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Laffey 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 a complaint with respect to taxation year 2006 on premises known municipally as 735 Glenleven Crescent

Andrew Joseph Laffey, Elinor Ann Laffey, Connor Laffey, Assessed Persons/Complainant and The Municipal Property Assessment Corporation Region No. 15 and City of Mississauga, Respondents

Ontario Assessment Review Board

J. Emerson Member

Heard: December 14, 2006

Judgment: May 11, 2007

Docket: WR 55042

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Counsel: R. **Baranowski** (Agent), for Assessed Persons / Complainant

I. Thow, for Municipal Property Assessment Corporation

No one for Municipality

Subject: Public; Tax — Miscellaneous; Property

Municipal law --- Municipal tax assessment — Valuation — Basis for reduction — Miscellaneous

Statutes considered:

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

s. 19(1) — referred to

s. 19.1(1) [en. 1997, c. 5, s. 13] — referred to

s. 19.2(1) ¶ 5 [en. 2004, c. 7, s. 3(1)] — referred to

s. 40(11) — referred to

s. 44(2) — referred to

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J. Emerson Member:**Issue**

1 The issue for determination is whether the current value assessment (CVA) of the subject property for the 2006 taxation year in the amount of \$920,000 is correct.

Decision

2 The CVA for the 2006 taxation year is reduced from \$920,000 to \$870,000 as recommended by Municipal Property Assessment Corporation (MPAC).

Reasons for Decision

3 The subject property is located at 735 Glenleven Crescent in the City of Mississauga. The lot has an effective lot size of 70 feet of frontage and 3,235.7 feet of depth with a total effective lot size of 1.11 acres. The property backs onto green space.

4 The house has one storey and was built in 1964. It has a total building area of 1,677 square feet. The basement has 1,957 square feet with 1,227 square feet of finished area.

5 MPAC had originally classed the house as a Quality Code "7.5" but after inspection, lowered the Quality Code to "7" and made a recommendation to lower the CVA to \$870,000.

The Complainants Evidence:

6 Mr. **Baranowski** from Canadian Agency for Tax Relief, in his submission stated that the property should have a Quality Code "6.5" as the house is built on a hill with the main entrance being higher than the garage. The finished basement living area is next to the garage.

7 He stated that the subject property has 70 feet of frontage and the comparables have large frontages. He also submits that half of the property is marsh associated with a creek and is under the jurisdiction of the Conservation Authority and should be valued as marginal land per MPAC's policy.

8 He provided four suggested comparables as follows:

<i>Properties</i>	960 Parkland	740 Bexhill	1345 Gatehouse	1344 Gatehouse
<i>Assessment</i>	\$638,000	\$686,000	\$721,000	\$590,000
<i>Sale date</i>	2004/08	2004/04 2004/01	2005/08	2004/01
<i>Sale amount</i>	\$598,000	\$600,000 \$539,000	\$746,000	\$545,000
<i>Sales 2005/01 As of</i>	\$614,000	\$630,000 \$576,000	\$707,000	\$583,000
<i>Frontage</i>	90 Feet	100 Feet	80 Feet	81 Feet
<i>Total Area</i>	1,591 Square feet	1,514 Square Feet	1,832 Square Feet	1,607 Square Feet
<i>Lot Size Sale price / square foot</i>	1,4940 Square foot .34 Acre	20,008 Square Feet .45 Acres	15,568 Square Feet .37 Acre	13,423 Square Feet .34 Acre
<i>Sale/Assess</i>	\$385/Square feet	\$416 Square Feet	\$386 Square Feet	\$362 Square Feet

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<i>Over-Assess</i>	\$24,000	\$56,000	\$14,000	\$7,000
<i>Age</i>	2005	1965	1965	1965
<i>Quality Code</i>	7	7	7.5	6.5
<i>Variables</i>		Green Space		
<i>Structures</i>		Outdoor Pool		

9 Mr. **Baranowski** stated that the median of the sales price per square foot is \$386 and the average is \$427 per square foot.

10 The current value of the subject property based on the median rate would be 1,677 square feet × \$385 = \$645,000.

11 The current value of the subject property based on the average rate would be 1,677 square feet × \$385 = \$645,000.

12 He stated that there is a very steep slope at the rear of the house and that MPAC's computer program has a variable to allow for a steep slope, his evidence is that no one can apply for a permit to build because of the creek and marsh.

The Assessor's Evidence:

13 Mr. Thow of MPAC provided the Board with information on six properties to consider as comparable to the subject property as set out as follows:

<i>Address</i>	<i>Sale Price/ Date</i>	<i>Assessed Value</i>	<i>Lot Size</i>	<i>Building Size</i>	<i>ASR Sale</i>	<i>ASR Time Adj</i>	<i>Age</i>	<i>Quality Class</i>
764 Glenleven	\$832,500 2005/06	\$698,000 \$806,400	.27A (Time Adj 05/01)	2,428 Square feet	.84	.87	1962	6.5
792 Parkland	\$730,000 2004/05	\$532,000 \$768,000	.34A (Time adj 05/01)	1,379 Square feet	.73	.69	1954	6
740 Bexhill	\$600,000 2004/04	\$686,000 \$635,000	.45A (Time adj 05/01)	1,514 Square feet	1.14	1.08	1965	7
1326 Contour	\$640,000 2005/05	\$530,000 \$623,800	.26A (Time adj 05/01)	1,368 Square feet	.83	.85	1955	6
1300 Contour	\$735,000 2004/10	\$585,000 \$749,300	.50A (Time adj05/01)	1,263 Square feet	.80	.78	1953	6
1345 Gate- house	\$746,000 205/08	\$721,000 \$713,600	.37A (Time adj 05/01)	1,832 Square feet	.97	1.01	1968	7.5

14 The property at 764 Glenleven is across the street from the subject property and has an outdoor pool. The property at 1326 Contour Drive was demolished after the sale.

