATION ADDRESS:** 29 Alberta Road, Claresholm, AB

**FILE NUMBER:** CARB 2013-1

**ASSESSMENT:** \$683,540

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This complaint was heard on the 23<sup>rd</sup> of October, 2013 at the office of the Town of Claresholm located at 221 45 AVE West, Claresholm, AB.

Appeared on behalf of the Complainant:

- Darleen Reid

Appeared on behalf of the Respondent:

- Ryan Vogt

### **Board's Decision in Respect of Procedural or Jurisdictional Matters:**

[1] No procedural or jurisdictional matters were raised at the hearing; however, the Board notes that the Complaint form requests that the complaint also apply to the 2011, 2012 and 2013 tax years. Section 309(1)(b) of the Municipal Government Act (The Act) states that an assessment notice must show the following:

“(b) the date by which a complaint must be made, which date must be 60 days after the assessment notice or amended notice is sent to the assessed person;”

Therefore, the Board has no jurisdiction to address the 2011 tax year as the appeal period has expired and the Board cannot address a complaint for the 2013 tax year as the 2013 tax roll has not yet been released.

### **Property Description:**

[2] The subject property is improved with a 2,380 (square foot) sq. ft., single storey Tim Hortons “fast-food” restaurant and drive-thru, built in 2009. The building is located on a 50,094 sq. ft. parcel of land. The property is assessed using the market modified Cost Approach, using the Marshall & Swift costing manual and the Alberta Manual for depreciation, backed by the Income Approach.

### **Complainant's Requested Value:**

Two requested values were identified in the Complainant's written submission:

1. Complaint form: \$555,250
2. Summary of Testimonial Evidence [C-1, p. 12] \$636,258

These requested assessed values were revised at the hearing to \$509,000.

### **Board's Decision:**

[3] The complaint is denied and the assessment is confirmed.

### **Legislative Authority, Requirements and Considerations:**

[4] The Municipal Government Act (The Act), Section 460.1(2), subject to Section 460(11), states that a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property, other than property described in subsection 460.1(1)(a).

### **ISSUES:**

- [5] Is the assessed value of the subject:
- a) a fair approximation of its market value as of July 1, 2012, and
  - b) equitable in relation to the assessments of similar properties?

### **ISSUE a): Market value**

#### **Complainant's Position:**

##### *Depreciation and application of Marshall & Swift costing manual*

[6] The complainant argued that the assessed value applied to the subject property had failed to recognize the extent of the physical and functional depreciation associated with a busy fast food restaurant such as Tim Hortons [C-1, p. 10], and that incorrect Marshall & Swift inputs had been applied to the Cost Approach to value.

[7] The Complainant stated that the Respondent had used the Alberta Manual to determine depreciation (3%) and Marshall & Swift for the cost calculations and that a single approach should be employed, not a combination of the two. The Complainant further stated that it understood that the Alberta Manual was no longer being used.

[8] The Complainant asserted that a Marshall & Swift depreciation rate of 20.6% and a life expectancy of 20 years were the correct inputs to apply to a cost analysis of this type of property [C-1, pp. 10-12].

##### *Land value*

[9] The complaint form states that "the land value component is too high as it relates to market value", but no evidence or argument was offered to this effect.

##### *Appropriate approach to value*

[10] A letter signed by the Complainant [C-1, p.4] states that "...the assessed value for this property [should] be assessed using a market value approach that captures the income associated with this property, i.e., "Income Approach or Direct Capitalization Method", but no evidence or argument was offered to this effect.

#### **Respondent's Position:**

##### *Depreciation and application of Marshall & Swift costing manual*

[11] The Respondent stated that the subject is a "fast food" restaurant built in 2009 and that as per the guidelines outlined in the Alberta Manual, a physical depreciation rate of 3% was applied to the building and a 10% depreciation rate applied to the paved areas [R-1, p. 17].

[12] The Respondent noted that had Marshall & Swift depreciation rates been used, a depreciation rate of 4% would have been applied, a negligible difference [R-1, p. 15].

[13] The Respondent argued that the correct Marshall & Swift inputs had been applied and cited the Marshall & Swift Life Expectancy Guidelines [R-1, p. 16] stating that a "fast food" restaurant of this type and quality has a life expectancy of 35 years.

[14] The Respondent highlighted the following differences between the Complainant's and the Respondent's Marshall & Swift calculations:

- a. the Complainant used July 2013 costs which are "post facto" to the valuation date of July 1, 2012;
- b. the Complainant did not separate the paving costs from the building costs. These components have different life expectancies and therefore depreciate at different rates (10% vs. 3%);
- c. the Complainant divided the exterior wall components into two components yielding a higher cost per sq. ft. cost of \$34.83 vs. \$18.09; and
- d. the Complainant used a 20.6% depreciation rate which is incorrect and is not based on Marshall & Swift depreciation rates for "fast food" restaurants.

