

IN THE MATTER OF A COMPLAINT filed with the Town of Okotoks Local Assessment Review Board (LARB) pursuant to the *Municipal Government Act*, Chapter M-26.1, Section 460.

BETWEEN:

[REDACTED] - Complainant

- and -

The Town of Okotoks - Respondent

BEFORE:

William Gray, Presiding Officer
Anne Eastham, Member
Dierdre Mullen, Member

These are complaints to the Town of Okotoks Local Assessment Review Board (LARB) in respect of property assessments prepared by the Assessor of the Town of Okotoks and entered in the 2017 Assessment Roll as follows:

Roll Number	Address	Assessment
0073450	121 Crystal Green Bay	\$551,000

- 1) This complaint was heard on the 30th day of May, 2018 at 1:00 p.m. at the Town of Okotoks Council Chamber at 5 Elizabeth Street, Okotoks, Alberta.
- 2) Appearing on behalf of the Complainant:
 - [REDACTED], Subject Property Owners
- 3) Appearing on behalf of the Respondent:
 - Carmel Staley, Town of Okotoks Assessor
 - Nathan Hanberry, Town of Okotoks Assessor (observer)
- 4) Attending for the Assessment Review Board:
 - Patty Huber, Clerk

OKOTOKS LOCAL ASSESSMENT REVIEW BOARD ORDER #0238/02/2018-L

Preliminary Matters:

- 5) There were no preliminary matters; the panel proceeded to hear the complaint.

Property Description and Background:

- 6) The subject property, located at 121 Crystal Bay Green, is a 1364 square foot (SF) bungalow with a walkout basement having a developed area of 1000 SF. The home was built in 2007, has an attached double car garage, and is situated on a 6005 SF lot. This home is located on a golf course.

Issues:

- 7) The assessment on 121 Crystal Green Bay is too high. The Complainants wants the assessment to be reduced to \$475,000 from \$551,000.

Board's Findings in Respect of Each Matter or Issue:

- 8) The Panel found the assessment too high. More specifically, the assessment amount should be \$475,000 and not \$551,000.

Summary of Positions:

Complainants:

- 9) The Complainants submitted as evidence the property appraisal (Exhibit C1) completed in support of his purchase of 121 Crystal Green Bay by Sage Appraisals dated March 25, 2017. This report was used to support his mortgage application from Axiom Mortgage Solutions. The market value estimate in the appraisal report is \$475,000.
- 10) The Complainants provided a Comparative Market Analysis (Exhibit C2) completed by Denis Hrstic, a REALTOR® with CIR Realty. This report was a retro comparative sales analysis to reflect the estimated market value of the property at the date of purchase. Mr. Hrstic concluded that the market value of 121 Crystal Green Bay was between \$470,000 and \$480,000 at the date of purchase.
- 11) The Complainants noted that the property had been on the open market for 6 months before they purchased the home. The Complainant stated that the property had been listed for sale at \$499,000. The Complainant stated that the closing date for their purchase of 121 Crystal Green Bay was May 31, 2017. The Complainants noted that the effective date of the assessment was July 1, 2017,

OKOTOKS LOCAL ASSESSMENT REVIEW BOARD ORDER #0238/02/2018-L

only 30 days after their closing date and in their opinion, the Respondent's estimate of the assessed value of \$551,000 was too high.

- 12) The Complainants submitted a written document (Exhibit C3) outlining their arguments in support of a lower assessment. The document states that many of the comparables used by the Respondent are not comparable to the subject. Further, the Complainants noted that privacy is limited in the back yard of the subject property as it is a bungalow surrounded by two-storey homes.
- 13) The Complainants provided a copy of the "Calgary Sales and Price Growth Forecast" that they believe supports their position that prices have not been increasing. The Complainants indicated that the document supports the position that the assessment of the property is too high.
- 14) The Complainants cited *Matters Relating to Assessment and Taxation Regulation (MRAT)*, Part 1 Standards of Assessment, Section 7.1, Valuation Standard for a parcel of land. This Section states the valuation standard for a parcel of land is (a) market value, or (b) if the parcel is used for farming operations, agriculture use value.

Further, the Complainant introduced one page of a five-page decision by the Calgary Assessment Review Board, Decision CARB 70574P-2013. This decision cites the Court of Queen's Bench Alberta Decision *ABQB 512 2005*, which states that the best estimate of Market Value is the sale of the property itself. The Complainant indicated that the ruling is further support that the purchase price of the subject property should be the assessed value.

Respondent:

- 15) The Respondent provided a 13-page document (Exhibit R1) which included a summary of the subject property, photographs of the subject and the neighbourhood, mapping details, interior photos of the subject, as well a chart of six (6) sales comparables used in its determination of the assessed value. All properties in the sales chart are in the same neighbourhood. The sales dates range from 7/25/2016 to 3/30/2017. Three of the sales illustrated were properties located on the opposite side of the subject property's cul-de-sac and back onto Milligan Drive, the major connector in the area. In the sales chart there were two bungalow properties, only one of which is comparable to the size of the subject property. The Respondent argued that the three (3) sales that are located on Milligan drive are inferior to the subject based on traffic noise from Milligan Drive.

