2011 CarswellOnt 4222

Minna 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 1308 Cermel Drive

Mary Minna Jeffrey Hamill, Assessed Persons/Appellant and The Municipal Property Assessment Corporation, Region No. 15 and the City of Mississauga, Respondents

Ontario **Assessment Review Board**

A. LaRegina Member

Heard: March 14, 2011
Judgment: May 27, 2011
Docket: WR 104815

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

C. Stoeken, R. Campbell, for Municipal Property Assessment Corporation

No one for Municipality

Subject: Public; Tax — Miscellaneous; Property

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

Cases considered by *A. LaRegina Member*:

Fairbanks v. Municipal Property Assessment Corp., Region No. 09 (2008), 2008 CarswellOnt 3238, 59 O.M.B.R. 315 (Ont. Assess. Review Bd.) — considered

Statutes considered:

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

Generally — referred to

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

s. 40(19) — referred to

s. 40(26)(b) — referred to

s. 44(3) — referred to

s. 44(3)(a) — referred to

s. 44(3)(b) — referred to

***A. LaRegina Member*:**

1 These appeals came before the Assessment Review Board on March 14, 2011 in the City of Mississauga.

Issue

2 The issue before the Board for determination is whether the assessment for the subject property of $799,000 for the 2009 and 2010 taxation years is at current value and whether the assessment is equitable with the assessment of similar lands in the vicinity.

Decision

3 The Board finds the current value of the subject property to be $796,000 for the 2009 and 2010 taxation years.

4 The Board finds that based on the evidence provided in the Equity Analysis, a further adjustment is required to current value from $796,000 to $733,000 to make the assessment equitable with the assessments of similar lands in the vicinity.

5 The decision of the Board is to reduce the assessment from $799,000 to $733,000 for the 2009, 2010, 2011 taxation years.

Reasons for Decision

The Subject Property:

6 The subject property, built in 1977, is a detached single-family two storey dwelling, located at 1308 Cermel Drive, in the City of Mississauga in homogeneous area A88. This residence is made up of 2,309 square feet of total building area with 1,053 square feet on the first floor, 1,253 square feet on the second floor and 1,100 square feet in the basement of which 678 square feet is finished space. The subject property had a C renovation in 2001 and added 480 square feet of building area. The subject lot is an irregular lot with effective frontage of 61.33 feet and effective depth of 92.37 feet. The effective lot area is 7,507 square feet. The subject has an attached garage with 480 square feet of building area and an outdoor pool with 512 square feet of area which was built in 1982. The subject lot is located on a cul-de-sac or dead end road.

Legislation:

7 The Board must have regard to section 1 and subsections 19.(1), 19.2(1), 40.(19) and 44.(3)(a) and (b) of the *Assessment Act* (*Act*) when determining whether or not the assessment under appeal is correct.

8 Section 1 of the *Act* defines current value as follows:

> **"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*.

9 Subsection 19.(1) of the *Act* states:

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

10 Subsection 19.2(1) of the *Act* 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.

11 Subsection 40.(19) of the *Act* states:

> **40.(19) Board to make determination. —** After hearing the evidence and the submissions of the parties, the Board shall determine the matter.

12 Subsection 44.(3) of the *Act* 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.

13 Subsection 40.(26)(b) provides that if an appeal for 2009 is not fully disposed of by March 31, 2010, the appellant is deemed to have made the same appeal for the 2010 taxation year.

Determination of Current Value:

14 Subsection 44.(3)(a) of the *Act* requires the Board to determine the current value of the property.

The Municipal Property Assessment Corporation's (MPAC) Evidence and Argument:

15 On behalf of MPAC, the assessor, Mr. Stoeken, introduced three sales of comparable properties all of which were in the homogeneous area of the subject. The three comparables are as follows:

Address	*Assessed Value ($)*	*Building Area (Sq.*	*Lot Size (Sq. Ft.)*	*Sale Price ($)*	*ASR*	*Sale Date*	*Time Adjusted Sale*	*Adjust*	*Adjusted Sale Amount ($)*

		Ft.)					*Amount ($)*	*To Sub-ject*	
Subject 1308 Cermel Dr	*799,000*	*2,309*	*7,507*						
996 Cresthamp-ton Lane	851,000	2,438	12,632	870,000	.93	2007/08	913,619	-6%	857,000
1082 Caldwell Avenue	835,000	2,545	11,325	985,000	.80	2007/07	1,045,360	-4%	1,000,000
1554 C+alumet Pl	757,000	2,430	7,576	1,075,000	.79	2008/10	961,217	6%	1,014,000
Average/Median					*.84/*	*.80*			

