

Central Alberta

Regional Assessment Review Board

Decision No.: CARB 0263-507/2012

Complaint ID: 507

Roll No.: 678055007

COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: OCTOBER 25, 2012

PRESIDING OFFICER J. DAWSON

BOARD MEMBER A. KNIGHT

BOARD MEMBER I. RONNIE

BOARD CLERK: S. PARSONS

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:

424566 Alberta Ltd.,

COMPLAINANT

-and-

Red Deer County,

RESPONDENT

JURISDICTION

The Central Alberta Regional Assessment Review Board [CARARB] has been established in accordance with section 456 of *the Act*. This is a complaint to the Composite Assessment Review Board [CARB -or- the Board] in respect of a property assessment prepared by the Assessor of Red Deer County and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER: 678055007

LOCATION ADDRESS: 134 37400 Highway 2

LEGAL DESCRIPTION: Plan 042 2675; Block 7; Lot 15

ASSESSMENT: \$1,199,520

[1] This complaint was heard on the 25 day of October, 2012 at the office of Red Deer County located at 38106 Range Road 275, Red Deer County, Alberta, Council Chambers.

[2] Appeared on behalf of the Complainant:

- G.M. Boris 424566 Alberta Ltd.

[3] Appeared on behalf of the Respondent:

- B. Boomer Assessment Services Manager, Red Deer County
- G. Vande Bunte Assessor, Red Deer County

SECTION A: Preliminary, Procedural or Jurisdictional Issues:

[4] No preliminary, procedural, or jurisdictional matters were identified.

SECTION B: Issues of Merit

PROPERTY DESCRIPTION

[5] The subject – 134 37400 Highway 2, is a raw land parcel located one block west of Queen Elizabeth II Highway [QE II -or- Highway 2] in an area known as Gasoline Alley.

BACKGROUND

[6] The Respondent prepared the assessment using the direct comparison approach showing 2.52 acres of Commercial-Vacant land allowing two negative adjustments; 15% for Site Prep., and 5% for Location.

MATTERS AND ISSUES

[7] The Complainant identified one matter on the complaint form:

Matter #3 - an assessment amount

[8] Following the hearing, the *Board* met and discerned that this is the relevant question which needs to be answered within this decision:

1. Is the assessment as prepared correct, fair and equitable?

COMPLAINANT'S REQUESTED VALUE

- \$987,840 on complaint form, disclosure document, and confirmed at hearing.

BOARD'S DECISION IN RESPECT OF EACH MATTER OR ISSUE

Matter #3 - an assessment amount

Question 1 *Is the assessment as prepared correct, fair and equitable?*

Complainant's position

- [9] The Complainant explained that according to the assessment and size of the parcel, the Respondent valued the subject at \$476,000 per acre for un-improved land. Land near the subject that has been improved is assessed at \$565,250 per acre. The variance of \$89,250 does not reflect the true costs of improving land in this area for development. (C1 p. 1)
- [10] The Complainant is aware of a sale adjacent to the subject for \$392,000 per acre. The sale was entered into on August 15, 2011 – six weeks from the valuation date and was arm's length. The Complainant is aware of market conditions during that period and makes no adjustment for time to bring the comparable sale to valuation date. (C1 pp. 5-18)
- [11] The Complainant provided three comparable assessments of improved land to show that improved land in the vicinity has been assessed at \$565,250 per acre. (C1 p. 4) Verbal testimony indicated an allowance much greater than the \$89,250 per acre may be required to improve a site. Each site requires different adjustments due to topography and depth of topsoil. The subject is estimated to require; substantial geotechnical work, excavation of topsoil, and as much as five feet of infill on top of subsoil to bring site to grade and comparable to the assessment comparable sales.

Respondent's position

- [12] The Respondent reviewed an aerial map and photo. (R1 pp. 1-2) The subject is clearly marked as are five comparable sales. The Respondent provided background information and assessment details to orientate the Board with the subject. (R1 pp. 3, 4, and 11)
- [13] The Respondent presented their position; they have five sales while the Complainant has a single sale for comparison. The Respondent explained their understanding of market value:

"The price a property might reasonably be expected to sell for if sold by a willing seller to a willing buyer after appropriate time and exposure in an open market."

Key characteristics of market value are:

- *It is the most probable price, not the highest, lowest, or average price*
- *It is expressed in terms of a dollar value*
- *It assumes a transaction between unrelated parties in the open market*
- *It assumes a willing buyer and a willing seller, with no advantage being taken by either party*
- *It recognizes the present use and potential use of the property.*

