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T Update Week 2001-18
Commercial and Industrial Properties

Indexed as:

Zourntos v. Ontario Property Assessment Corp., Region No. 19

**IN THE MATTER OF Section 40 of the Assessment Act, R.S.O.
1990, c. A.31, as amended, and**

**IN THE MATTER OF a complaint with respect to taxation year
2000 on premises known municipally as 771 Queenston Road**

Between

**Peter Zourntos, Assessed Person/Complainant, and
The Ontario Property Assessment Corporation, Region No. 19 and
the City of Hamilton, Respondents**

[\[2001\] O.A.R.B.D. No. 435](#)

File No. 5820

Hearing No. 26088

Complaint No. 1309298

**Ontario Assessment Review Board
I. Birnie and T. Lech, Members**

April 24, 2001

(7 paras.)

Appearances:

S. Pocrnic, for the Assessed Person/Complainant.

J. Traitses, J. Day, for the Ontario Property Assessment Corporation.

No one appeared for the Municipality.

DECISION

¶ 1 This complaint came before the Assessment Review Board on March 21, 2001 in the City of Hamilton.

ISSUE

¶ 2 Whether the subject property has been incorrectly assessed for the 2000 taxation year.

DECISION

¶ 3 The assessment of the subject property is reduced from \$581,000 to \$523,000 for the 2000 taxation year.

REASONS FOR DECISION

Description

¶ 4 The subject property is a one-storey, two-unit fast-food restaurant building, with one occupied unit and one vacant unit, on .301 acres of land, assessed at \$581,000 for the 2000 taxation year using the cost approach.

Case for Complainant

¶ 5 The complainant's representative, Mr. Pocrnic, submitted (One) that the subject property was over-assessed compared to similar properties in the vicinity; (Two) that fast-food restaurants without "Drive Through" service such as the subject property should not be assessed as highly as those with "Drive Through" service ; (Three) that there was an easement over the westerly 33 feet of the land, which consequently could only be used for parking and that because of this and the small frontage of the site, the building had to be erected on the other side, which meant that a "Drive Through" service was not possible; (Four) that one of the restaurant units had been vacant for over one year and the 17-car parking area was almost fully used by the existing restaurant during peak hours leaving limited parking for a second restaurant; and (Five) the correct area and dimensions had not been used in assessing the land. Mr. Pocrnic submitted as comparables, five restaurants in the immediate vicinity of the subject property, with no sales.

Case for Ontario Property Assessment Corporation (OPAC)

¶ 6 On behalf of OPAC, Ms Day submitted ten comparable properties, with two sales in 1996, one in 1998 and two in 1999. She conceded that the incorrect area and dimensions of the site had been used but submitted that using the correct area and dimensions would increase the assessment by \$10,000.

Findings by Board

¶ 7

1. While the Board must have regard to the assessment of similar properties in the vicinity pursuant to subsection 44(2) of the Assessment Act (Act), the primary task is to determine the current value of the subject property pursuant to section 19 of the Act.
2. The Board finds the best evidence of the current value of the subject property to be the 1996 sales of 45 Parkdale Avenue North and 634 Parkdale Avenue North. The price per square foot of the two sales was respectively \$176.98 and \$167.80 for a mean of \$172.39, considerably higher than the assessment of \$148.97 on the subject property.
3. The Board has considered the assessment of similar properties in the vicinity as required by subsection 44(2), but finds the aforesaid sales more compelling evidence of the current value of the subject property.
4. The Board finds that a 10% adjustment should be allowed because of the easement,

which prevents the subject property from having a "Drive Through" service. This reduces the assessment from \$581,000 to \$522,900, rounded to \$523,000.

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