

**Claresholm Assessment Review Board**

**DECISION WITH REASONS**

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:

**Rod Dyrholm, COMPLAINANT**

and

***The Town of Claresholm (as represented by Ryan Vogt, Benchmark Assessment Consultants Inc.), RESPONDENT***

before:

***Mary Axworthy, PRESIDING OFFICER***  
***Doug MacPherson, BOARD MEMBER***  
***Bob Milton, BOARD MEMBER***

This is a complaint to the Claresholm Assessment Review Board in respect of a property assessment prepared by the Assessor (Benchmark Assessment Consultants Inc.) of The Town of Claresholm and entered in the 2013 Assessment Roll as follows:

**ROLL NUMBER:** 10061000  
**LOCATION ADDRESS:** 4920 2 ST W, Claresholm, AB  
**FILE NUMBER:** CARB 2013-2  
**ASSESSMENT:** \$372,120

## **Claresholm CARB 2013-2**

---

This complaint was heard on the 23<sup>rd</sup> of October, 2013 at the office of the Town of Claresholm located at 221 45 AVE West, Claresholm, AB.

Appeared on behalf of the Complainant:

- Rod Dyrholm

Appeared on behalf of the Respondent:

- Ryan Vogt

### **Board's Decision in Respect of Procedural or Jurisdictional Matters:**

[1] During the course of the hearing, the Respondent noted that when requested to do so in August 2012, the Complainant did not provide its income or expense data to the assessor (the Respondent), for this or any other properties.

[2] The Respondent noted that was in violation of section 295(1) of the Municipal Government Act (The Act) and that section 295(4) of The Act stated that by not providing the requested information, the Complainant had lost its right of complaint.

[3] The Board responded that in reviewing the Respondent's submission [R-1, p. 3] it had noted this issue and had reviewed this section of the Act along with the Court of Appeal decision "Boardwalk Reit LLP v. Edmonton (City), 2008 ABCA 220" which concluded that this provision of The Act should only be applied in limited circumstances.

[4] The Board advised the parties that it would be punitive to apply this section of the Act to this initial infraction; however, the Board encourages the Complainant to provide the required information when requested to do so by the Assessor in the future as it assists the Assessor in preparing more accurate assessments.

### **Property Description:**

[5] The subject property is improved with a 5,056 (square foot) sq. ft., two storey building with a Post Office on the main floor (3,768 sq. ft.) and a 1,288 sq. ft. residential suite on the second floor. The basement is undeveloped. The building was built in 1956 and is located on a 13,800 sq. ft. parcel of land. The property is assessed using the market modified Cost Approach, using the Marshall & Swift costing manual and the Alberta Manual for depreciation, backed by the Income Approach.

### **Complainant's Requested Value:**

The complaint form identified a requested value of "NET 14,400/yr.", but this amount was revised at the hearing to \$260,000.

### Board's Decision:

[6] The complaint is denied and the assessment is confirmed.

### Legislative Authority, Requirements and Considerations:

[7] The Municipal Government Act (The Act), Section 460.1(2), subject to Section 460(11), states that a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property, other than property described in subsection 460.1(1)(a).

### ISSUE:

[8] Is the assessed value of the subject:  
a) a fair approximation of its market value as of July 1, 2012; and  
b) equitable in relation to the assessments of similar properties?

### ISSUE a) Market value

#### Complainant's Position:

[9] The Complainant clarified that although the original Assessment Notice, indicating an assessed value of \$407,740, was included in its evidence package [C-1, p.2] it was appealing the Revised Assessment of \$372,120 dated August 13, 2013 [R-2] and was not appealing the "assessment class" as indicated on the complaint form.

[10] The Complainant stated that the assessment for the Post Office property had grown 71% since 2008 (\$198,950 as shown in C-1 p. 8) and that the assessed value applied to the subject property had failed to recognize the extent of the physical depreciation and extraordinary maintenance costs associated with a Post Office as evidenced in the numerous invoices included in Exhibits C-1 and C-2.

