



PRINCE EDWARD ISLAND
Regulatory & Appeals Commission
Commission de réglementation et d'appels
ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: October 3, 2022
Docket: Docket No LT21006
Type: Real Property Tax
Appeal

INDEXED AS: Wayne & Barbara Locke v. Minister of Finance

Order No: LT22-09

BETWEEN:

Wayne & Barbara Locke

Appellant

AND:

Minister of Finance

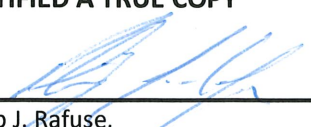
Respondent

ORDER

Panel Members:

J. Scott MacKenzie, K.C. Chair
M. Douglas Clow, Vice-Chair
Erin T. Mitchell, Commissioner

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Philip J. Rafuse,
Appeals Administrator
Prince Edward Island Regulatory & Appeals
Commission

1. BACKGROUND

1. This is an appeal under the *Real Property Assessment Act* by Wayne and Barbara Locke ("Appellants") of the decision by the Minister of Finance ("Respondent") with respect to the 2021 assessment of Provincial Property Number 1013655 ("Property").
2. There are two main issues before the Commission:
 - (i) Is this appeal appropriate to be determined without an oral hearing?
 - (ii) Is the assessment of the Property in uniformity in relation to other assessments?
3. After giving careful and full consideration to the evidence filed in this appeal, reviewing the submissions of the parties and examining the applicable law, it is the decision of the Commission to dismiss the appeal.

2. DISCUSSION & FINDINGS

Issue #1 – Is this appeal appropriate to be determined without an oral hearing?

4. The Commission has the discretion to determine a matter without an oral hearing under its Rules of Practice & Procedure.
5. The *Real Property Assessment Act* allows the Commission to order that written submissions be filed in the place of an oral hearing, with the consent of the parties¹.
6. Both parties consented to a written appeal. The parties provided written submissions containing sufficient evidence to allow the Commission to determine this matter fairly. The main issues before the Commission are legal ones. This matter can be determined fairly on the merits in writing.

Issue #2 – Is the assessment in uniformity in relation to other assessments?

7. In this appeal, the Minister must demonstrate the uniformity of the assessment of the Property in relation to other assessments².
8. The assessment history for the subject property is as follows:

<u>Year</u>	<u>Market Assessment</u>	<u>Taxable Assessment</u>
Jan 7, 2017	\$60,100	\$60,100
June 11, 2017	\$307,400	\$307,400
June 11, 2017	\$255,800	\$255,800
Jan 1, 2018	\$266,000	\$260,200

¹ *Real Property Assessment Act*, ss. 29(3)

² *Real Property Assessment Act*, s. 28

Jan 1, 2019	\$266,300	\$265,900
Jan 1, 2020	\$267,200	\$267,200
Jan 1, 2021	\$274,200	\$267,200
March 31, 2021	\$410,800	\$403,800
March 31, 2021	\$393,300	\$386,700

9. The Appellants began construction of a new house in 2017. The June 2017 assessment was based on “land value plus new house construction entered at 60% complete”³. That assessment was subsequently reduced to reflect design changes to the construction. Each year thereafter, an annual market adjustment was applied to the 60% assessment.
10. In March 2021, the Respondent’s staff noticed that the valuation was erroneously noted as “house construction remains at 60% complete” since its original assessment of June 2017. This error was corrected March 31, 2021, as permitted by s. 19 of the *Real Property Assessment Act*, resulting in a significant increase to the assessment value of the Property.
11. As a result of the increase, the Appellants requested reconsideration of their 2021 property assessment and taxes referral, being Referral Number R07297, in accordance with subsection 20(3) of the Act. Upon reconsideration, the Respondent analyzed the property, considered remarks from the Appellants and their representative, and where required, conducted a physical inspection of the property⁴.
12. Upon reconsideration, the market value assessment for the Property was reduced from \$410,800 to \$393,700 as a result of “*slight change in grade and depreciation based on the structure’s age*”⁵. The Appellants filed an appeal.
13. In the Appellants’ written submissions, they review past history and outline concerns described as unfair treatment due to a lack of in-person inspections. The Appellants argue that the comparable properties used in the Minister’s analysis are not proper comparables to determine uniformity in its assessment decision. The Appellants note that their Property is built on a slab using inexpensive finishes, whereas the comparable properties submitted by the Minister have higher-end finishes with partial and fully finished basements. To support their appeal, the Appellants filed the geolinc assessed values and photographs of other properties in an effort to offer comparisons.
14. The Appellants did not submit any evidence from a qualified real estate appraiser or an expert in real estate valuation to support their personal opinion on the tax assessment levied on their property.

³ AVS, page 12

⁴ AVS, page 10

⁵ AVS, page 10

15. The Minister filed an Assessment Valuation Summary ("AVS") with the Commission wherein it analyzed four (4) comparable property assessments, as well as four (4) comparable sales.
16. The AVS contains photographs, a site analysis, describes the method of assessment, breaks down the value into land, home and accessory building, provides a comparable assessment analysis, provides a comparable sales analysis, and is certified by an Accredited Appraiser Canadian Institute. The AVS further certifies that an inspection has been made of the Property⁶.
17. The Minister submitted that the data presented confirms the Property is assessed uniformly and that the sales information indicates that the Property is not over-assessed in relation to its market value⁷. There is no credible evidence before the Commission to the contrary.

3. Commentary

18. In the Appellants' written submissions, they have requested reassessments of various third party properties. The Commission does not have jurisdiction to grant this relief. The procedure for referral of assessments is set out in section 20 of the Act. In accordance with section 20, a referral must be initiated by any person who received the notice of assessment or amended notice of assessment. The referral decision of the Minister is then appealable to the Commission by the person making the reference. The Act does not permit for third parties to make reference of third party properties.

4. Conclusion

19. Based on all the evidence before the Commission, it is found that the Respondent has demonstrated uniformity of assessment. Accordingly, the appeal is dismissed, and the 2021 assessment of \$393,700 is confirmed.

⁶ AVS, page 35

⁷ AVS, page 33

IT IS ORDERED THAT

1. The appeal is dismissed.
2. Assessment of Provincial Property Number 1013655-000 is confirmed at \$393,700.

DATED at Charlottetown, Prince Edward Island, October 3, 2022.

BY THE COMMISSION:

(sgd) J. Scott MacKenzie, K.C.

J. Scott MacKenzie, K.C., Chair

(sgd) M. Douglas Clow

M. Douglas Clow, Vice-Chair

(sgd) Erin T. Mitchell

Erin T. Mitchell, Commissioner

NOTICE

Section 12 of the ***Island Regulatory and Appeals Commission Act*** reads as follows:

12. The Commission may, in its absolute discretion, review, rescind or vary any order or decision made by it, or rehear any application before deciding it.

Parties to this proceeding seeking a review of the Commission's decision or order in this matter may do so by filing with the Commission, at the earliest date, a written Request for Review, which clearly states the reasons for the review and the nature of the relief sought.

Section 33 of the ***Real Property Assessment Act*** provides:

33 Notwithstanding anything in any public or private Act, an appeal lies to the Supreme Court of the province from any order, decision, or award of the Commission, if notice of the appeal is given the other parties within forty-five days after the making of the order, or decisions sought to be appealed from.

NOTE: In accordance with IRAC's *Records Retention and Disposition Schedule*, the material contained in the official file regarding this matter will be retained by the Commission for a period of 2 years.