- [14] The Respondent reviewed five comparable properties to show how the assessment was derived (R1 pp. 7-8):
- Comparable 1: 2.64 acres, sale \$1,350,000 June 28, 2008 equates to \$511,364 per acre.
Comparable 2: 2.00 acres, sale \$1,154,000 December 12 2008 equates to \$577,000 per acre.
Comparable 3: 3.31 acres, sale \$1,721,200 April 28, 2010 equates to \$520,000 per acre.
Comparable 4: 1.71 acres, sale \$667,000 November 8, 2011 equates to \$390,058 per acre.
Comparable 5: 3.09 acres, sale \$1,725,000 January 4, 2012 equates to \$558,252 per acre.
- [15] The Respondent analysed the five comparable sales and determined that comparable number 4 is an outlier (*"an unusual value, that is, they differ markedly from a measure of central tendency"* Real Property Assessment, 2003) due to the relatively low sale amount per acre. The analyses indicated a mean of \$511,335 per acre and a median of \$520,000 per acre. A graph of these sales shows a trend line straight with a very slight incline.
- [16] The Respondent indicated that comparable sale four is \$129,942 below the median sale price and if it remained in the analysis the trend line would decline and make sales out of balance.
- [17] The Respondent indicated that phone calls to an owner of an unidentified 2.50 acre parcel spent \$110,000 per acre to prepare site. Based on the opinion of the Respondent, the subject site would be \$90,000 per acre to prepare; however, no specific evidence was supplied.
- [18] The Respondent provided two listings of vacant land to demonstrate the asking price of land in the area is \$575,000 per acre. (R1 pp. 13-14)
- [19] The Respondent explained that the subject's value of \$476,000 per acre recognizes the location and site preparation required and asks that the assessment be confirmed.

Board's findings

- [20] The Board finds, based on evidence and the aerial photo that there are differences in required preparation work dependent on location; some properties are in marshy wetland areas while others are at grade with solid base. Both parties agreed that site preparation can vary by thousands and even hundreds of thousands per acre for site preparation.
- [21] The Board finds that comparable sales of vacant land need to be adjusted properly in order to provide a credible analysis; the parties disagreed on the condition of various parcels while both parties agreed the condition was a key factor in the value.
- [22] The Board finds that comparable sale #1 occurred in June 2008 – 37 months prior to the valuation date and prior to a nation-wide economic downturn in 2009. The Respondent was uncertain of the site preparation required for the site, though they admitted that information is in their files. The Complainant was adamant that the site was fully prepared at the time of the sale. In addition the Respondent failed to adjust for location or address why this location is the same value as the subject. The sites are separated by a busy primary highway and exhibit different access and visibility attributes. No weight was placed on this comparable sale.

- [23] The Board finds that comparable sale #2 occurred in December 2008 – 31 months prior to the valuation date and prior to a nation-wide economic downturn in 2009. The Respondent was uncertain of the site preparation required for the site, though they admitted that information is in their files. This comparable sale offers the advantage of corner exposure and access not exhibited within the subject. The Respondent and Complainant both acknowledged the value of a corner lot; however, the Respondent failed to adjust this sale for the superior corner attribute. No weight was placed on this comparable sale.
- [24] The Board finds that comparable sale #3 occurred in April 2008 – 15 months prior to the valuation date. The Respondent was uncertain of the site preparation required for the site, though they admitted that information is in their files. The Complainant was adamant that the site was fully prepared at the time of the sale. The Complainant argued that this is the second best comparable to the subject; though this comparable sale offers the advantage of corner exposure and access not exhibited within the subject. The sites are on the same road; however, exhibit different access and visibility attributes. No weight was placed on this comparable sale.
- [25] The Board finds that comparable sale #4 occurred in August 2011 – 1 month after the valuation date, adjacent to the subject, and is a credible indication of value for the subject. The sale occurred closest to the valuation date, was arm's length and without any sign of duress. The Complainant is the vendor for the adjacent site and testified the condition was identical which is corroborated with aerial photographs. Based on the evidence, the \$392,000 per acre sale value is the best indication of value for the subject on July 1, 2011. The Respondent indicated the sale is an outlier; however, evidence of that was not provided.,
- [26] The Board finds that comparable sale #5 occurred in January 2012 – 7 months after the valuation date and would be considered quite *post facto*. This comparable also exhibits the advantage of corner exposure and access not exhibited within the subject. The Respondent and Complainant both acknowledged the value of a corner lot; however, the Respondent failed to adjust this sale for the superior attribute. No adjustment was made for the time of the sale; the Respondent indicates that sales have not been impacted by economic conditions; however, evidence was not provided to establish that opinion.
- [27] The Board reviewed and considered all the evidence and information as outlined in this decision. No conclusive evidence was presented to convince the Board that the allowance made for site improvements of \$89,250 is reasonable or accurate. No adjustments were made to comparable sales for location, size, time, site preparation etc, so the Board did not place any weight on this evidence. However, the Board was convinced that considerable costs could be associated with site improvements, with the Respondent indicating verbally, and not specific to any site, that a considerably higher amount had been spent. No convincing evidence was presented to convince the Board of a definite amount. Therefore, it is concluded, that the undisputed, arms length sale of the adjacent parcel is the best indicator of market value.

BOARD'S DECISION

[28] **After considering all the evidence and argument before the Board it is determined that the subject's assessment is changed to a value of \$987,840 which reflects market value and is fair and equitable.**

Dated at the City of Red Deer, in the Province of Alberta this 27 day of November, 2012, and signed by the Presiding Officer on behalf of all three panel who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.


J. Dawson
Presiding Officer

This decision can be appealed to the Court of Queen's Bench on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 470 of the Municipal Government Act which requires an application for leave to appeal to be filed and served within 30 days of being notified of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure – 18 pages
2. R1	Respondent Disclosure – 19 pages

Municipal Government Board use only: Decision Identifier Codes				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other Property Types	Vacant Land	Cost/Sales Approach	Land Value
				Equity