#### *Depreciation (physical depreciation and functional obsolescence)*

[11] The Complainant cited the "extreme usage" associated with visits of 2,000 persons per day to the Post Office and the dust created by the paper being handled as examples of extraordinary physical depreciation and maintenance costs.

[12] The Complainant argued that the property would be difficult to lease as a retail store due to the number of steps leading to the entrance and that the basement was a liability rather than an asset.

#### *Extraordinary maintenance costs*

[13] The Complainant stated that the lease with Canada Post which commenced in April, 2011 for a five year term [C-1, p.6], required the Complainant to "... pay for everything from cleaning, to utilities to taxes, to toilet paper- in other words this is a total hand holding operation."

[14] In support of its argument, the Complainant provided a number of invoices primarily for the period from July 1, 2012 to September of 2013 [C-1 p. 14 and C-2 p. 3 onward].

## Claresholm CARB 2013-2

---

[15] In response to questioning, the Complainant stated that it had purchased the property from Alberta Works 17 or 18 years ago for \$77,000 and that the Post Office had occupied the building since that time and was a service to the Town.

### **Respondent's Position:**

[16] The Respondent stated that the primary method used to value the property for assessment is the market modified Cost Approach, backed up by the Income Approach.

### *Depreciation and application of Marshall & Swift*

[17] The Respondent stated that in order to address the Complainant's issue of increased physical deterioration and maintenance costs, when preparing the Revised Assessment for the subject dated August 13, 2013, it had applied two Marshall & Swift occupancy codes to the property: 80% mail processing and 20% post office. The Respondent stated that the original assessment had been based 100% on the occupancy code for post office, which has a lesser depreciation rate than a mail processing facility.

[18] In addition, the Respondent applied a 15% economic obsolescence factor to reflect the smaller market for office space in the Town of Claresholm.

[19] Upon questioning, the Respondent indicated that due to its age and quality, the Respondent had not applied typical (and higher) Marshall & Swift occupancy code cost rates to the residential suite above the Post Office.

### *Income Approach*

[20] The Respondent indicated that it had used the Income Approach to value as a "back up" to the modified market Cost Approach; however, the use of the Income Approach was challenging in a small community such as Claresholm due to the high proportion of owner occupied businesses and the difficulty of obtaining income and expense returns from property owners who do lease space.

[21] The Respondent stated it had conducted a survey of non-residential ratepayers in the Town of Claresholm in August of 2012 to aid the Assessor in determining economic rental, vacancy and expenses to support the economic obsolescence figure of 15% used in creating the modified cost approach. The Respondent noted that the Complainant did not provide its income or expense data when requested to do so in August 2012, for this or any other properties; however, income and expense data is included in the Complainant's evidence and rebuttal.

[22] The Respondent stated that for assessment purposes, it standardizes lease information to a triple net lease. This helps to explain why the Complainant's rental rate of \$16.99 per sq. ft. is so much higher than the typical, economic lease rate of \$9.00 [R-1, p. 6] which was based on the market survey referenced in paragraph [21]. The Respondent stated that not each and every expense incurred by the Complainant is used because standardized expenses are used in mass appraisal.

[23] The Respondent indicated that in applying the Income Approach, a non-recoverable expense rate of 7% and a vacancy rate of 5% was determined to be appropriate, with an estimated cap rate of 9% [R-1, p. 7].

## Claresholm CARB 2013-2

---

[24] The Respondent referred to calculations using the Income Approach [R-1 p. 8] which derive an assessed value for the subject of \$376,226, similar to the \$372,000 value determined through the market modified Cost Approach

### **Board's Findings and Reasons:**

[25] The Board finds that the modified market Cost Approach used by the Respondent is the most reliable approach to determining the assessed value of the subject, given the limitations identified by the Respondent of using the Income Approach.