16 Mr. Stoeken's evidence included the sale price of each property as well as the time adjusted sale amount to reflect the January 2008 valuation. The adjustment to subject represents the total quantified adjustment required to equalize the comparable property to the subject property. The adjustment is determined by comparing the sum total of the valuation components for the subject property against those of the comparable sold properties. Comparables which are deemed superior to the subject require a negative adjustment while the inferior ones require a positive adjustment. The adjusted sale range of the two comparables was between $857,000 and $1,014,000. Mr. Stoeken concludes that the subject property is under-assessed at $799,000 and that the current value of the subject should be $913,000. Mr. Stoeken establishes the current value based on adjusted sale price per square foot of building area for comparable number 3, 1554 Calumet Place, at $395. Applying this rate to the building area of the subject property, Mr. Stoeken determined that the current value of the subject should be $913,000. Mr. Stoeken claimed that while all three sales comparables presented by MPAC are reasonable, he believes that comparable number 3 is the best and most similar comparable because it has similar building area and almost identical lot size while comparables number one and two have larger lots.

17 Mr. Stoeken also introduced the Equity Analysis, Appendix C, which concludes the median assessment to sales ratio (ASR) of .98 based from the range of .73 to 1.30, on the sale of 129 residential properties of the same general nature in homogeneous areas A88 and A85, between March 2007 and December 2008. Mr. Stoeken also entered into evidence the Equity Analysis, Appendix D, of 85 two storey residential property sales in homogeneous area A88 and A85 with a median ASR of .99 and a range from .73 to 1.30. Mr. Stoeken submits that the results of the Equity Analyses show that the MPAC valuation model is assessing properties in line with current value as the median ASR of .98 and .99 are within the range of .95 to 1.05 ASR and therefore no further adjustment to the current value is required to make the assessment equitable with the assessments of similar properties in the vicinity.

18 As a result of cross-examination the following points were made;

1) Comparable number 3 is located on the boundary of homogeneous area A94 which Mr. **Baranowski** claimed is the most upscale in Mississauga. Mr. Stoeken had no knowledge of the quality of homes in A94.

2) 38% of properties presented in the Equity Analysis fell between the acceptable range of .95 and 1.05.

3) 62% of properties were well outside the range of .95 and 1.05 and Mr. Stoeken agreed that for these properties the assessments were not in line with the current values and therefore not equitable.

4) Mr. Stoeken had no knowledge of the number of outliers that were excluded from the Study.

5) Mr. Stoeken had no knowledge as to what was the level of confidence or standard deviation for the Study. He did say that the Study was based on a level of confidence and standard deviation but did not know the values.

6) Mr. Stoeken admitted that the sample for the Equity Analysis came from A88 and A85 and that he had no way of identifying which sales came from which area and could not separate the two areas within the Equity Study as presented.

7) Mr. Stoeken also admitted with regard to the Equity Study he had no knowledge as to the specifics of the properties sold. i.e., lot size, building areas, year built etc., as they relate to the characteristics of the subject property.

8) Mr. Stoeken admitted that there is very little material difference between a quality class of 6.5 and 7.0.

Appellant's Evidence and Argument:

19 Mr. **Baranowski** began his evidence by stating that the 2005 assessment of the subject property was $631,000 and the 2008 assessment is $799,000 which represents an increase of 26.6%. Mr. **Baranowski** states that this increase is against any logic and does not correlate to the market values in the area.

20 In support of current value, Mr. **Baranowski** presents one comparable sale, 1290 Cermel which sold in January 2008. Mr. **Baranowski** indicates that these two properties are almost identical, located on the same side of the street just three doors down from one another. The characteristics of this comparable are entered into evidence:

Address	*1308 Cermel Drive*	*1290 Cermel Drive*
2008 CVA	$799,000	$660,000
Build Area S.F.	2,309	2,095
Eff. Lot Area S.F.	7,507	7,500
Build date	1977	1977
Basement S. F.	1,100	1,109
Finished Basement S.F.	678	936
Pool	Yes	No
Sale Amount		$670,000
Sale Date		2008/01

21 Mr. **Baranowski** states that the sale rate per square foot for the subject is $319. Mr. **Baranowski** states that based on the fact that the size of the comparable is smaller than the subject this normally yields a higher value per square foot of building area. To make the calculation very conservative, the appellant will make no adjustment for this and apply the actual $319 per square foot rate to the building area of the subject; therefore, establishing the current value of the subject property at $736,000.