OKOTOKS LOCAL ASSESSMENT REVIEW BOARD ORDER #0238/02/2018-L

- 16) The Respondent argued that the Assessor is compelled to use mass appraisal and typical parameters to equitably calculate the value of a given property. One of the parameters that the Assessor is mandated to use is the assessment to sales ratio (ASR) to confirm that the sales used in the mass appraisal process fall within the legislated range of 0.95% to 1.05%. The sales chart provided by the Respondent confirms this test has been met. The ASR range on the sales is between 0.96% and 1.03% with the median at 1.00%.
- 17) The Respondent noted that the sale of the subject property occurred close to the effective date of the assessment but this sale was not included within this assessment period. The Respondent indicated that the sale of the subject would be included in the next valuation period.
- 18) The Respondent provided a "Historic Sales Price Change" (Exhibit R2) for Okotoks and Calgary as well as the change in median sales price from 2008 to 2018 that supported the position that prices have risen over time.
- 19) The Respondent indicated that the appraisal report provided by the Complainant was for mortgage purposes and that the appraiser had many clauses within the report that absolved him from any responsibility for the market value estimate provided in the report. Further the Respondent argued that the comparative sales analysis was done by a realtor that did not have the qualifications to provide an estimate of market value.

Findings and Reasons:

- 20) The Panel reviewed three forms of market evidence provided by the Complainant in support of their position that the assessed value of the property was too high. The first document, marked as C1, was a formal appraisal report used to support the Complainant's application to obtain mortgage financing to close the sale. This report concluded that the property had a market value of \$475,000 for mortgage purposes. The Panel concluded that this report provided some support of the property's market value but recognises that the report is for a specific purpose and not that of an independent appraisal for the purpose of assessment.
- 21) The Panel reviewed the retro comparative analysis report, marked as C2, provided by the Complainant which was completed by a local REALTOR®. The conclusion of this report was that the subject property had a market value of \$470,000 to \$480,000 at the time the property was purchased. The author of this report did not illustrate any formal qualifications for completing the report other than his years of being a REALTOR®. The Panel gave this piece of evidence less weight.

OKOTOKS LOCAL ASSESSMENT REVIEW BOARD ORDER #0238/02/2018-L

22) The Panel reviewed the Complainants argument that the purchase of the home was a good indicator of the property's market value. The Complainant closed the sale on May 31, 2017, at a purchase price of \$475,000 which is only 30 days in advance of the effective date of the new market assessment. The Complainants noted that the home had been on the open market for 6 months before their purchase of the property. The property was listed at \$499,000 and was not able to attract a buyer at that price. The Complainants also cites *MRAT*, Part 1 Standards of Assessment, Section 7.1 Valuation Standard for a parcel of land. Specifically, this Section states the valuation standard for a parcel of land is (a) market value, or (b) if the parcel is used for farming operations, agriculture use value. The Complainants argued that this legislative requirement is support that the assessed value of the property should be set at the price at which the home was purchased.

23) The Panel reviewed the Respondent's sales which were all in the same residential district as the subject and in fact, three (3) sales were located opposite the subject on the same street. The Panel noted that only two (2) of the Respondent's sales were bungalow properties and of the six (6) sales, five (5) were larger than the subject property, ranging between approximately 300 SF to over 1000 SF.

The Panel questioned the Respondent regarding the lack of privacy that the subject property enjoyed as surrounding homes were two storey properties and overlooked the back yard. When the Panel asked if this feature had been considered in the valuation of the property, the Respondent indicated that this feature was not considered in the mass appraisal model.

24) The Respondent provided graphics of historical price trends and median selling prices for both Okotoks and Calgary. The Panel did not place significant weight on this information primarily because the subject sold only 30 days prior to the effective date of the assessment. The Panel did not believe that a price increase to \$551,000 from a selling price of \$475,000 was valid since it was only 30 days prior to the valuation date.

25) The Panel considered the arguments presented by both parties. The Respondent argued that mass appraisal is the duty of the Assessor. The Panel agreed that the method required by *MRAT* and the *Municipal Government Act* is mass appraisal. The ultimate purpose of the process is to calculate market value. In view of the Court of Queen's Bench Alberta Decision *ABQB 512 2005*, the best estimate of market value is the sale of the property itself. This property sold in an open market and arms length transaction that closed on May 31, 2017 of the assessment year, therefore the sale is the market value.

OKOTOKS LOCAL ASSESSMENT REVIEW BOARD ORDER #0238/02/2018-L

Board's Decision:

- 26) The Panel decided that the best estimate of market value is an open market sale, with a willing buyer and a willing seller. Neither party argued that the subject sale did not meet these criteria.

- 27) The Panel will reduce the property assessment to the sale value of \$475,000.

It is so ordered.

Dated at the Town of Okotoks in the Province of Alberta, this 20th day of June, 2018.



William (Bill) Gray
Presiding Officer 

OKOTOKS LOCAL ASSESSMENT REVIEW BOARD ORDER #0238/02/2018-L

APPENDIX "A"
DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:

NO.	ITEM
C1	Complainant's submission
C2	Complainant's submission
C3	Complainant's submission
C4	Complainant's submission
R1	Respondent's submission
R2	Respondent's submission

An application for Judicial Review may be made to the Court of Queen's Bench with respect to a decision of an assessment review board.

An application for Judicial Review must be filed with the Court of Queen's Bench and served not more than 60 days after the date of the decision, and notice of the application must be given to

- (a) the assessment review board*
- (b) the Complainant, other than an applicant for the judicial review*
- (c) an assessed person who is directly affected by the decision, other than the Complainant,*
- (d) the municipality, and*
- (a) the Minister .*