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Vetzal 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 and 2011 on premises known municipally as 249 Burgundy Drive

Roy Vetzal Patricia W. Vetzal, Assessed Persons/Appellant and The Municipal Property Assessment Corporation, Region No. 15 and the Town of Oakville, Respondents

Ontario **Assessment Review Board**

J.M. Wyger Member

Heard: April 30, 2012
Judgment: August 3, 2012
Docket: WR 114584



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

C. Mattat, for Municipal Property Assessment Corporation

S. Price, for Municipality

Subject: Public; Tax — Miscellaneous; Property

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

Generally — referred to

s. 1(1) "current value" — considered

s. 19(1) — considered

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

s. 44(3) — considered

***J.M. Wyger Member*:**

**Issue**

1 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**

2 I determine that the current value of the property is $934,000 and that this value is equitable relative to the assessments of similar properties in the area. The assessment is reduced from $972,000 to $934,000, apportioned as follows:

| | |
|---|---|
| Residential | $837,500 |
| Exempt | $96,500 |

**Reasons for Decision**

***Facts***

3 The subject property is a 1504 square foot bungalow, built in 1956 and situated on a 14,156 square foot lot at 249 Burgundy Drive, Oakville. It is assessed in the amount of $972,000 for the 2009, 2010 and 2011 taxation years.

***The legislation***

4 Subsection 19.(1) of the *Assessment Act* (Act) s*tate*s:

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

5 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.

6 Subsection 19.2(1) 2 states:

> **19.2(1) Valuation days —** Subject to subsection (5), the day as of which land is valued for a taxation year is determined as follows:
>
> 1. For the 2006, 2007 and 2008 taxation years, land is valued as of January 1, 2005.
>
> 2. For the period consisting of the four taxation years from 2009 to 2012, land is valued as of January 1, 2008.
>
> 3. For each subsequent period consisting of four consecutive taxation years, land is valued as of January 1 of the year preceding the first of those four taxation years.

7 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.

***The Municipal Property Assessment Corporation's (MPAC) evidence***

8 MPAC's representative, Ms. Christine Mattat called as her witness the assessor, Christine Safranca. Ms. Safranca presented a current value study containing six comparable properties in the neighbourhood with time-adjusted sales ranging from $835,135 to $1,261,391. She adjusted these sales for the differences between the comparable properties and the subject property, and came up with a range of adjusted sale amounts from $872,000 to $1,028,000. As the subject property assessment of $972,000 falls within the range, she opined that is was a correct current value.

9 Ms. Safranca presented two equity studies with median Assessment to Sale Ratios (ASR) of 0.99 in support of her contention that the current value was also equitable relative to the assessments of similar properties in the vicinity.

***Appellant's evidence***

10 Mr. Robert **Baranowski**, the agent for the owner did not present any of his own comparable properties into evidence. He submitted that of the assessor's comparable properties, only Sales 5 and 6 were comparable. Several of the homes were demolished soon after sale, indicating mostly land value in the sale prices.

11 Mr. **Baranowski's** methods using value per square foot of structure and ASR resulted in suggested values ranging from $855,000 to $899,000. On the basis that the subject may be a "tear-down", he deducted the structure value from the total value shown on the PAD Report to result in a suggested value of $855,000. His calculation using all six sale values per square foot of structure resulted in a value of $946,000. His requested current value was $860,000.

***The Town of Oakville's (Town) evidence***

12 Ms. Susan Price made the case for the Town that the subject assessment is correct as returned. She highlighted Sale 3 at 288 Poplar Road from the MPAC Report and added her own comparable property at 414 Morrison Road. Both of these properties sold within one month of the January 2008 valuation day and were smaller homes of the same age on smaller lots that sold for $982,000 and $963,000 respectively.

***Analysis — current value***

13 An overview of the relative superiority and inferiority of all the sale comparables suggests that the subject property's returned assessment is not seriously out of line with those values. Employing any of Mr. **Baranowski's** methods that place the assessed value below $900,000 would take it out of that range of values. I note that the three most similar properties in terms of structure size being Sales 1, 5, and 6 have adjusted sale amounts and time-adjusted sale values per square foot at the lower end of those ranges, unlike the subject property, suggesting there may be some room for a down-

ward adjustment. Using those three values in addition to the sale value per square foot of the similar sized structure at 414 Morrison Road results in an average value of $621 per square foot, and an indicated current value of $934,000. I note that this value falls between the average adjusted sale amount of $906,000 and the average time-adjusted sale amount of $946,000 for these four most comparable properties (assuming 414 Morrison Road requires minimal adjustments). I estimate a likely January 2008 current value for the subject property to be $934,000.

***Analysis — equity***

14 Both the average and the median ASR of the four comparable properties used to determine current value indicates that they are over-assessed by approximately eight per cent. It appears that the subject property would have been at a more equitable level at the returned value of $972,000, a figure produced by the same model that over-assessed the comparables. However the Act is structured such that the assessed owner gets the benefit of the lesser of the current value or the equitable value. The subject property's newly determined current value of $934,000 is now at the lower level of the sale values of those comparable properties rather than the higher level of their assessments, and therefore equitable.

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