

NOTICE OF DECISION NO. 0014 10-04/2010

**TOWN OF BARRHEAD
COMPOSITE ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

IN THE MATTER of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

AND IN THE MATTER of an assessment complaint filed with the Town of Barrhead 2010 Assessment Review Board.

Between

Barrhead Motor Sport Ltd. - Complainant

and

Town of Barrhead - Respondent

Before

J. Schmidt, Presiding Officer
J. Dennett, Member
G. Wilcox, Member

This is an assessment complaint decision of the Composite Assessment Review Board from a hearing held in the Town of Barrhead on November 12, 2010 respecting a property assessment entered in the assessment roll of the Respondent municipality as follows.

Roll No.	081640
Assessed Value	\$557,800
Legal Description	Plan 7921401, Block 5, Lots 6 and 7
Address	4304 61 Avenue

Appearances:

Complainant: Mr. Darren Strawson, Barrhead Motor Sport Ltd.

Respondent: Mr. Mike Krim, Appointed Municipal Assessor for the Town of Barrhead

Assessment Review Board: Mr. Jeff Cook, Clerk of the Assessment Review Board\

Observers: Mr. John Szumlus, Manager, Capital Regional Assessment Services Commission
Ms. Cheryl Callihoo, Development Officer, Town of Barrhead

Preliminary Matter

The Respondent questioned whether or not this complaint hearing could proceed in the absence of the Complainant filing the disclosure of evidence as required under section 8 of the MRAC. It was stated the Complainant failed to disclose the evidence which would be presented at this hearing and, therefore, there was no opportunity to respond to the complaint as filed. The Respondent submitted that when a complainant fails to disclose, as required, the composite assessment review board cannot hear any matter in support of an issue that is not identified on the complaint form and cannot hear any evidence that has not been disclosed. Since there was no evidence disclosed, there could not be a response to any evidence, therefore, it was suggested no assessment complaint hearing can take place.

The Complainant acknowledged that the evidence disclosure requirement was provided by the manager of the complaint hearing process. Due to personal family matters, the disclosure requirement was not completed. It was argued the complaint application form, as filed, does include a requested reduction in assessment based on a real estate agent's opinion of value and, therefore, the hearing should proceed.

The Board took a recess to deliberate the matter of whether or not an assessment complaint hearing should proceed in this case. To make that determination, the provisions of MRAC were given careful consideration, in particular, section 7, 8 and 9. As well, the complaint application form, as filed, was available for review. It was noted on the complaint form, as filed, various information was provided.

- The complaint was filed on time
- The required information was included on or with the complaint form
- The required filing fee was included

Under the reasons for complaint, it was stated that a 50% increase in one year is unacceptable, services have not increased, and still no pavement. Based on the Realtor's opinion of value, a revised assessment of \$400,000 to \$420,000 was requested. It was also noted that the Complainant identified under the matter for a complaint, an assessment amount, as shown under complaint information, box 3.

The Board was satisfied that there was a proper assessment complaint filed accompanied with the appropriate filing fee. Given the information which was available, it was evident that the scheduling notice of hearing requirements were properly completed. There is also no doubt that there was a failure to disclose evidence as required by the Complainant. On careful review of section 9(1), there is prohibition to hear. That prohibition extends to any matter in support of an issue that is not identified on the complaint form. To the converse it seems reasonable that any

matter that is raised on the complaint application can be the basis for a hearing. In this case, the matter of an assessment amount was identified as being applicable to the complaint.

With respect to section 9(2), there can be no doubt that evidence not disclosed pursuant to section 8 must not be heard. Based on these considerations, the Board concludes and ruled:

1. The assessment complaint hearing will proceed.
2. The matter and issue raised on the complaint application form will be the basis of the hearing.
3. No new evidence will be considered.

Background and Property Description

The subject property is a recreation sports retail sales business located in the industrial warehouse part of Barrhead. To determine the estimate of market value for the subject property assessment, the cost approach to value was applied. The complaint came forward on grounds the assessment amount is too high.

Issue

Is the market value assessment of the subject property overstated?

Legislation

In deciding this matter the Board makes reference to the particular statutory requirements which are as follows.

Municipal Government Act

289(1) Assessments for all property in a municipality, other than linear property, must be prepared by the assessor appointed by the municipality.

(2) Each assessment must reflect

- (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and*
- (b) the valuation and other standards set out in the regulations for that property.*

464(1) Assessment review boards are not bound by the rules of evidence or any other law applicable to court proceedings and have power to determine the admissibility, relevance and weight of any evidence.

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.

Matters Relating to Assessment and Taxation Regulation AR 220/2004 (as amended)

Valuation date

3 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

Valuation standard for a parcel and improvements

6(1) When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvements is market value

Complainant's Position

The Complainant submitted that to settle a share value of the subject property, a local realtor was approached to provide an indication of its market value. As a result of the discussion it was verbally estimated that the market value would range between \$400,000 and \$420,000. The value of \$420,000 was subsequently accepted by the shareholder as the basis for settling an ownership percentage of the property. As a result, it was requested that the property assessment should be reduced to no more than \$420,000.

Respondent's Position

The Respondent submitted that the subject property is located in the Barrhead industrial subdivision and is assessed on the same basis as comparable properties having similar attributes. To determine the assessed value, the cost approach to market value was used. This approach includes costing the replacement cost new of the improvement less depreciation which is added to the estimate of land value for a total property market value. The land portion of the property was determined from vacant lands sales which occurred in the Town of Barrhead. It was argued that the opinion of value attributed to a local realtor should not be used to establish market value as that opinion was for purposes of settling a family matter and at the very least was motivated. In closing it was the Respondent's position that the Complainant's submission is lacking evidence to support any change to the assessed value and therefore the assessment should be confirmed.

Finding

The market value assessment of the subject property is not overstated.

Decision

No change to the assessment is required.

Reasons

In this case, even though the opinion of value given by a realtor to the Complainant may have been given in good faith, the Board is not convinced that it would fairly reflect market value as of the July 1, 2009 assessment valuation date. This is especially true when consideration is given

to the fact that no valuation date was supplied and the opinion was used for purposes of settling a family property share matter. The Board agrees with the Respondent that the property value opinion at \$420,000 may have been motivated and therefore cannot be relied upon. Since there was no compelling evidence to support a reduction to the assessed value, the Board accepted the Respondent's request to confirm the assessment.

The assessment is therefore confirmed at \$557,800.

No costs to either party.

Dated this 8th day of December 2010.

COMPOSITE ASSESSMENT REVIEW BOARD



J. Schmidt, 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 of the Municipal Government Act, R.S.A. 2000, c.M-26. This section requires an application for leave to be filed with the Court of Queen's Bench within 30 days of receipt of this decision.