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Corsini v. Municipal Property Assessment Corp., Region No. 15

In the matter of Section 40 of the Assessment Act, R.S.O. 1990, c. A.31, as amended

In the matter of appeals with respect to taxation years 2009, 2010, 2011 and 2012 on premises known municipally as
1204 Clarkson Road North

Raniero Maria Corsini Patricia Marie Corsini, Assessed Persons/Appellant and The Municipal Property Assessment Corporation, Region No. 15 and the City of Mississauga, Respondents

Ontario Assessment Review Board

C. Marques Member

Heard: February 15, 2012

Judgment: May 8, 2012

Docket: WR 114037

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Counsel: R. **Baranowski**, for Assessed Persons / Appellant

J. Fantetti, D. Declerc, for Municipal Property Assessment Corporation

No one for Municipality

Subject: Public; Tax — Miscellaneous; Property

Municipal law --- Municipal tax assessment — Valuation — Method of assessment — Market value — Selling price of comparative property

Municipal law --- Municipal tax assessment — Valuation — Uniformity, equity and equality — Miscellaneous

Statutes considered:

Assessment Act, R.S.O. 1990, c. A.31

Generally — referred to

s. 1(1) "current value" — referred to

s. 19(1) — referred to

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s. 19.2(1) ¶ 2 [en. 2004, c. 7, s. 3(1)] — referred to

s. 40(17) — referred to

s. 40(19) — referred to

s. 40(26) — referred to

s. 44(3) — referred to

C. Marques Member:

1 These appeals came before the Assessment Review Board on February 15, 2012 in the City of Mississauga.

Issue

2 The subject property is a single family detached home, located at 1204 Clarkson Road North in the City of Mississauga in the homogeneous neighbourhood designated by the Municipal Property Assessment Corporation (MPAC) as A91 (Exhibit 1). The dwelling was built in 1968 with a quality rating of 7.5. The total building area is 2,638 square feet. The basement area is 1,569 square feet of which 1,005 square feet are finished. There is an outdoor pool that MPAC values at \$31,230, and an attached double car garage. The lot has a frontage of 74.67 feet by a depth of 196.97 feet, and a site area of 14,707.75 square feet. The property benefits from a negative 4 per cent adjustment due to a medium traffic pattern.

3 The core issue is whether the subject property has been correctly assessed at \$978,000 for the 2009, 2010 and 2011 taxation years. Ms. Declerc, on behalf of MPAC, indicated that the property has been valued using the sales comparison approach. She submitted the sales of two comparable properties which sold in the open market, in arm's length transactions, for adjusted sale prices ranging from \$1,053,479 to \$1,330,126. Based on the sales of these properties, Ms. Declerc argued that the property is correctly assessed at \$978,000 and requested that the Assessment Review Board (Board) confirm the assessment as returned.

4 Mr. **Baranowski**, appearing as representative for the appellant, submitted that the assessment as returned is too high and suggested a current value of \$699,000.

5 The Board must determine the current value of the property and must also determine whether the assessment is equitable, having reference to the assessments of similar lands in the vicinity.

Decision

6 The Board finds that the current value of the subject property is \$887,000. The Board also finds that the current value is equitable, having reference to the assessments of similar lands in the vicinity, and no further reduction in the assessment is necessary.

7 The assessment is reduced from \$978,000 to \$887,000 for all three taxation years.

Reasons for Decision

Legislation

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8 For the 2009, 2010 and 2011 taxation years, in determining the value at which land shall be assessed, the Board must consider the following provisions of the *Assessment Act* (Act):

9 Section 1 of the Act defines "current value" as follows:

"**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 Subsection 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 Subsection 19.2(1) 2 of the Act states:

19.2(1) Valuation days. — Subject to subsection (5)^[FN1], the day as of which land is valued for a taxation year is determined as follows:

2. For the period consisting of the four taxation years from 2009 to 2012, land is valued as of January 1, 2008.

12 Subsection 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.

13 Subsection 40.(17) of the Act states:

40.(17) Burden of proof. — For 2009 and subsequent taxation years, where value is a ground of appeal, the burden of proof as to the correctness of the current value of the land rests with the assessment corporation.

14 Subsection 40.(19) of the Act states:

40.(19) Board to make determination. — After hearing the evidence and the submissions of the parties, the Board shall determine the matter.

Current Value

15 The best evidence of current value is an arm's length and market-tested sale of the subject property on the valuation date, January 1, 2008, or close to it. If no such transaction has taken place, the Board looks to sales of comparable properties in the vicinity to determine if the sales evidence suggests that current value requires correction.

16 Ms. Declerc, in support of the assessment as returned, presented Exhibit 1, consisting of a location and current value study map, a photograph of the subject property, a current value study with the subject property and two comparable sales, a time adjustment factors table, a sales for price changes over time schedule, and two equity analysis studies.

