

DECISION WITH REASONS

IN THE MATTER OF A COMPLAINT filed with the Local Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, c. M-26 RSA 2000 (Act).

BETWEEN:

Frank & May Leong, *Owner*
(as represented by F. Leong), Complainant

and

Town of Cochrane, Respondent

BEFORE:

Penny Mellor, Presiding Officer
Lynda Gale, Board Member
William Cooper, Board Member

Assessment Review Board Clerk: Karen Babin

This is a complaint to the Town of Cochrane Assessment Review Board (Board) in respect of a Property assessment prepared by the Assessor of the Town of Cochrane and entered in the 2020 Assessment Roll as follows:

Roll Number	Municipal Address	Assessed Value
464700	244 Gleneagles View	701,800

This complaint was heard July 30, 2020 in Council Chambers located at the office of the Town of Cochrane, 101 Ranchehouse Road, Cochrane, Alberta.

The Complainant was present by phone call throughout the entire hearing:

- Frank Leung Owner

Appeared on behalf of the Respondent:

- R. Lodermeier Assessor, Town of Cochrane
- R. Brooks Assessor, Town of Cochrane

Procedural or Jurisdictional Matters:

There were no procedural or jurisdictional matters.

Property Description:

[1] The subject property is a 1879 square foot (sf) residential bungalow located at 244 Gleneagles View in the community of Gleneagles in the Town of Cochrane. The subject property is situated on a 879.30 square metre site.

[2] The assessment of the subject property was prepared using the sales comparison approach to value.

Issue 1:

The Complainant argued that the 2020 assessed value of the subject property is too high because it does not reflect the negative influences of the gravel pit across from the location of the subject property and the perceived devaluation in the event of a future sale.

Complainant's Requested Value: The Complainant did not request a specific value.

Board's Decision:

For reasons outlined herein the Board makes no change to the 2020 assessed value of the subject property.

Complainant's Position:

1) The Complainant provided a two (2) page disclosure document, five (5) exterior photos dating from August 2011 – 2020 showing the gravel pit from the subject property, one (1) photo of the dust on his patio table and one (1) video demonstrating the noise and size of the gravel pit seen from the subject property, entered as Exhibit C-1.

2) The Complainant stated shortly after moving into the subject property in 2006, a gravel pit was started across the river and as the operation remained reasonably small during the first 12 years it was generally not bothersome. But gradual growth of the gravel pit operations from 2018 onwards resulted in the Complainant and several neighbours voicing their concerns to Town of Cochrane Councillors and staff.

3) The negative effects from the gravel pit included constant noise and dust collecting on outside furniture resulting in less time the Complainants could spend outdoors. The Complainants stated concerns regarding the negative health effects of the gravel dust.

4) The Complainant stated that he had considered moving as did others in close to the subject property. One property (242 Gleneagles Drive) did sell while two (2) other houses (236 and 234 Gleneagles Drive) did not sell and were subsequently taken off the market. It was further stated there is currently a property (254 Gleneagles Drive) listed for sale that has dropped the price twice from \$939,000 to \$799,000.

- 5) Subsequent to discussions with the Town Assessors, the Complainant was concerned that the mass appraisal approach used to assess the subject property included seven (7) properties sold in the time frame but only one (1) that was directly affected by the gravel pit. The Complainant further stated that there were no listed properties included or ones unable to sell
- 6) Upon questioning by the Board, the Complainant was asked whether he was aware of the valuation date of July 1, 2019. The Complainant responded that he understood that now.
- 7) The Complainant requested that the assessment be reduced.

