

IN THE MATTER OF A COMPLAINT filed with the Flagstaff County Inter-Municipal 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 (Act).

BETWEEN:

Masoud (Max) Sabeti- Complainant

- a n d -

Town of Hardisty - Respondent, represented by Gary Barber.

BEFORE:

Members:

D Trueman, Presiding Officer

L Simpson, Public Member

H Haugen, Public Member

A hearing was held on October 31, 2012 in the Flagstaff County offices, 12435 Township Road 442, Sedgewick, Alberta. Flagstaff County, Special Projects Coordinator, Leslie Heck was present to assist with management of the official documents record and electronic recording equipment. The hearing was for the purpose of considering complaints about the assessment of the following property:

Roll number: 593000

Civic address: 4707 48 Avenue, Hardisty, Alberta

2012 assessment: \$384,500

PART A: PROCEDURAL or JURISDICTIONAL MATTERS

The CARB derives its authority to make procedural decisions under Part 11 of the Act and accordingly placed the parties under oath. Upon questioning by the Presiding Officer there was no objection to either the hearing procedures or the composition of the panel.

At the outset of the hearing the respondent complained that he had not received a copy of the material being referenced by the complainant and identified as exhibit R1. Upon examination of the document the respondent agreed that he had no objection to its use by the complainant. The CARB notes that, although disclosure obligations by the complainant had not been met, *Matters Relating to Assessment Complaints regulation (MRAC)*, Division 2, Sec 7 if a complaint is to be heard by a composite assessment review board the clerk must (c) schedule a hearing date, Sec 8 (2) if a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence, Sec 9 (2) a composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8, Sec 10 (1) a composite assessment review board may at any time, with the consent of all parties, abridge the time specified in section 7 (d). It was thus decided that the complainant would be allowed to reference exhibit R1 in his presentation.

PART B: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The property under complaint is described for assessment purposes as a store demonstrating an effective year built of 1991 and containing 5088 ft.² on a land base of 1.28 acres. The building houses a restaurant known as Close 2 Home. The property also contains a seasonal use holiday trailer which has an effective year built of 1997.

PART C: ISSUES

The Complainant specifically itemized number 3 on his complaint form, which is *assessment amount*. He said that in his opinion the assessment of the subject property should be **\$280,000**. The issue to be decided was whether or not the respondent's comparable sales supported his, mandated mass appraisal, assessment amount.

PART D: COMPLAINANT POSITION

The complainant testified that his assessment notice indicated that his 2011 assessment for tax purposes indicated a market value of \$284,040, while his 2012 assessment for tax purposes indicated the current assessment of \$384,500. He testified that this represented too large an increase given the current market conditions in the town of Hardisty. He reported that there was, at the present time, well over 50 listings of real property for sale in the Town. Mr. Sabeti went on to testify that he was experiencing business conditions which were difficult and in support of this he produced a letter from Brian King Professional Corporation, Certified General Accountant that the primary shareholder of the restaurant holding company received management wages of \$60,000 in 2010 and \$10,000 in 2011.

PART E: RESPONDENT POSITION

The respondent agreed that the 2012 assessment notice incorrectly notified the assessed person of a 2011 assessment of \$284,040. On page 4 of exhibit R1 the respondent outlined assessments for previous assessment years and they are as follows: 2009 at \$284,040, 2010 at \$381,750 and 2011 at \$384,500. He said that the main increase occurred in the assessment years from 2009 to 2010. The assessor presented sales in 2010 at \$34.95 a square foot, in 2008 at \$76.68 a square foot and in 2011 at \$55.04 a square foot. He then applied an adjustment process to make these properties similar to the subject and arrived at adjusted values of \$50.65 a square foot, \$125.70 a square foot and \$51.74 a square foot. He said that this represented good support for his assessment for the subject property of \$58.06 per square foot. He also provided assessment amounts for the above three sales and pointed out that his assessment to sales ratios were 99%, 98% and 101% respectively. He presented evidence of a fourth assessment comparable which upon questioning he agreed was not comparable to the subject.

PART F: DECISION

The complaint is denied and the assessment is confirmed at **\$384,500**.

It is so ordered.

PART F: REASONS

The panel preferred the evidence of the respondent and agreed that the significant increase in assessment amount had not occurred through the timeframe outlined by the complainant. The panel notes that the valuation date for assessment purposes is July 1 of the year preceding the taxation year.

While business conditions for the assessed person may have been strained the CARB is nevertheless guided by the *Alberta Regulation 220/2004 Part 1, Standards of Assessment, Para 2, an assessment of property based on market value (b) must be an estimate of the value of the fee simple estate in in the property*. Therefore, business considerations are not persuasive of real property values. The panel were unable to find support for the respondent's adjustments to his sales comparables however, the panel noted that the unadjusted sales amounts bracketed the assessed value. Sales evidence suggested that the complainant had purchased the subject property in 2003 for \$228,110. Given the significant passage of time from October 2003 to July 2011 and general assessment increases throughout the province of Alberta the current assessment of \$384,500 is a more reasonable expression of market value than is the complainant's requested \$280,000.

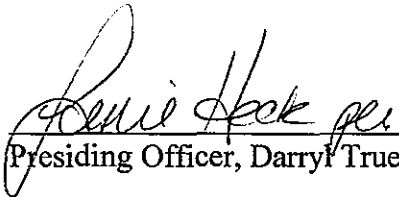
It is generally accepted that the responsibility of onus lies with the complainant. In other words, it is the complainant's responsibility to establish that the assessment does not meet with the

BOARD ORDER File #2012-01

requirements of the Municipal Government Act (MGA) and its Regulations. In this case it was decided that the complainant had failed to meet this obligation by not providing examples of similar property sales that were persuasive to the Board; or alternatively, other accepted valuation techniques or property appraisals that would have supported his claim.

The CARB notes that the *MGA section 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.*

Dated at the town of Sedgewick in the Province of Alberta, this 19th day of November 2012.



Presiding Officer, Darryl Trueman

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

| NO. | ITEM |
|----------------|---|
| 1. Exhibit.C-1 | account statement and assessment notice |
| 2. Exhibit R-1 | respondent evidence |

FOR ADMINISTRATIVE USE

| Subject | Property Type | Property Sub-Type | Issue | Sub-Issue |
|---------|---------------|-------------------|-----------|-----------------|
| CARB | Retail | Restaurant | Valuation | Estate interest |

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