15 Mr. Thow stated that the average assessment to sale ratio (ASR) at the time of sale was 0.88 and the median is 0.86.

16 Mr. Thow also provided the Board with four properties on the same side of the street as the subject property.

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They are as follows:

<i>Address</i>	<i>Sale Price Date</i>	<i>Assessed Value</i>	<i>Lot Size</i>	<i>Building Size</i>	<i>Age</i>	<i>Quality Code</i>	<i>Frontage</i>
725 Glenleven	\$975,000 2001/09	\$1,099,000	1.59 A	2,256square Feet	1966	7.5	60 Feet
755 Glenleven	\$1,045,00 2006/07	\$896,000	.72A	2,580 Square Feet	1967	7.5	85 Feet
765 Glenleven	\$712,500 2000/06	\$857,000 Two storey Building	.85A	1,884 Square Feet	1964	7	90 Feet
795 Glenleven	\$675,000 2003/07	\$752,000	.76A	1,439 Square Feet	1961	7	72.5 Feet

17 Mr. Thow stated that backing onto green space and conservation land should not be considered a negative as it is a plus to the value.

18 MPAC does have a variable for a steep slope but this was not given on this property.

The Law:

19 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 or average current value, as determined under section 19.1.

20 Subsection 19.1(1) of the *Act* states:

19.1(1) Assessment, single years and averages. — Subject to subsections (2) and (3), land shall be assessed for a taxation year at the current value of the land for the taxation year.

21 Subsection 19.2(1) of the *Act* states:

19.2(1) Valuation days — Subject to subsections (2) and (5), the day as of which land is valued for a taxation year is determined as follows:

5. For the 2006 and subsequent taxation years, land is valued as of January 1 of the year preceding the taxation year.

22 Subsection 44(2) of the *Act* states:

44(2) Reference to similar lands in the vicinity. — In determining the value at which any land shall be assessed, reference shall be had to the value at which similar lands in the vicinity are assessed.

23 Subsection 40(11) of the *Act* states:

40(11) Board to make determination — After hearing the evidence and the submissions of the parties, the Board shall determine the matter and, in complaints involving current value, shall determine the amount of the assessment

as necessary to reflect corrections to the current value.

The Decision:

24 The best evidence the Board can consider is a sale of the subject property or sales of similar properties in the vicinity around the time of the valuation date of January 1, 2005.

25 The complainant's representative provided the Board with four sales of properties in the vicinity. Two of the properties are comparable in Quality Code both being a "7" but one of these, 960 Parkland Avenue is not comparable in age, being built 2005. The property at 740 Bexhill is a Quality Code 7, and built in 1965, and comparable in age to the subject. It backs onto green space but the lot size is smaller at 0.45 acres as compared to the subject property's 1.11 acre. For these reasons, the Board finds these properties are not comparables to the subject property. The complainant argues that MPAC has used the wrong Quality Code and that it should be "6.5" for the reason that the subject property has a smaller frontage and has marsh. The Board understands that quality code as used by MPAC relates to the quality of construction of the dwelling not the quality of the lot.

26 The complainant also argues that the Quality Code should be "6.5" because the garage and finished basement are on the same level and the entrance is higher than these two. Looking at MPAC's photographs, there are two comparables that have entrances that are higher than the garage and basement area. These are 755 Glenleven and 765 Glenleven. Both are on the same side of the street as the subject property and the Quality Code of 755 Glenleven is "7.5" and for 765 Glenleven is "7". From these two comparables, it appears that the entranceway being higher than the garage does not affect the Quality Code applied by MPAC.

27 The other two suggested comparables presented by the complainant, 1345 Gatehouse and 1344 Gatehouse do not back onto green space, have much smaller lots at 0.37 and 0.34 acres respectively and are Quality Code "7.5" and "6.5" respectively. The Board does not consider these comparable.

28 The complainant's representative stated that there should be an adjustment for the steep slope and for the marsh and conservation land but he presented no evidence as to what this adjustment should be.

29 MPAC provided the Board with six sales of properties in the vicinity. MPAC provided the Board with the same sale as the complainant, 740 Bexhill Road, which the Board finds not to be comparable. The five other sales are not comparable in lot size, ranging in size from 0.26 acres to 0.50 acres while the subject property is 1.11 acres. The properties are also not comparable in being Quality Codes "6", "6.5" or "7.5" while the subject is a Code "7".

30 MPAC also provided the Board with four sales and assessments of properties on the same side of the street as the subject property. The next door neighbour's property at 725 Glenleven has a larger lot, smaller frontage at 60 feet, larger house, built in 1966 and a Quality Code "7.5". It has an assessment of \$1,099,000 and sold in 2001 for \$975,000. There was one sale on the same side of the street in the shoulder year of 2006 and that was 755 Glenleven Crescent. It sold for \$1,045,000 and has a smaller lot of 0.72 acres, has a Quality "7.5" building, but is a two-storey of 2,580 square feet. The Board finds the properties not comparable due to difference in lot size and quality, and building site.

31 The other properties on the same side of the street have smaller lot sizes at 0.85 acres and 0.76 acres, have the same Quality Code and comparable building sizes at 1,884 square feet and 1,439 square feet. The assessments for these two properties are \$857,000 and \$752,000.

32 Based upon there being no evidence as to how the current value is affected by the steep slope, a marsh or conser-

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vation land on the property and no evidence of sales of comparable properties, the Board is not satisfied that a correction to current value is necessary and reduces the assessment from \$920,000 to \$870,000 as recommended by MPAC.

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