Respondent's Position:

- 1) The Respondent provided an 89 page disclosure document that was entered as Respondent's Disclosure R-1. This document included eight (8) interior photos of the subject property provided by the Complainant as the Respondent was not able to enter the subject property due to COVID health regulations.
- 2) The Respondent testified that it met the requirements of the MGA as well as MRAT. Market value was determined by using mass appraisal techniques.
- 3) The Respondent provided a neighbourhood map (page 21) identifying the location of the Gleneagles community in the Town of Cochrane. It was stated that properties in the Gleneagles community were developed from the mid to late 1990's through to the mid 2000's.
- 4) The Respondent provided one (1) exterior photo and seven (7) interior photos of the subject property (R-1 pages 11 to 18) as well as an orthographic map identifying the location of the subject property in the Gleneagles community (R-1 page 19) The interior photos were submitted by the Complainant as requested by the Respondent due to the COVID health regulations not allowing him to enter the property.
- 5) The Respondent also included a 56 page document printed by the Municipal Government Board in 2014 on the Principles of Assessment for Assessment Review Board Members.
- 6) The Respondent testified there were 2,245 sales of residential homes in Cochrane in the three (3) year valuation period (July 1, 2016 to June 30, 2019).
- 7) The Respondent provided a chart of six (6) sales comparable of similar properties (bungalows) in the Gleneagles community (R-1 page 22). The comparables were noted to be of a slightly higher build standard than the subject property, but with similar positive influences (properties that backed onto large green space, the Gleneagles Golf course and had full mountain views) and were sold between June, 2017 and August 2018. One post de facto sale from August, 2019 was also included in the chart. The average assessment per sq ft including the time adjusted post de facto sale was stated to be \$411. The Respondent stated that there were no sales of the same quality as the subject property along the ridge, with the same view and backing onto a large greenspace. Given the adjustment for a slightly lower quality of the house, the assessment per sq ft of \$374 was deemed to be equitable.
- 8) The Respondent also provided a chart identifying five (5) post valuation properties which the Respondents supported the assessed value as correct given that the sales were of properties of the same quality build as the subject property. Two (2) of the properties had the same view as the subject property but with higher assessed values. When all five (5) properties were included in the average, the assessed per sq ft value is higher than the subject property's assessed value.

9) The Respondent advised the Board that given the number of complaints from property owners in this community with respect to the gravel pit's negative effects on health and market values, the Assessors were monitoring these concerns annually. On questioning by the Board, there was no adjustment being made for the gravel pit.

10) On further questioning by the Board, the Respondent advised that due to limited resources, inspections of properties were not done unless specifically requested or required.

11) Based on the comparable sales and comparable equity properties, it was the Respondent's position that the assessment of the subject was fair and equitable.

Board's Findings of Fact and Reasons for Decision:

1) The Board accepts that the Respondent's assessments fall within the quality standard.

2) It is the initial onus of the Complainant to demonstrate that the assessment may be incorrect. Accordingly, the onus then moves to the Respondent. The Respondent provided both sales and equity comparable properties to support the assessment. The Complainant then must demonstrate what the correct assessment should be. It is this test the Complainant has failed to meet.

3) In reviewing the sales comparable properties, the most comparable property sold was 242 Gleneagles View and was of similar lot size, slightly smaller house and garage, but with the same positive influences as the subject property. The most significant difference between the properties was the determination in the quality of build and 242 Gleneagles View property was deemed to be a custom build while the subject property was considered a less desirable build. The Complainant in his written rebuttal reiterated his concerns with using the mass appraisal given the unusual exposure of the gravel pit to a limited number of properties in the Gleneagles community. In the Respondent's chart of six (6) comparable properties, only two (2) had similar exposure and direct view as does the subject property. While the Board agrees there should be consideration for a negative adjustment for affected properties in the Gleneagles community, the Board finds the 2020 assessment is reasonable based on comparable sales and equity properties. The Board concludes there is no change required to the 2020 assessed value of the subject property.

Dated at the Town of Cochrane in the Province of Alberta this 12th day of August, 2020.



_____ for

Penny Mellor, Presiding Officer

APPENDIX A

DOCUMENTS RECEIVED AND CONSIDERED BY THE LARB:

NO.		ITEM
1. C-1	5 pages	Complainant Disclosure
2. C-2	1 page	Complainant Rebuttal
2. R-1	89 pages	Respondent Disclosure

APPEAL

Decisions of the LARB are subject to appeal to the Alberta Court of Queen's Bench on questions of law or jurisdiction under Section 470 of the Act.

