

Assessment Review Board
Commission de révision de
l'évaluation foncière



ISSUE DATE: July 17, 2018

FILE NO.: WR 151845

Assessed Person(s): John Hunter
Appellant(s): John Hunter
Respondent(s): Municipal Property Assessment Corporation ("MPAC")
Region 09
Respondent(s): City of Toronto
Property Location(s): 955 O'Connor Drive, PH 9
Municipality(ies): City of Toronto
Roll Number(s): 1906-013-270-03465-0000
Appeal Number(s): 3255515 and 3300241 (deemed 2018 appeal)
Taxation Year(s): 2017 and 2018 (deemed appeal)
Hearing Event No. 695865
Legislative Authority: Section 40 of the *Assessment Act*, R.S.O. 1990, c.
A.31, as amended

Heard: March 20, 2018 in Toronto, Ontario

APPEARANCES:

Parties

Representative

John Hunter	Robert Baranowski
MPAC	Gregory Tom
City of Toronto	No one appeared

DECISION OF THE BOARD DELIVERED BY DAN WEAGANT

INTRODUCTION

[1] John Hunter (the “Appellant”) appealed the 2017 assessment of the subject property at penthouse (“PH”) 9 - 955 O’Connor Drive because he believed the value returned by MPAC was too high. The Appellant also believes the assessment of the subject property should be in the range of \$400,000 when compared to the sales of comparable properties and the assessments of similar properties in the vicinity.

[2] MPAC returned a value of \$506,000 for the subject property. In preparation for the hearing, MPAC determined an estimate of current value, based on the sales of comparable properties, and made a downward adjustment to reflect an equitable assessment when compared to similar properties in the vicinity. This adjusted amount was \$485,000. MPAC made this recommendation for the assessment at the outset of the hearing.

[3] The Assessment Review Board (the “Board”) must decide two things in this appeal. Firstly, the Board must determine, based on the evidence at the hearing, the current value of the subject property for the 2017 taxation year. Section 40.(26) of the *Assessment Act*, (“Act”) states that the appellant is deemed to have made the same appeal for the subsequent taxation year if the appeal is not finally disposed of before March 31 of the subsequent taxation year. The Board did not dispose of the 2017 appeal before March 31, 2018. For that reason, this decision also applies to the 2018 taxation year.

[4] Having reference to the assessments of similar properties in the vicinity, the Board must also decide if the current value determined needs to be reduced for the purpose of equitable assessment.

DECISION

[5] The Board finds that the current value of the subject property is \$470,000. The Board also finds that a reduction in the current value is required for the assessment to be equitable with the assessments of similar properties in the vicinity.

[6] The Board therefore finds that the assessment is reduced to \$407,000 for the purposes of equitable assessment.

[7] Accordingly, the Board finds that the assessment of the subject property, at PH 9 – 995 O’Connor Drive is reduced from \$506,000 to \$407,000 in the Residential property class for the 2017 and deemed 2018 taxation years.

LEGISLATION

[8] In making its determination of these appeals, the Board must consider the relevant sections of the *Assessment Act* R.S.O. 1990, c. A.31 (“Act”).

[9] Section 1 of the Act states:

current value” means, in relation to land, the amount of money the fee simple, if unencumbered, would realize if sold at arm’s length by a willing seller to a willing buyer.

[10] Section 19.(1) of the Act states:

19.(1) Assessment based on current value. – The assessment of land shall be based on its current value.

[11] Section 40.(1) of the Act states:

40.(1) Appeal to Assessment Review Board. Any person, including a municipality, a school board or, in the case of land in non-municipal territory, the Minister, may appeal in writing to the Assessment Review Board,

(a) on the basis that,

- (i) the current value of the person's land or another person's land is incorrect,
 - (ii) he person or another person was wrongly placed on or omitted from the assessment roll,
 - (iii) the person or another person was wrongly placed on or omitted from the roll in respect of school support,
 - (iv) the classification of the person's land or another person's land is incorrect, or
 - (v) or land, portions of which are in different classes of real property, the determination of the share of the value of the land that is attributable to each class is incorrect; or
- (b) on such other basis as the Minister may prescribe.