### *Land Value*

[15] The Respondent stated that the assessed land value component for the subject (\$174, 260) is derived from market evidence in the form of vacant land sales over the past few years, including the subject which sold for \$275,000 in 2009 [R-1, p.4].

### *Appropriate approach to value*

[16] The Respondent indicated that it had used the Income Approach to value as a "back up" to the modified market Cost Approach; however, the use of the Income Approach was challenging in a small community such as Claresholm due to the high proportion of owner occupied businesses and the difficulty of obtaining income and expense returns from property owners who do lease space. Further, this approach required the use of data from other jurisdictions and assumptions about how that data could be applied to Claresholm.

[17] The Respondent referenced calculations on pp. 8- 1 of Exhibit R-1 which use the Income Approach to derive an assessed value for the subject of \$687,000, close to the assessed value of \$683,540.

### **Board's Findings and Reasons: Issue a- Market Value**

#### *Depreciation and application of Marshall & Swift Costing Manual*

[18] The Board could find no evidence to support the Complainant's assertion that the subject property should be assessed a higher level of depreciation than a typical "fast food" restaurant.

[19] The Board finds that the correct Marshall & Swift inputs have been used to assess the subject property and could find no evidence to support the use of the 20.6% depreciation rate or the life expectancy of 20 years suggested by the Complainant.

[20] The Board could find no evidence to indicate that the Alberta Manual was no longer being used. Further, the Respondent had been consistent in its use of the Alberta Manual depreciation rates for the subject and its competitors.

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### ***Land Value***

[21] No evidence was provided to support the Complainant's suggestion that the assessed land value was too high. Therefore, the Board agrees with the Respondent that the assessed land value is in line with recent sales and finds no reason to adjust the assessment to account for a lower land value.

### ***Appropriate approach to value***

[22] The Board finds that the modified market Cost Approach used by the Respondent is the most reliable approach to determining the assessed value of the subject, given the limitations identified by the Respondent of the using the Income Approach e.g., the high proportion of owner occupied businesses, the difficulty of obtaining income and expense returns from property owners and the assumptions required to apply data from other jurisdictions to Claresholm.

### **ISSUE b: Equitable Value**

#### **Complainant's position**

[23] The Complainant stated that there was an inequity in assessment between the subject and the Dairy Queen restaurant referenced in the Respondent's package [R-1 p. 19], as it is larger than the subject (2,890 sq. ft.) but has a lower assessed value than the Tim Hortons.

[24] In response to questioning by the Complainant, the Respondent stated that it was possible that the Dairy Queen had been renovated prior to its sale in 2009 for \$650,000.

#### **Respondent's position**

[25] The Respondent stated that it had been consistent in its approach to valuing other "fast food" restaurants in the Town and provided the assessment details for two competing properties, A & W and Dairy Queen [C-1, pp. 18 and 19], noting that there were differences in age, land size and site work between these two properties and the subject which accounted for the difference in assessed values.

#### **Board's Findings and Reasons: Issue b- Equity**

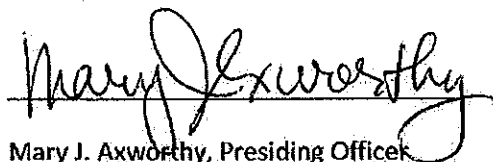
[26] The Board finds that the Respondent has used a consistent methodology (Cost Approach using Marshall & Swift cost inputs and depreciation rates specified in the Alberta Manual) to value the subject and similar properties.

[27] No evidence was provided to demonstrate an inequity in assessment between the subject and its competitors. Therefore, the Board finds no inequity in assessment of the subject.

#### **Decision**

[28] The complaint is dismissed and the assessment is confirmed.

**DATED AT THE TOWN OF CLARESHOLM THIS 12th DAY OF November , 2013.**



Mary J. Axworthy, Presiding Officer

**APPENDIX "A"**

**DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:**

**NO.                      ITEM** \_\_\_\_\_

C-1      Complainant's Evidence

R-1      Respondent's Evidence

*An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.*

*Any of the following may appeal the decision of an assessment review board:*

*(a) the complainant;*

*(b) an assessed person, other than the complainant, who is affected by the decision;*

*(c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*

*(d) the assessor for a municipality referred to in clause (c).*

*An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to:*

*(a) the assessment review board, and*

*(b) any other persons as the judge directs.*

**FOR ADMINISTRATIVE USE ONLY**

Municipal Government Board Use Only: Decision Identifier Codes			
Appeal type	Property sub-type	Issue	Sub- Issue