

The Canadian Abridgment eDigests -- Municipal Law

2022-10
March 07, 2022

MUN.XX.3.f.iv

Subject Title: Municipal law

Classification Number: XX.3.f.iv

Municipal tax assessment -- Valuation -- Method of assessment -- Miscellaneous

Cost approach -- Owners appealed assessment of current value of 2019 newly-built one-storey single-family dwelling on former vacant lot on lake shore -- Appeal allowed -- Assessment reduced from \$107,000 to \$100,000 for 2019 taxation year and reduced from \$354,000 to \$300,000 for 2020 and 2021 taxation years -- Subject property was sold between family members in December 2013 for \$97,500, and with time adjustment factor, was at low end of fair and reasonable range of values -- Best approach to value was cost approach because direct comparison approach failed to provide reliable indication of value -- Value of construction permit represented best available evidence of construction cost, accordingly, correct current value of land and building as at January 1, 2016 valuation day was \$300,000 based on cost approach, which added \$200,000 construction cost to \$100,000 land value -- No equity reduction was required.

Marleau and Municipal Property Assessment Corp. Region 28, Re [\(2021\), 2021 CarswellOnt 19612, 2021 CarswellOnt 19611](#), Pierre R. Lavigne Member (Ont. Assess. Review Bd.) [Ontario]

MUN.XX.3.k

Subject Title: Municipal law

Classification Number: XX.3.k

Municipal tax assessment -- Valuation -- Powers on review or appeal

Owners appealed against supplementary assessment arising out of alterations (\$47,000 kitchen work) to subject property which added \$61,000 resulting in total of \$864,000 for 2019 tax year assessment -- Assessment Review Board gave no weight to MPAC's proposed comparable sales evidence, found best evidence of value added by alterations was owner's cost evidence of \$47,000, and found correct current value was \$850,000 with no adjustment for equity -- Owners brought application for review -- Application dismissed -- There was no violation of rules of natural justice or procedural fairness, or error in law or fact, insofar as MPAC was not directed to reset "Effective Year Built" from 2001 due to alterations back to 1983 original construction date, nor in relation to MPAC's failure to meet burden of proof, nor in relation to costs of alterations used to determine current value.

Baratta and Municipal Property Assessment Corp. Region 15, Re [\(2021\), 2021 CarswellOnt 17207](#), Carly Stringer Member (Ont. Assess. Review Bd.); refusing application for judicial review [\(2020\), 2020 CarswellOnt 19008](#), Pierre R. Lavigne Member (Ont. Assess. Review Bd.) [Ontario]

MUN.XX.13

Subject Title: Municipal law

Classification Number: XX.13

Municipal tax assessment -- Miscellaneous

Classification -- Respondent company owned property for which applicant city had issued development permit providing for construction of seven buildings containing 1,095 units and, overall, 30 percent non-residential (commercial) and 70 percent residential use -- For provincial tax purposes, property was assessed at \$72,140,000 based on its full development potential with \$21,642,000 attributed to non-residential portion and \$50,498,000 attributed to residential portion -- On basis entire surface area of property was being used for commercial parking lot while awaiting development, however, city classified it as 100 percent non-residential for purposes of municipal property tax -- Company filed complaint with respondent assessment review board who recognized that it was inherently unfair to base value of property on full development potential as mixed-use property and then not recognize that mixed use in classification for municipal tax purposes -- It found city's approach was inconsistent with value methodology for property, zoning and classification of comparable properties, and revised classification to reflect 30/70 non-residential/residential split -- City brought application for judicial review -- Application dismissed -- Decision was reviewable on standard of reasonableness -- Judicial restraint was required -- Notwithstanding city's assertions to contrary, reasons of review board demonstrated that it had addressed current commercial use of surface area of property and been satisfied that it fell within 30 percent attributed to non-residential use with 70 percent attributed to residential use contained in air space above -- That reasoning revealed rational chain of analysis and was consistent with both development permit and city bylaws -- Decision was logical, intelligible and transparent, justified in view of facts and law and, accordingly, not unreasonable.

City of Calgary v. BCIMC Realty Corporation ([2021](#)), [2021 ABQB 888](#), [2021 CarswellAlta 2876](#), D.B. Nixon J. (Alta. Q.B.) [Alberta]
