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Lee 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 144 Anastasia Terrace

James Lee, Assessed Person/Appellant and The Municipal Property Assessment Corporation, Region No. 15 and the City of Mississauga, Respondents

Ontario Assessment Review Board

J. Wyger Member

Heard: January 17, 2012

Judgment: May 2, 2012

Docket: WR 113985

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Counsel: C. Mattat, R. Leroux, for Municipal Property Assessment Corporation

Subject: Public; Tax — Miscellaneous; Property

Municipal law --- Municipal tax assessment — Valuation — Method of assessment — Similar real property in vicinity

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

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

Statutes considered:

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

s. 1(1) "current value" — referred to

s. 19(1) — referred to

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

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s. 40(26) — referred to

s. 44(3) — referred to

J. Wyger Member:

1 These appeals came before the Assessment Review Board on January 17, 2012 in the City of Mississauga.

Issue

2 The issues are to determine the current value of the property, and to ensure that the current value is equitable relative to the assessed values of similar properties in the vicinity.

Decision

3 The current value and equitable value is determined to be \$601,000. The assessment is reduced from \$630,000 to \$601,000 for the 2009, 2010 and 2011 taxation years.

Reasons for Decision

Facts

4 The subject property is a 2,691 square foot two-storey home, built in 1985 and situated on an 11,761 square foot lot at 144 Anastasia Terrace in Mississauga. It is a pie-shaped lot with a rear boundary that fronts on the intersection of two streets. It is assessed in the amount of \$630,000.

The legislation

5 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.

6 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.

7 Subsection 19.2(1)2 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.

8 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.

Analysis — current value

9 The assessor, Mr. Roger Leroux, presented a property report with four sales of comparable properties near the valuation day. None of the sales was in the subject area of B48 but in the adjacent area B43 due to a lack of 1985 vintage structures in B48. The time-adjusted sales of these very similar properties ranged from \$504,100 to \$588,499. After adjusting for the differences between the subject and the comparables, the main one being lot size, a range of adjusted sale amounts from \$580,000 to \$622,000 was produced. The subject current value of \$630,000 is above both of these ranges, but defended by Mr. Leroux as being close enough.

10 The agent for the appellant, Mr. Robert **Baranowski** pointed to the map of the location to support his contention that the subject lot is a corner lot and due to its shape, is not as valuable as MPAC suggests. The lot is a five-sided parcel, with three of those sides bordering three different streets. It's relatively narrow frontage required the home to be constructed in the middle of the lot, leaving less backyard than might be expected for such a large lot. The main reason the subject assessment is higher than the comparables is because its lot size is roughly 4,000 to 6,000 square feet larger than the comparable lots.

11 While this normally would be a good reason for the subject property to be assessed at a higher value, I believe that in this instance that this premium is over-stated given the unusual configuration and multiple street frontages. This over-statement appears to be borne out by the subject assessment being above the range of adjusted sale amounts. I am not convinced that MPAC has met the burden of showing the assessed value is reasonably correct. I conclude that the value should at least fall within that range.

12 Mr. **Baranowski** presented three sales that were in area B48. The two on Claymeadow Avenue were both much newer, smaller homes on lots that were less than a third the size of the subject lot. They are not sufficiently similar to make any meaningful direct comparison. The home at 3110 Parkerhill Road is a significantly larger house with a full finished basement on a 7,500 foot regular shaped lot. It sold for \$662,000 in July 2007, only \$32,000 more than the subject property assessment. The market evidence suggests that the subject property would not have sold for \$630,000 in 2008.

13 Mr. **Baranowski** employed value per square foot calculations to arrive at his requested value of \$524,000. Ms. Mattat provided me with one of my previous decisions in support of the proposition that for this method to be useful, requires that comparable properties be roughly similar in structure size in order to make a meaningful comparison. I would also add that all else should be relatively similar as well.

14 In a case such as this where one factor such as lot size is clearly superior, it is to be expected that value per structure of the subject should be significantly higher. One cannot equate the values per square foot of structure or the impact of that superior factor on value will be diminished. While the lot size premium may be over-stated for the subject property, it is still superior relative to all the comparables and so value per square foot is not helpful.

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15 I find that the subject property assessment should be within the range of adjusted sale amounts of MPAC's four comparable properties. Both the median and average value of those four is \$601,000. This value is above the range of the time-adjusted sale amounts of these properties, reflecting the larger lot, but to a lesser degree than the returned assessment. The value of \$601,000 is marginally higher than the \$588,499 time-adjusted sale of 470 Malaga Road which is the most comparable property having a lot size nearest to the subject property lot size. My best estimate of the likely sale value of the subject property as of January 2008 is \$601,000.

Analysis - Equity

16 Mr. Leroux presented equity studies showing assessment to sale ratios close to 1.00. On reviewing the assessments of the comparables in evidence, I conclude that the new current value of \$601,000 appears equitable relative to those assessments.

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

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