22 In support of equity, Mr. **Baranowski** introduces six properties all located in the same homogeneous area of A88. Mr. **Baranowski** claims that all six properties are very similar to the subject property in terms of location, building area, date built and lot area. Mr. **Baranowski** claims that these comparables truly fulfill the intent of the *Act* which requires that one have reference to the assessment of similar properties in the vicinity and not just the same general nature or

character as MPAC believes.

23 Mr. **Baranowski's** equity comparables are as follows:

Address	*CVA ($)*	*Build Area S.F.*	*Lot Area S.F.*	*Year Built*	*Rate CVA/ S.F. ($)*
1308 Cermel	799,000	2,309	7,507	1977	346
1404 Tecumseth Park Dr.	802,000	2,461	9,594	1974	325
1315 Cermel Dr	724,000	2,303	10,428	1995	314
817 Edistel Cres	717,000	2,538	9,994	1967	282
1314 Cermel Dr	733,000	2,504	7,497	1977	292
1290 Cermel Dr	660,000	2,095	7,500	1977	315
1284 Cermel Dr	698,000	2,175	8,357	1977	320
Average					308

24 Mr. **Baranowski** claims that by applying the average CVA rate per square foot to the building area of the subject results in an assessment of $711,000 ($308 × 2,309). Mr. **Baranowski** requests that the current value of $736,000 should be further adjusted to $711,000 to reflect the assessments of similar properties in the vicinity.

25 During cross-examination, the following points were made;

1) The quality class of 1290 Cermel is 6.5 as opposed to the subject which is 7.0.

2) Comparable number 1 is a class of 7.0, the remainder are 6.5

3) Comparables number 3 and 5 have no pool while the remainder have pools.

MPAC's Summation

26 Ms. Campbell submits that the two issues are the current value of the subject property and whether the subject is assessed equitably with similar properties in the vicinity. Ms. Campbell submits that Mr. **Baranowski** relied on the sale of one comparable property that, while located on the same street, is lower in quality class, has a smaller building area and has no pool or addition like the subject property. Ms. Campbell submits that the sale of 1290 Cermel presented by Mr. **Baranowski** would naturally yield a lower rate per square foot based on these differences. MPAC on the other hand produced three comparable sales all of which have pools and the same quality. Of these three comparables MPAC has selected comparable number 3, 1554 Calumet Place as the best comparable to the subject property. This comparable has a similar lot area, building area, built in the same time period and both are located on cul-de-sacs. Ms. Campbell concludes that based on the adjusted sale rate of 1554 Calumet the current value of the subject property as presented by Mr. Stoeken should be $913,000. Ms. Campbell submits that MPAC is not requesting an increase in the assessment but rather to confirm the assessment at $799,000 even though the subject is under-assessed.

27 With regards to equity, Ms. Campbell presents a number of previous decisions issued by the Board to support her summations.

1) *Smith v. Municipal Property Assessment Corp., Region No. 9*, [2009] O.A.R.B.D. No. 113(ARB File No. DM 94066),

> This technique of comparing assessed value per square foot is sometimes used by the Board to determine whether a property is properly assessed, but it does not determine whether properties are inequitably assessed.
>
> The problem with the result arrived at by the Board is that there was no evidence that any of the six comparable properties were assessed at anything other than their correct current value. If they were assessed at their correct current value, then the Board had no jurisdiction to alter the assessment of the subject property, the CVA of which had already been found to be correct.

28 Mr. **Baranowski** has used the average rate per square foot based on assessments only and therefore is incorrect. It is clear from the sale of 1290 Cermel Drive which Mr. **Baranowski** presented for current value that based on this sale the ASR is .99, which is an indicator that the assessments are in line with equity in this area.

2) *Neto v. Municipal Property Assessment Corp., Region No. 15*, [2010] O.A.R.B.D. No. 136 (ARB File No. 83265) ,

> The Board echoes the assessor's contention that a more direct comparison based on CVA per square foot, requires that the comparable properties be roughly similar in structure size in order to make a meaningful comparison, due to the well known appraisal principle of economies of scale.

