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Hundal 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  
6889 Second Line West

Jatinder Hundal Jaswinder Hundal, 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 22, 2012

Judgment: May 11, 2012

Docket: WR 114185

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

J. Fantetti, R. Leroux, 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. 40(26)(b) — referred to

s. 44(3) — referred to

### ***C. Marques Member:***

1 These appeals came before the Assessment Review Board on February 22, 2012 in the City of Mississauga.

#### **Issue**

2 The subject property is a two-storey single family detached home, located at 6889 Second Line West, in the City of Mississauga (Municipal Property Assessment Corporation's (MPAC's) C29 homogeneous neighbourhood — Exhibit 1). The dwelling was built in 2001. The total building area is 4,425 square feet, with an unfinished basement area of 1,994 square feet, and an attached double car garage. The lot has a frontage of 63 feet by a depth of 155 feet, and an effective lot site area of 11,614.64 square feet.

3 The main issue is whether the subject property has been correctly assessed at \$906,000 for the 2009, 2010 and 2011 taxation years. Mr. Leroux, on behalf of MPAC, indicated that the property has been valued using the sales comparison approach. He submitted the sale of one comparable property which sold in the open market, in an arm's length transaction, for an adjusted sale price of \$870,400. Based on that sale, Mr. Leroux argued that the property is correctly assessed at \$906,000 and requested that the Board confirm the assessment as returned.

4 Mr. **Baranowski**, appearing as a representative for the appellant, submitted that the assessment as returned is too high because MPAC has erred on various matters for the valuation of this property:

1. The effective lot size at 11,614 square feet as appearing on MPAC's records is wrong because the lot is a rectangular lot of  $63 \times 155$  resulting in an area of 9,765 square feet which should result in reduction in the assessment.

2. MPAC failed to carry over the credit awarded to the appellant on the last appeal for valuation day January 1, 2005.

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 assessment as returned at \$906,000 does not reflect the current value of the subject property, and reduces it to \$900,000. The Board also finds that the current value of \$900,000 is equitable, having reference to the assessments of similar lands in the vicinity, and no further reduction in the assessment is necessary.

7 The Board reduces the assessment from \$906,000 to \$900,000 for all three taxation years.

**Reasons for Decision****Legislation**

8 Subsection 19.(1) of the *Assessment Act* (Act) states:

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

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

"**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 19.2(1) 2 states:

**19.2(1) Valuation days.** — Subject to subsection (5)<sup>[FN1]</sup>, 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.

11 Subsection 44.(3) 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.

12 Subsection 40.(17) 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.

13 Subsection 40.(19) states:

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

14 Subsection 40.(26)(b) states:

**40.(26) Deemed appeals, 2009 and subsequent years.** — For 2009 and subsequent taxation years, an appellant shall be deemed to have brought the same appeal in respect of a property,

(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.

***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 Mr. Leroux, in support of the assessment as returned, presented Exhibit 1 consisting of an MPAC report which included:

- Location and current value study map;
- Current value study with the subject property and four comparable sales;
- Time adjustment factors table;
- Sales for price changes over time schedule.

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
<b>6889 Second Line W. Subject Property</b>	<b>906,000</b>	<b>n/a</b>	<b>n/a</b>	<b>4,425</b>	<b>63 × 155 / 11,669.87</b>	<b>2001</b>
912 Swinbourne Dr.	865,000	Aug 2008	895,000 / 870,400	3,998	63 × 155 / 11,332.04	2002

18 Mr. Leroux stated that the suggested comparable is 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. The assessor gave details on MPAC's analysis of sales in the neighbourhood of the subject property between January 2007 and December 2008, and testified that the area experienced an overall increase of 8.43 per cent in real estate market. Time adjustment factors for each month during the study period were provided together with the data for the 1,231 sales analyzed. He spoke about the need to adjust for the differences between the subject property and the suggested comparable 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 property and downward if the comparable property is larger or considered superior to the subject property. He submitted that the time-adjusted sale of \$870,400 for the comparable supports the subject property's assessment as returned at \$906,000 as being reflective of current value.

19 Mr. **Baranowski** testified that the area of subject property is overstated at 11,614.64, and indicated that the lot is a perfect rectangle of 63 feet × 155 feet, and that the area should be just under 10,000 square feet, not over 11,000 square feet. He submitted in Exhibit 2 five properties without sales which provide no assistance to the Board in determining current value.

20 Mr. **Baranowski** argued that the assessment was reduced by MPAC from \$715,000 to \$627,000 based on the January 1, 2005 valuation day, and that MPAC failed to carry this reduction to the January 1, 2008 valuation day. Effectively, increasing the assessment by 44 per cent this does not correlate to the actual real estate market trend in the area. It

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is his contention that the Board should also consider a reduction based on MPAC's reduction based on the 2005 valuation day, resulting in an assessment of (\$906,000 - \$88,000) \$818,000.

21 With regard to MPAC's previous reduction, there is no requirement in the Act that assessments reflect reductions granted in previous periods unless the reduction relates to a local influence or characteristic on the property which was found to have a negative influence on value and which still exists. There is no evidence before the Board to demonstrate why MPAC reduced the assessment for the January 1, 2005 valuation day, so this evidence is not of assistance to the Board.

22 It is logical to the Board that the assessment of the subject property, at 4,425 square feet, would be at least a little higher than the property next door with a smaller house, at 3,998 square feet, in order to account for the value attributable for the extra square footage.

23 With regard to the area of the lot, Mr. Leroux acknowledged that MPAC had no explanation as to why the effective lot size reflects a higher area. He testified that the value for the difference is approximately \$5,700. The Board agrees that if the effective lot size is reduced, the assessment should also be reduced. Relying on the testimony of Mr. Leroux, the Board finds that the correct current value of the subject property is \$900,000.

#### ***Equity analysis***

24 The Board finds that the assessment as returned is equitable, having reference to the value at which similar lands in the vicinity are assessed, and no 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 C29. There were 71 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 0.85 to 1.13, with a median ASR of 0.99. According to the International Association of Assessing Officers (IAAO), a median ASR within the range of 0.95 to 1.05 indicates that the valuation methodology is resulting in values similar to those determined in the market place and that an assessment determined using this methodology is equitable. As the median ASR is within this range; indeed it is close to 1.00, no adjustment for equity is required.

26 The assessment is reduced from \$906,000 to \$900,000 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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