[12] Section 44.(3) of the Act states:

44.(3) Same, 2009 and subsequent years. – For 2009 and subsequent taxation years, in determining the value at which any land shall be assessed, the Board shall,

- (a) determine the current value of the land; and
- (b) have reference to the value at which similar lands in the vicinity are assessed and adjust the assessment of the land to make it equitable with that of similar lands in the vicinity if such an adjustment would result in a reduction of the assessment of the land.

What is the Current Value of the subject property?

MPAC's Evidence

[13] MPAC provided a valuation report to show how it arrived at the subject property's current value for 2017. The assessor, Gregory Tom, undertook the direct comparison approach to value, which is the most common approach used by MPAC for single family dwellings, like the subject property. The direct comparison approach compares the sale values of properties that are comparable to the subject property. Mr. Tom testified that his comparison of these properties to the subject property allowed him to account for differences between them and arrive at a reasonable current value for the subject property.

[14] The valuation report compared the subject property with six properties that sold between April 2014 and March 2017. All six properties are located in the same condominium building as the subject property at 955 O'Connor Drive. Mr. Tom testified

that their location was the reason he selected these three properties as the best evidence of the value of the subject property.

[15] When making comparisons to the subject property, MPAC applies a Time Adjustment Factor (“TAF”) to each sale value. The TAF is used to adjust the sale price so that it more closely reflects the value at which the properties would have sold on the valuation day of January 1, 2016. According to Mr. Tom, the TAFs used in this case were derived from a ‘time changes over time’ study that used 457 sales of residential properties in the area that took place in 2014, 2015, 2016 and 2017. He explained this study creates a trend line to show how prices for residential sales in the area change over that time period. A TAF for each month in the time period is applied to sales in that month to arrive at a ‘Time Adjusted Sale’ (“TAS”) value.

[16] Table A summarizes the characteristics of each of the six comparable properties used by Mr. Tom along with the same characteristics of the subject property.

TABLE A

	Subject Property – PH 9 955 O'Connor Drive	Sale 1 – PH 2 955 O'Connor Drive	Sale 2 – PH 7 955 O'Connor Drive	Sale 3 – PH 5 955 O'Connor Drive	Sale 4 – 301-955 O'Connor Drive	Sale 5 – 203-955 O'Connor Drive	Sale 6 – 405- O'Connor Drive
Living Area (sq. ft.)	1,826	1,740	1,088	963	1,145	1,080	963
Bedrooms	3	2	2	2	2	2	2
Bathrooms	2	1.5	1.5	1.5	1.5	1.5	1.5
Sale Price (\$)/Date	N/A	370,000 / April 2014	445,000 / March 2017	265,000 / July 2014	260,000 / December 2015	262,800 / July 2014	257,000 / January 2014
Sale Price / Sq. ft. (\$)	N/A	212.64	409.01	275.18	227.07	243.33	266.87
TAS Price (\$)	N/A	448,244	342,816	314,540	261,138	311,928	317,932
TAS/Sq. ft.(\$)	N/A	257.61	315.09	326.63	228.07	288.82	330.15
2016 CVA (\$)	506,000	450,000	309,000	280,000	287,000	263,000	244,000
2016 CVA / sq. ft. (\$)	277.11	258.62	284.01	290.76	250.66	243.52	253.37

Appellant's Evidence

[17] The Appellant was represented at the hearing by Robert Baranowski. Mr. Baranowski submitted a comparison of the subject property to PH 2, another unit in the same building. This PH 2 was sold in April of 2014. Mr. Baranowski submitted that this

sale provides the best comparison with which to compare the subject and to determine its current value.

[18] PH 2 sold for \$370,000 in 2014. Mr. Baranowski testified that the time adjusted sale of this unit was \$391,000 and when the differences between it and the subject property are accounted for (square footage, 2 bedrooms and 1.5 baths), the indicated value for the subject property is approximately \$400,000.

[19] The Appellant's position is that the only property in evidence that is similar enough to compare to the subject property is the PH 2 property (appearing as property 1 in MPAC's comparables) and is the only property advanced for consideration for consideration by the Board from the Appellant.

[20] The Board finds that the best evidence of the current value of the subject property is PH 2 in the same building. This comparable property was also cited by both parties. The Board disregards all of the other properties in evidence because they are all dissimilar to the subject property in terms of size, number of bedrooms and number of bathrooms.