29 Ms. Campbell submits that Mr. **Baranowski's** comparables for equity are different in lot size, quality, building area, in fact the properties are completely different. Therefore the approach of applying the rate per square foot is not a valid approach.

3) *Fairbanks v. Municipal Property Assessment Corp., Region No. 09*, [2008] O.A.R.B.D. No. 306, 59 O.M.B.R. 315 (Ont. Assess. Review Bd.), (ARB File No. DM 68210)

> This panel agrees with all of Mr. Mitchell's submissions on this second ground. The Board should not have restricted its ASR analysis only to the single property that it found similar.

30 Ms. Campbell submits that in the *Fairbanks* decision the Board is clear that you cannot use the ASR of a single property to establish equity but rather must use average or median ASR of many properties. Ms. Campbell submits that Mr. **Baranowski** only looked at the assessment of six properties which would ultimately create an inequity in the homogenous area. MPAC took into consideration the ASR of all the sales in A88 and A85 to determine equity.

4) *Irber Holdings v. Municipal Property Assessment Corp., Region No. 9*, [2008] O.A.R.B.D. No. 384(ARB File No., WR 88870),

> Assessment is not an exact science and while an ASR of 1.00 might be the ideal, a range of 5% on either side on the ideal is generally regarded as acceptable.

31 Ms. Campbell submits that the equity analyses presented by MPAC had ASR's of .98 and .99 therefore within the acceptable range.

32 Ms. Campbell concludes the summation stating that based on the evidence provided, the subject is under-assessed and should have a current value of $913,000. Ms. Campbell further submits that MPAC is not asking for any increase in the assessment but rather to confirm the assessment as returned at $799,000 and request that no further adjustment be made to equity based on an ASR of 0.99.

Appellant's Summation

33 Mr. **Baranowski** starts by referring to the case law and making the following points;

1) *Irber Holdings*: Mr. **Baranowski** argued that this decision has no bearing on the issues at hand relating to this appeal. Firstly, *Irber Holdings* relates to the appeal of four Chrysler dealerships and not a residential property. Secondly, with regard to Ms. Campbell's reference to the plus or minus 5% as being equitable as stated on page eight, Mr. **Baranowski** submits that this was Mr. Tolley's submission and not the Board's decision. Mr. **Baranowski** also refers to page 10 of the same decision which states: "The second challenge goes to the crux of Ms. Lunau's argument. The purpose of the *Assessment Act* is the equitable distribution of the tax burden within a Municipality". Mr. **Baranowski** submits that the *Act* does not refer to the equitable distribution of taxation and the Board does not deal with taxation but rather assessments.

2) With regard to *Fairbanks*, Mr. **Baranowski** submits that this was a motion hearing which occurred in April 2008. Mr. **Baranowski** claims that the evidence package was entirely different at the time and level studies were provided to prove equity. Regardless, Mr. **Baranowski** agrees that you cannot base an adjustment in equity on one ASR.

3) *Neto*, page 6, "CVA per square foot, requires that comparable properties are roughly similar" Mr. **Baranowski** submits that the six properties which he submitted in support of equity are more than roughly similar. In fact, they have five of six attributes of comparability. In the decision the property used as a comparable had a 40% difference in building area whereas the properties he is relying on are directly comparable and similar to the subject. Therefore, this decision has no bearing on the evidence which we provided and has no relevance to this hearing.

4) *Smith*, page 2, point 6, *Assessment Act* subsection 44.3(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". Mr. **Baranowski** submits that the *Act* under 44.3(b) has no reference to sales or current value but rather only speaks to assessment of similar lands. Mr. **Baranowski** submits that a clear example of this is if two identical properties are side by side and one is assessed at $1,000,000 and the other is assessed at $1,500,000 it is clear that one or both are assessed inequitably and neither had to sell in order to prove an inequity.

34 With regard to equity, MPAC provided Exhibit C and D which are the sales in the entire homogeneous area A88 and A85. Mr. **Baranowski** submits that we have no knowledge with regard to the similarities of these properties as compared to the subject. We do know that the sales ranged from $500,000 to $3.5 million. There is no knowledge of lot sizes, building sizes, quality levels, year built, etc. Mr. **Baranowski** submits that MPAC would like us to believe that for the purposes of equity the comparables do not need to be similar but just of the same general nature. The *Act* is clear in subsection 44.3(b) that they must be similar lands in the vicinity. Mr. **Baranowski** submits that the best indicator of comparing assessments is; in fact, the average rate per square foot of a sample of similar properties to the subject. Mr. Baranoswski submits that there is no requirement in the *Act* to make reference to sales when supporting an equity argument.