[26] The Board finds that the Respondent's cost analysis using the occupancy codes of 20% post office and 80% mail sorting facility and associated depreciation rates have been correctly applied to the subject, and reflect the characteristics and physical condition of the property on December 31, 2012 as per section 289(2)(a) of the MGA.

### **ISSUE b) Equity**

#### **Complainant's Position**

##### *Equity and Mass Appraisal*

[27] The Complainant argued that the increase in assessment was not in line with other properties in its ownership and provided copies of Taxation Notices and Property Assessments for a number of its other properties [C-1, pp. 9-13].

[28] The Complainant stated that while mass appraisal was the approach specified in the legislation, its situation was different and that the purpose of the appeal process was to allow for the consideration of exceptional circumstances, such as the Post Office building.

#### **Respondent's position**

##### *Equity and Mass Appraisal*

[29] The Respondent stated that mass appraisal is the approach required under section 2 (a) of Matters Relating to Assessment and Taxation Regulation (MRAT) in accordance with the value of the property on July of the assessment year (section 3 of MRAT). The Respondent stated that it believed that the primary disagreement between it and the Complainant revolved around the terms mass appraisal vs. single property appraisal and a gross (or full service) lease vs. a triple net lease [paragraph [22].

[30] The Respondent stated that when using the Income Approach (not the primary approach to value used in the case), mass appraisal allows all non- residential properties to be valued on an aggregate basis, using normalized income and expense rates derived from the returns provided from property owners.

[31] The Respondent noted that Benchmark Assessment Consultants took over responsibility for the assessment of properties in the Town of Claresholm in 2008. A number of inaccuracies in assessed values were corrected at that time and may explain why assessed values had changed and may differ amongst the Complainant's properties. The Respondent noted that it was its understanding that mill rates had been adjusted at that time to address the impact of some of these changes in assessed values.

## Claresholm CARB 2013-2

---

### Board's Findings and Reasons:

#### Issue a): Market Value

[32] The Board finds that mass appraisal is the approach required under the legislation (Section 2(a) of MRAT) as stated by the Respondent. The Complainant did not adequately demonstrate that the subject property had unique characteristics or attributes that differentiated it from others with similar Marshall & Swift occupancy codes ( 80% mail processing and 20% post office). Therefore, the Board finds that typical Marshall & Swift occupancy code for post office and mail sorting facility should be applied to the subject.

[33] The Board notes that many of the invoices provided by the Complainant to support its argument of increased expenses and maintenance costs were post the July 1, 2012 valuation date and are not relevant to the 2013 assessment.

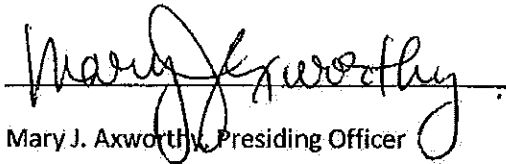
#### Issue b): Equity

[34] While the Complainant made reference to Taxation Notices and Property Assessments for some of its other properties in the Town of Claresholm, the Board is unable to draw comparisons between the subject and the other properties as it was not provided with enough information on the nature and use of these other properties. In the absence of such evidence, the assessment of the subject is found to be equitable.

### Decision

[35] The complaint is dismissed and the assessment is confirmed.

**DATED AT THE TOWN OF CLARESHOLM THIS 12th DAY OF November 2013.**



Mary J. Axworthy, Presiding Officer

**APPENDIX "A"**

**DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:**

**NO.                      ITEM**

C-1    Complainant's Evidence  
C-2    Complainant's rebuttal  
R-1    Respondent's Evidence  
R-2    Revised Assessment

*An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.*

*Any of the following may appeal the decision of an assessment review board:*

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

*An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to:*

- (a) the assessment review board, and*
- (b) any other persons as the judge directs.*

**FOR ADMINISTRATIVE USE ONLY**

| Municipal Government Board Use Only: Decision Identifier Codes |                   |       |            |
|--|-------------------|-------|------------|
| Appeal type  | Property sub-type | Issue | Sub- Issue |
|  |                   |       |            |