[21] PH 2 is also smaller than the subject property, by 86 square feet. The Board finds that this comparable is helpful in making a determination of current value of the subject property. PH 2 sold for \$370,000 with a sale date of April 4, 2014. MPAC applied a TAF of 1.211 to the sale value. The Appellant applied a TAF of 1.057. MPAC's TAF was derived from 457 sales on residential properties in the area that took place from 2014 through 2016, creating a value change trend over time. The source of the Appellant's TAF was unclear. The Board finds MPAC's TAF to be superior as a result.

[22] In order to equate this TAS value to the subject property, it must be adjusted to account for the differences between PH 2 and the subject PH 9. The Board notes that

PH 2 has 2 bedrooms, 1.5 bathrooms and an area of 1,740 square feet. The only value in evidence to account for the difference in the two properties is the per square foot value of the PH 2 comparable. By applying a per square foot value of PH 2 to PH 9, a reasonable adjustment can be made to account for the subject property's larger size, which includes additional space for the third bedroom and the additional 0.5 bathroom present at PH 9.

[23] Therefore the Board finds the best evidence of the current value of the subject property is \$257.61 (the TAS value of PH 2 per square foot) multiplied by the living area of the subject property of 1,826 square feet. The result is \$470,396 or \$470,000, rounded.

When reference is made to the assessments of similar properties in the vicinity, should the current value determined be reduced to make it equitable?

[24] The Appellant did not submit any evidence with respect to whether or not the value submitted was equitable when it was compared to the assessments of similar properties in the vicinity.

[25] MPAC submitted an equity analysis that compared the TAS values of 30 apartment style condominiums to their respective assessments.

[26] The Appellant took issue with some of the sales referenced by MPAC as they were located in buildings that were dissimilar to the subject property building and that were some distance away.

[27] In order to reduce the amount of the current value for the purposes of equity or fairness, the Board has to reduce a correct finding to one that is incorrect. In order to so, the Board must have sufficient evidence to suggest the current value determined should be reduced to be fair.

[28] MPAC's equity analysis included 30 properties, 24 of which were in other buildings. The concept of similarity as it applies to the consideration of sales in determining equity is less burdensome than the same comparison for the purpose of determining current value. The concept of equitable assessment is intended to reflect that, on a balance of probabilities, it is reasonable to infer that properties in the same classification are generally sharing the assessment and tax burden fairly.

[29] The Board finds that the best evidence of whether or not the current value determined represents equitable assessment is that of MPAC. Mr. Tom's equity analysis includes the assessments and sales of 30 apartment condominium units, with the result that the median assessment of these 30 properties was 86.7 per cent of the TAS price. Mr. Tom concluded that, in order for the assessment of the subject property to be equitable, its current value as determined above should be reduced 13.3 per cent.

[30] When this reduction is applied to the current value determined, the resultant assessment for the subject property is \$407,490 or \$407,000, rounded.

CONCLUSION

[31] The Board finds that the current value of the subject property is \$470,000. The Board also finds that a reduction in the current value is necessary for the assessment to be equitable with the assessments of similar properties in the vicinity. For this reason, the current value determined is reduced to \$407,000.

[32] Accordingly, the Board finds that the assessment of the subject property, at PH 9 – 955 O'Connor Avenue is reduced from \$506,000 to \$407,000 in the Residential property class for the 2017 and deemed 2018 taxation years.

2018 DEEMED APPEAL

[33] An appeal for the 2017 taxation year is presently before the Board. Section 40.(26) of the Act provides that the appellant is deemed to have made the same appeal for the subsequent taxation year if the appeal is not finally disposed of before March 31 of the subsequent taxation year. The Board has not disposed of the 2017 appeal before March 31, 2018. For that reason, this decision also applies to the 2018 taxation year.

[34] Section 40.(26) of the Act directs:

Deemed appeals, 2009 and subsequent years

- (26) For 2009 and subsequent taxation years, an appellant shall be deemed to have brought the same appeal in respect of a property,
- (a) in relation to the assessments under sections 32, 33 and 34 for the year; and
 - (b) in relation to the assessment, including assessments under sections 32, 33 and 34, for a subsequent taxation year to which the same general reassessment applies, if the appeal is not finally disposed of before March 31 of the subsequent taxation year or, if an assessment has been made under section 32, 33 or 34, before the 90th day after the notice of assessment was mailed.

“Dan Weagant”

DAN WEAGANT
MEMBER

Assessment Review Board

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