35 Mr. **Baranowski** submits that in Exhibit C and D provided by MPAC they have excluded the outliers in order to achieve a median between .95 and 1.05. Mr. **Baranowski** submits that the equity studies that are presented to the Board are not reliable. The ranges are too large; in fact, only 38% of the properties are within the acceptable range and the remaining 62% are outside of the range and therefore inequitably assessed.

36 With regard to the acceptable range established by the Institute of Assessing Officers, Mr. **Baranowski** submits

that the IAAO is an American organization which has no jurisdiction in Ontario. Mr. **Baranowski** further submits that a 10% range on a $2.0 million property is $200,000 and this is not an acceptable range to the taxpayers of Ontario.

37 Mr. **Baranowski** submits that in Exhibit D, Equity Studies, MPAC presented 85 sales while for current value they submitted only three sales and selected one of the three to support current value. Mr. **Baranowski** submits that MPAC has forgotten that the burden of proof for current value is on MPAC not the appellant and instead of providing 12 to 25 sales they provided one sale on the border of the next homogeneous area which is the most expensive area in Mississauga. Based on this sale, MPAC's comparable 3, MPAC has calculated the current value of the subject property at $913,000 which Mr. **Baranowski** submits makes absolutely no sense because the comparables presented by MPAC are not good comparables to the subject property.

38 Mr. **Baranowski** submits that in evidence he has relied on the sale of 1290 Cermel Drive which is only a few doors from the subject, sold in January 2008 requiring no time adjustments, has an identical lot and very similar building area. Mr. **Baranowski** submits 1290 Cermel Drive may be classified as a quality 6.5 as opposed to 7.0 but there is no quantitative evidence to support what the difference in value should be between a quality 6.5 and 7.0. Furthermore, Mr. **Baranowski** states that Mr. Stoeken admitted in cross-examination that the difference is minor in nature. Mr. **Baranowski** asks the Board to disregard this difference in quality based on a lack of quantitative evidence and an admission on the part of MPAC that the differences are minor. Mr. **Baranowski** submits that based on the sale of 1290 Cermel he requests that the Board set the current value of the subject property at $736,000. Furthermore, based on the equity analysis which he presented of the six comparable properties in the vicinity, he requests a downward adjustment to current value to $711,000 which Mr. **Baranowski** submits would bring the assessment in line with similar lands in the vicinity.

Board's Analysis and Conclusions:

39

1. Subsection 19.(1) provides that current value is the basis for assessed value.

2. The best evidence the Board can receive of current value is sales evidence for the subject property or comparable properties in the vicinity near the valuation day. For the 2009 taxation year properties are valued as at January 1, 2008.

3. As a result of reviewing the comparables presented by MPAC, the Board is in agreement with MPAC that the best comparable of the three comparable sales provided by MPAC is comparable number 3, 1554 Calumet Place, and that based on that sale, the current value of the subject property would be $913,000 (395.56 square feet × 2,309 square feet). But upon analysing the sale Mr. **Baranowski** presented of 1290 Cermel Street for $670,000, for a very similar home to the subject property, it seems somewhat unrealistic that the differences between the subject and 1290 Cermel would be worth $243,000. Based on this discrepancy and the sale of 1290 Cermel, the Board believes that the current value of the subject property is much closer to the $799,000 value as returned than at $913,000 as presented by MPAC. Therefore, the Board will also reject 1554 Calumet Place as a good comparable to the subject property for the purposes of establishing current value. The Board will accept 1290 Cermel Drive as the best comparable to the subject property in order to establish current value; 1290 Cermel is located on the same street and sold in January 2008 therefore requiring no time adjustment. The lot size is identical to the subject and the building area of 1290 Cermel is 214 square feet smaller than the subject, which is less than 10% smaller than the subject. The Board will deal with the adjustment for building area by using a rate calculation based on the sale price of 1290 Cermel Drive of $670,000 which comes to $320 per square foot. Applying this rate to the larger building area of the subject property