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She stated that the two suggested comparables are considered by MPAC to be similar to the subject property on the basis of location, lot and building size, and that the direct sale comparison approach accurately reflects the value of the property. In order to find comparable sales, she had to move outside of the subject's vicinity, A91, to the adjacent vicinity A88. The assessor gave details on MPAC's analysis of sales in the neighbourhood of the subject between August 2006 and December 2008, and stated that the area experienced an overall increase of 11.8 per cent in real estate market. Time adjustment factors for each month during the study period were provided together with the data for the 730 sales analyzed. She spoke about the need to adjust for the differences between the subject and the suggested comparables in order to make the properties as similar as possible. Sale values are adjusted upward if the comparable property is smaller or is considered in some way inferior to the subject and downward if the comparable property is larger or considered superior to the subject property. She submitted that the time-adjusted sales of the two comparables provide a range of likely values for the subject property between \$1,053,000 and \$1,330,000, which supports the assessment as returned at \$978,000 as being reflective of current value.

17 Details of each property on Current Value Study are summarized in Table 1:

Table 1

| Address | Assessment (\$) | Sale Date | Sale/ Adjusted Sale (\$) | Building Size (sq. ft.) | Lot size (sq. ft.) | Year Built |
|--|-----------------|------------|--------------------------|-------------------------|--------------------|-------------|
| 1204 Clarkson Rd. N. (Subject property) | 978,000 | n/a | n/a | 2,638 | 13,503.6 | 1968 |
| 1030 Wenleigh Crt. | 1,098,000 | July 2007 | 1,300,000 / 1,330,126 | 3,011 | 19,166.4 | 1968 |
| 1047 Springhill Dr. | 1,044,000 | Aug 2006 | 985,000 / 1,053,479 | 2,563 | 16,988.4 | 1970 |

18 Sale 1 located at 1030 Wenleigh Court is dissimilar from the subject because it has a 42 per cent larger lot, has a 14 per cent larger house. This property is located on a cul-de-sac, and the Board is perplexed as to how MPAC finds a property in a quiet cul-de-sac similar to a property that is located on a busy street benefiting from a 4 per cent negative adjustment. Clearly the marketability of the two properties cannot be compared.

19 Sale 2 located at 1047 Springhill Drive is dissimilar because it has a considerably larger lot, and the sale that took place in August 2006 is too far removed in time from the valuation day, January 1, 2008 to be of assistance to the Board.

20 Mr. **Baranowski** criticized MPAC's model and methods, and stressed that they do not produce correct current values. He submitted two properties located in the same vicinity as the subject that he considers similar to the subject. Enclosed in the evidence package were also an MPAC Property Assessment Detail (PAD) report for the subject property, issues and calculations document, MPAC's Property Assessment Notice for 2008 base year, and Notice of Decision for 2006 taxation year Exhibit 2.

21 Details of each property are summarized in Table 2:

Table 2

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| Address | Assessment (\$) | Sale Date | Sale (\$) | Building Size (sq. ft.) | Lot size (sq. ft.) | Year Built |
|--|-----------------|------------|------------|-------------------------|--------------------|-------------|
| 1204 Clarkson Rd. N. (Subject property) | 978,000 | n/a | n/a | 2,638 | 13,503.6 | 1968 |
| 1227 Clarkson Rd. N. | 788,000 | May 2008 | 788,000 | 2,523 | 12,000 | 1980 |
| 1755 Birchwood Dr. | 1,289,000 | July 2009 | 925,000 | 4,329 | 13,068 | 1994 |

22 The property located at 1755 Birchwood Drive sold on July 2009. This sale is too far removed in time from the valuation day, January 1, 2008 to be of assistance to the Board without any time adjustment.

23 The property located at 1227 Clarkson Road North, although it is a quality class 7 versus the subject's at 7.5 is the best comparable before the Board. It is located on the same street as the subject, it benefits from the same traffic adjustment, and it is identical in structure size. The lot area is slightly smaller, but the frontage at 90.97 linear feet is considerably larger than the subject's at 74.67 linear feet. This property sold for \$788,000 on May 2008, only five months removed from the January 1, 2008 valuation day. Because the Board has no evidence before it to quantify the difference in value as a result of the quality class, the Board disregards the value per square foot of building as expressed in the sales and will instead consider value based on the area of the lot. Because the Board has no time adjustment values for May 2008, it will use the actual sale value of the comparable. The value per square foot of land for this comparable property is \$65.67, which, applied to the area of the subject property, yields a land value of $(13,503.6 \times \$65.67)$ \$886,781.41, considerably lower than the subject property's assessment of \$978,000 and provides comfort to the Board in adjusting the current value to \$887,000 (rounded).

Equity Analysis

24 The Board finds that the current value, as determined above, is equitable having reference to the value at which similar lands in the vicinity are assessed and no further adjustment is necessary to achieve equity.

25 MPAC conducted a study of sales of similar homes in the vicinity of the subject property, which was defined as the A91. There were 110 such sales from January 2007 to December 2008. Analyses of the ratio of assessments to sale price (Assessment to Sale Ratio or ASR) of these sales show ASRs in the range of 0.73 to 1.24, with a median ASR of 0.99. According to the International Association of Assessing Officers (IAAO), a median ASR which falls within the range of 0.95 to 1.05 supports the proposition that the valuation methodology is generally achieving values close to values determined in the market place and assessments are equitable. As the median ASR is close to 1.00, no adjustment for equity is required.

26 The assessment is reduced from \$978,000 to \$887,000 for all three taxation years.

[FN1](#) Subsection 5 permits the Minister to prescribe a different valuation day. A different day has not been prescribed.

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