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
- (e) the Minister.

APPENDIX B

LEGISLATIVE AUTHORITIES AND REQUIREMENTS CONSIDERED BY THE BOARD

The MGA

s. 460.1(1) A local assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on

- (a) an assessment notice for
 - (i) residential property with 3 or fewer dwelling units, or
 - (ii) farmland

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.

(2) An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 460(7).

(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 business in the same municipality.

Matters Relating to Assessment and Taxation, 2018 Alberta Regulation 203/2017

s. 5 An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and,
- (c) must reflect typical market conditions for properties similar to that property.

s. 7(1) The valuation standard for a parcel of land is

- (a) market value, or
- (b) if the parcel is used for farming operations, agricultural use value.

Property Description:

- 1) The subject property is a 1225 sq ft bungalow built in 1996 and located in the West Terrace community in the Town of Cochrane. Given the location on Quigley Drive, the property has significant traffic due to two schools located directly across from the property. The property's assessment reflects the negative influence of the traffic on that street. The bungalow has three bedrooms, two bathrooms and a fully finished 926 sq ft basement.

PROCEDURAL OR JURISDICTIONAL MATTERS:

There were no procedural or jurisdictional matters raised. The Board proceeded to hear the merits of the complaint, as outlined below.

MERIT ISSUES

The Board considered the complaint form together with the representations and materials presented by the parties. The complaint form lists the following matters for complaint:

- 1) Issue 1 An Assessment complaint
- 2) Issue 2 Type of improvement
- 3) Issue 3 School support

At the commencement of the hearing, the Board identified that Issue 3 raised by the Complainant could not be considered by the Board. The Complainant did not provide any evidence or written documentation to reflect why Issue 2 was of concern and was therefore not discussed further by the Board.

ISSUE 1:

- 1) The Complainant argued that the 2020 assessed value of the subject property is too high because it does not reflect the negative influences given the economic and market conditions as well as past and current developments on the property and in the surrounding area. The Complainant requested an assessed value of \$349,000.
- 2) The Complainant provided a chart consisting of five (5) comparable properties – two (2) of which are located on Quigley Drive and three (3) on West McDougal Road. The Complainant also included a copy of the 2020 Annual Property Assessment Notice for the subject property. As the Complainant was not present nor did he provide any further narrative to the chart, the panel could only review what was submitted. The Complainant had highlighted a property on the chart located at 175 Quigley Drive, with a slightly larger lot, similar quality build, age, and size of bungalow to the subject property. Both the subject property and 175 Quigley Drive have developed basements, detached garages and with the negative influences given the increased traffic. This property sold five (5) days prior to the valuation date of July 1, 2019 for \$375,100 but was with an assessed value of \$408,000 for the 2020 assessment.
- 3) The Complainant sent an email dated July 28, 2020 at 12:14:53am providing further comparables to consider despite being after the valuation date. As this email was sent after the deadline date of July 27, 2020, the hearing panel did not discuss the arguments presented.

Respondent's Position:

- 1) The Respondent provided a 34 page disclosure document that was entered as Respondent's Disclosure R-1. This document included interior photos of the subject property provided by the Complainant as the Respondent was not able to enter the subject property due to COVID health regulations. Prior requests to inspect the property had been denied.
- 2) The Respondent testified that it met the requirements of the MGA as well as MRAT. Market value was determined by using mass appraisal techniques.
- 3) The Respondent provided a neighbourhood map (page 24) identifying the location of the West Terrace community in the Town of Cochrane. It was stated that the subject property is located between the communities of West Pointe and West Valley with the most recently developed properties located in West Pointe.
- 4) The Respondent provided 1 exterior photo and 10 interior photos of the subject property (R-1 pages 11 to 18) as well as an orthographic map identifying the location of the subject property in the Gleneagles community (R-1 page 19).
- 5) The Respondent also included an 89 page document printed by the Municipal Government Board in 2014 on the Principles of Assessment for Assessment Review Board Members.
- 6) The Respondent testified there were 2,245 sales of residential homes in Cochrane in the three (3) year valuation period (July 1, 2016 to June 30, 2019).
- 7) The Respondent provided a chart of five (5) sales comparables of similar properties (bungalows) in the West Terrace community (R-1, page 22). The comparables were noted to be of a similar standard (fair build) to the subject property. Three (3) had similar negative influences (due to the increased traffic concerns) and were sold between April,2018 and June,2019. One post de facto sale was also included in the chart from November,2019. The average assessment per sq ft including the time adjusted post de facto sale was stated to be \$352.
- 8) The Respondent also provided a chart of 15 comparable properties along Quigley Drive in West Terrace and their respective assessed values. All of these properties had a negative influence of increased traffic, were built within a three (3) year period (1996 – 1998), were similar build (fair) & sq ft bungalows with developed basements and had detached garages of similar size. The only notable differences with the subject property was a utility box located on it and the negative influence added for the subject property's assessment. The average assessment value was \$398,797, \$338 per sq ft for an average total area of 1181 sq ft. Therefore, the assessment of \$321 per sq ft was deemed to be equitable.

Board's Findings of Fact and Reasons for Decision - Issue 1:

- 1) The Board was satisfied that given the number of similar properties as the subject property these differences did not warrant any consideration in changing the assessed value.
- 2) With respect to Issue 1, the LARB finds that the assessment of \$393,100 deemed to be equitable utilizing the mass appraisal method.

Dated at the Town of Cochrane in the Province of Alberta, this 12 day of August, 2020.



Penny Mellor, Presiding Officer

for

APPENDIX A

DOCUMENTS RECEIVED AND CONSIDERED BY THE LARB:

NO.	ITEM	
1. C-1	2 pages	Complainant Disclosure
2. C-2	1 page	Complainant Rebuttal (inadmissible due to lateness with which it was sent)
2. R-1	89 pages	Respondent Disclosure

APPEAL

Decisions of the LARB are subject to appeal to the Alberta Court of Queen’s Bench on questions of law or jurisdiction under Section 470 of the Act.

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

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- (a) market value, or
- (b) if the parcel is used for farming operations, agricultural use value.

Property Description:

- 1) The subject property is a 3115 sq ft residential 2 storey house located at 63 Ridge View Place in the community of Riversong in the Town of Cochrane. The subject property is situated on a 596.40 square meter site.

PROCEDURAL OR JURISDICTIONAL MATTERS:

There were no procedural or jurisdictional matters raised. The Board proceeded to hear the merits of the complaint, as outline below.

MERIT ISSUES

The Board considered the complaint form together with the representations and materials presented by the parties. The complaint form lists the following matters for complaint:

The Complainant in his letter dated March 26, 2020 argued that the 2020 assessed value of the subject property is too high given comparable property sales in Riversong in 2016 and in Gleneagles in 2018. The subject property did not sell despite being listed for less than the assessed value (\$1,325,000) as of the valuation date July 1, 2019. The Complainant further stated that although the overall construction cost was over \$2,000,000, it would be highly unlikely that it would ever sell over \$1,000,000 given the subject property's location and the community.

Complainant's Requested Value: The Complainant requested a value of 1,055,000.

Board's Decision:

For reasons outlined herein the Board makes the adjustment to the 2020 assessed value of the subject property to be \$1,175,000.