of 2,309 square feet gives us a current value of $739,000 for the subject. The Board is also in agreement with MPAC that the subject does have a pool and had a C renovation of 480 square feet in 2001 and therefore the subject is more valuable then 1290 Cermel on a comparative basis. Therefore, based on the Property Assessment Detail Report provided in evidence by Mr. **Baranowski**, the Board will also add the value of the pool at $23,040 and renovation adjustment of $34,635 to $739,000 giving us a final current value of $796,675. Therefore, based on the sale of 1290 Cermel with the proper adjustments for the pool and renovation, the Board will set the current value of the subject property at $796,000. This puts the current value of the subject property at $126,000 more than that of the sale of 1290 Cermel which seems quite realistic based on the fact that the subject is 10% larger and had a C renovation ten years ago and has a pool.

4. Based on the best available evidence, the Board establishes the current value of 1308 Cermel at $796,000 for the 2009, 2010 and 2011 taxation years.

Is the Assessment of the Property Equitable With the Assessment of Similar Properties in the Vicinity?

40 Subsection 44.(3)(b) of the *Act* requires the Board to determine if the assessment of a property at current value is equitable with the assessments of similar lands in the vicinity and to lower the assessment below current value if required to achieve equity.

41 MPAC presented the Equity Analysis in Exhibit C and D which had sample sizes of 129 and 85 respective sales with ASR ranges from .73 to 1.30. The Board is in agreement with MPAC that a reasonable range for the ASR is between .95 and 1.05, but the Board is not comfortable with the fact that 68% of all sales presented in MPAC's Equity Analysis fall outside of the reasonable range. As agreed by Mr. Stoeken in questioning, the assessments of the properties which fall outside the reasonable range are not in line with their respective current values and therefore not equitably assessed. Furthermore, Mr. Stoeken did not know how many outliers were discarded from the Study and he did not know the standard deviation or levels of confidence as they related to the Study. The Board clearly understands that Valuations Officers do not have a background in statistics but they should understand and be able to present the parameters of the Study. For these reasons, the Board will not accept the Equity Studies presented by MPAC as the Board is not clear on how it would use this information with confidence to support that the current value of the subject property is in line with the assessments of similar lands in the vicinity.

42 Mr. **Baranowski** introduced six comparables in support of equity. Based on those comparables, Mr. **Baranowski** did an average rate calculation based on the current value assessment of the six comparables and determined that the value should be $711,000 for the subject based on the assessment of similar lands in the vicinity. Mr. **Baranowski** requested that a downward adjustment be made to current value to $711,000. The Board is in agreement with Mr. **Baranowski** that this approach is feasible based on a number of very similar comparables and that sales are not always necessary to support equity, but if one uses this approach, the Board is in agreement with Ms. Campbell that the comparables used must be very similar to the subject property. The subject property is unique in that it did undergo a C renovation in 2001, even though it was a minor renovation, with a 480 square foot addition and it also has a pool. While the properties selected by Mr. **Baranowski** are substantially on the same street or on the same block, each one of them has characteristics as they relate to building size or lot size which are slightly different to the subject but still considered quite similar. In this case the Board will not use an assessed value per square foot calculation as a tool for analysis because of these slight differences between the properties. Having said that, the Board also notes that the range of the assessments of the properties on the same street is between $698,000 and $733,000, as compared to the subject which is at $799,000. In the evaluation of whether the assessment of the subject is in line with the assessments of similar lands in the vicinity as per the *Act*, it would appear that the subject even though it has a pool and a C renovation, which is minor in

nature, is still assessed higher than the similar properties on the same street. For example at the upper end of the range of assessments is 1314 Cermel which is assessed at $733,000. This property has a home built in the same year as the subject, an identical size lot, a building area of 2,504 square feet which is 8.4% larger than the subject and a pool like the subject. While it did not undergo a C renovation in 2001 as the subject the difference in building size (2,504 square feet versus 2,309 square feet) more than makes up for this difference. Therefore, based on the range of assessments for similar lands on the same street as the subject, the Board will adjust the current value of the subject property from $796,000 to $733,000 which is at the upper end of the range and in line with the assessment of 1314 Cermel Drive.

Conclusion:

43 Based on the best available evidence provided to the Board, the assessment of the subject property is reduced from $799,000 to $733,000 for the 2009, 2010 and 2011 taxation years.

FN1 Subsection 5 permits the Minister to prescribe a different valuation day. A different day has not been prescribed.

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