



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 215/11

Carrington Group of Companies
4075 106 Street
Edmonton AB T6J 7H3

The City of Edmonton
Assessment and Taxation Branch
600 Chancery Hall
3 Sir Winston Churchill Square
Edmonton AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on September 6, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3933595	10520C 120 ST NW	Plan: 9323117 Unit: 3	\$988,500	Annual New	2011

Before:

Dean Sanduga, Presiding Officer
Jasbeer Singh, Board Member
Howard Worrell, Board Member

Board Officer: Denis Beaudry

Persons Appearing on behalf of Complainant:

Danny Slaven, President, Carrington Group of Companies

Persons Appearing on behalf of Respondent:

Jerry Sumka, Assessor, City of Edmonton
Tanya Smith, Solicitor, City of Edmonton

PROCEDURAL MATTERS

Upon questioning by the Presiding Officer, the parties before the Board indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file.

PRELIMINARY MATTERS

The Respondent advised the Board that upon review of the allocation of common areas to the subject part (Unit #3) of the registered condominium plan, the Respondent was able to offer a revised lower assessment of \$871,500 for the year 2011.

The Board recessed to allow the Complainant an opportunity to review the new assessment amount and discuss the same with the Respondent to arrive at a possible agreement.

The Board reconvened and was advised by both parties that they had been unable to come to an agreement and wished to present their evidence and arguments for the Board's consideration and decision.

BACKGROUND

The subject property is a 0.128 hectare (0.3163 acre) parcel of land, a part of the 'Queen Mary Park Bareland Condominium Plan', located at 10520C – 120 Street. The subject property is zoned DC5 (Site Specific Development Control Unit), with an effective zoning of RA7 (Low Rise Apartment District) . Its Land Use Code (LUC) is 912 (Undeveloped Multi-Residential Land).

ISSUE(S)

Is the 2011 assessment of \$988,500 for the subject property, fair and equitable?

LEGISLATION

The Municipal Government Act, R.S.A. 2000, c. M-26

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.

POSITION OF THE COMPLAINANT

The Complainant attended the hearing, and in support of his position that the 2011 assessment of \$988,500 for the subject was unfair and inequitable, presented a 12-page brief (C-1) that included area maps highlighting the isolated location and developmental limitations applicable to the subject property.

The Complainant provided the following arguments for the Board's consideration:

- The subject property was assessed at \$131,500 for the years 2007 and 2008. The assessment increased to \$158,000 for the years 2009 and 2010. The 2011 assessment of \$988,500 represented a more than five-fold increase over 2010 while there was no change to the status of the subject property (C-1, page 4).
- The subject was a small remnant parcel of land (0.3163 acres) and could not be developed in a cost effective manner.
- The subject parcel was 'not serviced' and all services would have to be brought in from the roadside.
- The subject parcel did not have access to any parts of the common areas already assigned to the other two parcels previously developed in the registered condominium plan.
- The 2011 assessment for the subject was based on 2,346 units (out of a total of 10,000 units) of common area being available to it. However, as all common areas had been dedicated to other developments, the subject's 2011 assessment must be confined to the actual size of the parcel.
- The subject property must not be assessed for non-existent common area units that were not available to it.

The Complainant emphasized that the only issue for the Board's decision was the size (measurement) of the subject parcel and not the unit rate of assessment applied to the subject property, and requested a lower 2011 assessment based on the area measurement of 0.3163 acres.

POSITION OF THE RESPONDENT

The Respondent attended the hearing and presented, as documentary evidence, an assessment brief and a law and legislation brief (R-1, 84 pages) as well as three additional one page pieces of evidence (R-2, R-3, R-4) in support of the Respondent's argument seeking confirmation of the proposed revised 2011 assessment of \$871,500.

The Respondent's position is summarized in the following points:

- The subject property has all services available immediately adjacent to the registered condominium property, as evident from the services layout plan (R-1, page 23).
- There were no limitations on the development of the subject property in accordance with its zoning (R-1, pages 24-31).
- The title transfer documents indicated that the subject property was sold for \$980,000 in 1994 (R-1, pages 39-41).

- The title transfer documents clearly described the property as “UNIT 3 AND 2346 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY” (R-1, page 39).
- The evidence provided by the Complainant (C-1, page 6) also confirmed the above fact pertaining to ‘2346 unit factor’.
- The legislation s 290.1(1) of the *Municipal Government Act* (MGA) requires that “Each unit and the share in the common property that is assigned to the unit must be assessed” (R-1, page 14).
- The *Condominium Property Act* [Chapter C-22, Section 1(f)] states:

“common property” means so much of the parcel as is not comprised in a unit shown in a condominium plan, but does not include land shown on the condominium plan that has been provided for the purposes of roads, public utilities and reserve land under Part 17 of the *Municipal Government Act*;”(R-2).
- Allocation of the common areas of the registered condominium plan as stated on the layout of the plan (C-1, page 6), resulted in the assessable size of the subject property being 0.462 hectares or 1.14 acres (R-4).
- Application of the equitable assessment rates (not in dispute) resulted in the 2011 annual new assessment of \$988,500.
- The lower assessment value of \$871,500 (compared with the original assessment of \$988,500) is a result of re-calculation of the measurements of the condominium plan common areas attributable to the subject property (R-4).

The Respondent acknowledged that in previous years the subject property had been erroneously assessed as public utility (PU), and the application of the correct classification has resulted in an unusual increase in the assessed value; however, the Respondent stressed, it is not a reflection on the correctness of the 2011 assessment.

DECISION

The decision of the Board is to revise the 2011 assessment to \$871,500.

REASONS FOR THE DECISION

1. The Board was persuaded by the Respondent’s evidence pertaining to the allocation of registered condominium plan common area units (R-1, pages 14 & 39, R-2, R-4, and C-1, page 6).
2. The Board noted that the Respondent’s allocation of registered condominium plan common area units to the subject property (unit #3) was consistent with the allocation shown on the transfer of title certificate (R-1, page 39) and the registered condominium plan (C-1, page 6).
3. The Board noted that the Respondent’s allocation of registered condominium plan common area units to the subject property (unit #3) was consistent with the legislated requirements (R-1, page 14, and R-2).

4. There being no disagreement on the unit rate of assessment for the subject property, the Board was convinced that an assessment of \$871,500 in respect of the subject property, as proposed by the Respondent, was fair and equitable.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 5th day of October 2011, at the City of Edmonton, in the Province of Alberta.

Dean Sanduga, Presiding Officer

This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to section 470(1) of the Municipal Government Act, RSA 2000, c M-26.

cc: 593066 Alberta Ltd.