Complainant's Position

- 1) The Complainant provided a two (2) page letter attached to the Complaint form dated March 27, 2020 outlining the issues supporting the assessed value was inaccurate. Further documentation included a letter dated March 17, 2020 stating the transfer of ownership of the subject property on April 27, 2020. Both the new owners Cindy Kovolak and Tyler Baynham and the owners of the subject property prior to the transfer and their realtor Mark Lofgren indicated a willingness to discuss the 2020 assessment for the subject property.
- 2) The Complainant provided two (2) property listings and their respective sale dates/amounts for 63 Ridge View Place (subject property) and 138 Gleneagles Landing. The subject property was sold in January,2020, while the Gleneagles property sold April,2018.
- 3) The subject property was assessed using mass appraisal and thus market value means what might be expected to realize if sold on the open market by a willing seller to a willing buyer. The Complainant stated that the house had been listed on the open market from August 2018 to the eventual sale in January,2020. During this time, the listed price had been reduced from \$2,700,000 to \$1,200,000 but still did not sell until January 2020 for \$1,055,000.

- 4) The Complainant agreed that the subject property had sold after the valuation date of July 1, 2019 but in utilizing the difference in selling prices between Q2 sales of detached houses and the end of Q4, from the Calgary Real Estate Board market date, it was suggested that the adjusted sale price would be \$1,070,415.
- 5) In response to the assessors argument, that an adjustment to the 2020 assessed value of \$1,325,000 would create an inequity among higher valued homes and set a dangerous precedent, the Complainant argued that the comparable sales prior to the valuation date demonstrate the greater inequality by not changing the 2020 assessed value. The Complainant also noted that the highest ever sale on the open market in that neighborhood was 67 Ridge View Place and sold for \$1,00,000 in 2016. That property in 2020 has an assessed value of \$933,500 and the difference in assessments between this one and the subject property represents an extreme inequity of 41%.
- 6) The Complainant argued that the comparable properties used in the mass appraisal method were outside the Riversong community and therefore not entirely equal. The views, landscapes, or lot sizes were not useful comparables regardless of houses of similar quality.
- 7) The comparison of two story homes to bungalows was a concern given that the building costs were significantly different from the outset.
- 8) Not assessing a higher value for a triple garage or a large pie lot with panoramic views of the mountains as was included in similarly priced properties in Gleneagles was deemed unfair. Further, including basement development as part of the overall square footage creates an inequality worthy of note as basement development is typically 25% of the cost of developing above grade square footage.
- 9) In a letter dated July 8, 2020, the Complainant provided supporting listing and sales information on three (3) post de facto sales of walkout bungalows of over \$800,000 in the Town of Cochrane.

Respondent's Position

- 1) The Respondent provided an 89 page disclosure document that was entered as Respondent's Disclosure R-1. This document included MLS interior photos of the subject property provided by the Complainant as the Respondent was not able to enter the subject property due to COVID health regulations. Orthophoto of subject property was also included.
- 2) The Respondent testified that it met the requirements of the MGA as well as MRAT. Market value was determined by using mass appraisal techniques.
- 3) The Respondent provided a neighbourhood map (page 26) identifying the location of the Riversong community in the Town of Cochrane.
- 4) The Respondent submitted one (1) exterior photo and 23 interior photos of the subject property (R-1 pages) as well as an orthographic map identifying the location of the subject property in the Riversong community (R-1 page 23). The subject property is located on a ridge backing onto greenspace and an open view of the river valley. It does not have a full view of the mountains but does have an open/downtown view of Cochrane.
- 5) The Respondent included a copy of the Certificate of Title as per the sale of the subject property in 2014 for \$2,100,392. The property assessment on the subject property dropped significantly in 2019 to \$1,325,200 as the property was not able to sell for the original cost of \$2,000,000.
- 6) The Respondent also included an 89 page document printed by the Municipal Government Board in 2014 on the Principles of Assessment.

