

Composite Assessment Review Board

Citation: Wilfred Ruhl (agent) v Town of Smoky Lake.

Assessment Roll Number: 6000015

Municipal Address: 5504-44Ave. Smoky Lake

Assessment Year: 2014

Assessment Type: Annual New

Between:

Wilfred Ruhl (agent) for 1705374 Alberta Ltd.

Complainant

and

Mike Krim (assessor) for the Town of Smoky Lake

Respondent

DECISION OF

Robert Mowbrey, Presiding Officer

Stew Hennig, Board Member

Ray Ralph, Board Member

Preliminary Matters

[1] The Respondent raised a preliminary issue regarding the lack of evidence according to the legislation. The relevant legislation refers to the Matters Relating to Assessment Complaints Regulation (AR 310-2009) stipulates the following:

Disclosure of Evidence

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:

(a) the complainant must, at least 42 days before the hearing date,

(i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

Failure to Disclose

9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complainant form.

(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

The CARB recessed, deliberated and rendered a decision to the parties. The decision was to allow the appeal to proceed, based on the two pages that had been disclosed.

Background

[2] The subject property is a 25 room motel, a gas station, a convenience store and (formerly) a restaurant. The subject is assessed under the income methodology and the assessment for 2014 is \$1,544,000

Issue(s)

[3] What is the market value for the subject property?

Legislation

[4] The Municipal Government Act reads:

Municipal Government Act, RSA 2000, c M-26

s 1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

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

[5] The Complainant advised the Board the subject property had been purchased in 2013 for \$1,850,000 and \$250,000 was for good will. In addition, there is \$150,000 allowed for furniture, fixtures and equipment. The Complainant stated that as of December 31, 2013, the subject property was under renovations and mostly vacant. The Complainant stated the building is functionally obsolete and difficult to utilize the space.

[6] In summation and argument, the Complainant advised the Board that the subject property cannot be open due to labor shortages and the request for super 8 branding has not passed inspection.

[7] The Complainant stated, based on independent opinion, that the subject property could be liquidated for \$1,000,000.

[8] The Complainant requests the 2014 assessment be reduced to \$950,000.

Position of the Respondent

[9] The Respondent provided the Board with pictures and sale/transfer documents of the subject property. The Respondent advised the Board that the subject property was assessed under the income approach. In addition, the Respondent indicated the Complainant has provided no evidence nor financial statements to corroborate the Complainant's request.

[10] The Respondent advised the Board the Complainant has secured mortgages that approximate \$2,800,000.

[11] The Respondent advised the Board that the Owner of the subject property stated the current value of the land, in the Owner's opinion was \$1,850,000. Value means the dollar amount that the land might be expected to realize if it were sold on the open market by a willing seller to a willing buyer, and land includes buildings and other improvements affixed to the land.

[12] The Respondent requests the Board to confirm the 2014 assessment at \$1,544,000.

Decision

[13] The decision of the Board is to confirm the 2014 assessment of \$1,544,000.

Reasons for the Decision

[14] The Board was not persuaded by the Complainant's presentation. There was virtually no evidence for the Board to consider. There was no appraisal, no financial statements and no comparables for the Board to consider. The Board opines that one would think an appraisal or proforma income statements would be a requirement to obtain mortgage financing.

[15] The Board does not rely on third party hearsay about the value of the property.

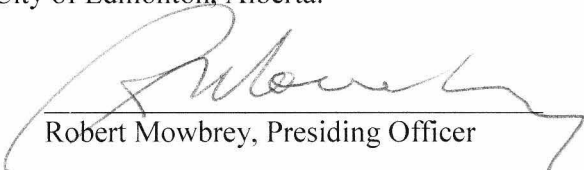
[16] The onus is on the Complainant to provide sufficient and compelling evidence to show the incorrectness of an assessment. The Board is satisfied the Complainant did not provide sufficient nor compelling evidence to allow the Board to conclude the assessment is incorrect.

Dissenting Opinion

[17] There is no dissenting opinion.

Heard commencing October 31st. 2014.

Dated this 14th. day of November, 2014, at the City of Edmonton, Alberta.


Robert Mowbrey, Presiding Officer

Appearances:

Wilfred Ruhl for the Complainant

Mike Krim for the Respondent

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.