- 7) The Respondent testified there were 2,245 sales of residential homes in Cochrane in the three (3) year valuation period (July 1, 2016 to June 30, 2019). The Respondent stated that at the 'heart of the argument in this hearing' was equity. Adjusting assessments for high valued properties in Cochrane would create an inequality for similarly high valued properties.
- 8) Due to the unusually luxurious build of the house, comparable properties with the sale price of over \$1,000,000 were non-existent. The Respondent provided a chart of three (3) sales comparables of similar properties (2storey homes) – two (2) of which are in Gleneagles and one in Riversong (R-1, page 27). The comparables were noted to be of a slightly lower build standard (expensive) rather than the subject property (luxurious), but with similar positive influences (properties that backed onto a large green space). The two (2) properties located in Gleneagles have full mountain views while the subject property and the other comparable property located in Riversong do not. Of the comparable properties sold between September,2017 and November,2018 the adjusted sale prices ranged between \$897,000 - \$910,800. The average assessment per sq ft for these properties ranged from \$357 – \$ 369 with an average of \$362 per sq ft. Given the adjustment for a slightly higher quality of the house, the assessment per sq ft of \$425 was deemed to be equitable.
- 9) The Respondent also provided in the same chart twelve (12) properties with bungalows considered to be of expensive build that sold between 2016 - 2019. One additional property located in West Terrace was sold post de facto and was included in determining an average assessment of \$481 per sq ft.
- 10) Based on the comparable sales and comparable equity properties, it was the Respondent's position that the assessment of the subject was fair and equitable.

Decision: Issue 1

- 1) The property was originally purchased for \$2,100,392 in 2014, listed in 2018 for \$2,700,000 and relisted at reduced prices of \$1,999,999 and eventually to \$1,200,000 in May, 2019. The new owners took possession on April 27, 2020 and paid \$1,055,000 for the subject property
- 2) The Respondent stated that at the heart of the argument was equity and that by adjusting one 'outlier' property, it would negatively affect other properties of similar build and positive influences. The Board found no evidence by the Respondent to support the change in the 2019 assessment of \$1,325,200 other than an assumption the subject property would not likely sell for \$2,000,000. Thus, it fell on the Complainant's arguments to support a further reduction to reflect the requested assessed value of \$1,055,000.
- 3) Both the Complainant and the Respondent agreed that the subject property was unlikely to sell for the cost of building it, plus there were limited comparables given the location of this property with the significant upgrades in build. The Complainant provided sufficient evidence to support a reduction with one (1) property located in the Riversong community that sold for \$1,000,000 in 2016. That property had a triple garage while the subject property has a double garage. The 2020 assessed value for this property was \$909,200. A property located in Gleneagles sold in 2018 for \$1,413,000 with similar quality of build, 800 sq ft larger, superior view, and a significantly larger lot (1,083 sq m vs 596 sq m for the subject property.) The Complainant further surmised that a time adjusted sale price for the subject property given Calgary's Real Estate Board numbers, would be \$1,070,415.
- 4) Neither the Respondent nor Complainant provided evidence as to why the subject property had been drastically reduced in the price from what it was originally sold for.

- 5) The Board questioned the Respondent as to whether another assessment approach other than mass appraisal had been considered and was told this had not been done.

With respect to Issue 1, the LARB finds that the assessed value for 63 Ridge View Place should be \$1,175,000. Using the assessed sq ft of the nearest comparable property in the Riversong community, of \$369, multiplied by 3,115 sq ft of the subject property, the assessed value would be \$1,149,000 with an additional amount for the difference in the quality of build of \$25,000, thus the total assessed value should be \$1,175,000. .

FINAL DISPOSITION OF COMPLAINT

The assessment is set as follows:

Roll No.	Value as set by the LARB/CARB	Owners
1311000	\$1,175,000	Tyler Baynham & Cindy Kovalak

Dated at the Town of Cochrane in the Province of Alberta, this 12 day of August 2020.



for

Penny Mellor, Presiding Officer

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NO.	ITEM
1. C1 –5 pages	Complainant’s Evidence – dated March,2020; 18 pages
2. C2 –18 pages	Complainant Evidence
3. C3 – 3 page	Complainant’s Rebuttal
4. R1 – 89 page	Respondent’s Evidence <ul style="list-style-type: none">i. Respondent Evidence – 38 pagesii. Certificate of Title – 4 pagesiii. Appendix B Alberta Government Principles of Assessment -2014

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