CENTRAL ALBERTA REGIONAL ASSESSMENT REVIEW BOARD

Complaint ID **0226 1373**
Roll No. **532202106**

LOCAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: SEPTEMBER 28, 2020

PRESIDING OFFICER: D. Dey
BOARD MEMBER: A. Gamble
BOARD MEMBER: S. Roberts

BETWEEN:

CAROL POLLARD

Complainant

-and-

MOUNTAIN VIEW COUNTY ASSESSMENT

Respondent

This decision pertains to a complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by an Assessor of The Mountain View County Assessment Department as follows:

ROLL NUMBER: **532202106**

MUNICIPAL ADDRESS: **NW 20-32-5-W5M, Plan 0212509, Lot 106**

ASSESSMENT AMOUNT**: $70,090**

The complaint was heard by the Local Assessment Review Board on the 28th day of September 2020, by Virtual Hearing using Zoom, in the province of Alberta.

Appeared on behalf of the Complainant: Mark and Carol Pollard

Appeared on behalf of the Respondent: Mike Krieger

DECISION: The assessed value of the subject property is changed to the value of the land only, $63,650.

JURISDICTION

[1] The Central Alberta Regional Assessment Review Board ["the Board"] has been established in accordance with section 455 of the *Municipal Government Act,* RSA 2000, c M-26 ["*MGA*"].

PROPERTY DESCRIPTION AND BACKGROUND

[2] The subject property is located at site #106 Coyote Creek Phase 2 Development, Legal Description Plan 0212509 Lot 106; NW-20-32-5-5, zoned P-PCR (Parks & Conservation district).

[3] The assessment class is listed as Residential (Condominium), lot size is 3,917 sq. ft. and improvement (Trailer) 224 sq. ft.

[4] The current assessment complaint (Complaint ID: 0226 1373) was filed by the Complainant on July 7, 2020.

PRELIMINARY MATTERS

[5] The Presiding Officer confirmed that no Board Member raised any conflicts of interest with regard to matters before them.

[6] Neither Party raised any objection to the panel hearing the complaint.

[7] No additional preliminary or procedural matters were raised by any Party. Both Parties indicated that they were prepared to proceed with the complaints.

POSITION OF THE PARTIES

Position of the Complainant

[8] The Complainant stated the current assessed value of $70,090 is comprised of two components, land and improvement.

[9] The Complainant explained that there is no issue with the assessed value attributed to the land, the complaint before the Board is solely related to the assessed value of the Trailer ("the Trailer"). The Complainant believes the Trailer should be exempt from assessment under the current legislation.

[10] The Complainant argued that the Property Owner is not the sole owner of the assessed improvement (the Trailer), therefore he believes this factor supports his position that the Trailer is not assessable.

[11] The Complainant further stated that the Trailer is not attached or connected to any structure nor is it connected to any utility services provided by a public utility. Further stating that the Trailer is equipped to travel since its wheels & hitch are intact and licensed for highway travel. Therefore, the Trailer meets the legislated requirements set out section 298(1)(bb) of the MGA in order to be considered non-assessable.

Non-assessable property

298(1) No assessment is to be prepared for the following property:

(bb) travel trailers that are

(i) not connected to any utility services provided by a public utility, and

(ii) not attached or connected to any structure;

[12] The Complainant stated that the Trailer is unused for the majority of the year, other than an occasional sleepover by guests. Further explaining the Trailer has been winterized for over 4 years, electricity is provided by battery (if occasionally required). The Trailer has not been connected to any utility services - power, water or sewer for many years.

[13] The Complainant stated that due to the cost associated with storing a Trailer offsite they opted to store it at this location since they own the land.

[14] The Complainant stated that lot 106 does not have a power meter for this lot and there is no agreement or contract in place with the public utility for this service. Power lines are in place but unused and it would not be economical to have the lines removed.

[15] The Complainant stated that water and sewer lines are in place at the lot, however they are not used since the Trailer is winterized and has been for a number of years. Additionally, the lines available are shallow services that are only functional during the warmer months due to the risk of freezing. The Complainant stated it would not be economical to have the lines removed.

[16] The Complainant argued that the Trailer was never assessed as an improvement in prior years. The Complainant stated that he questioned the process change for this assessment but was told that if the Trailer was removed from the property for one day (December 31st of the given year) it would not be assessed.

[17] The Complainant further argued that Mountain View County is not assessing all properties within the Municipality with the same methodology, to his knowledge three RV Parks in the County have not been reassessed to include the value of Trailers as Coyote Creek has been. He asserted that this is not a fair and equitable process for the ratepayers.

[18] Additionally, the Complainant stated that the assessment process is not transparent to ratepayers as the Notice of Assessment states the full assessment as a lump sum rather than listing a breakdown of each component. He argued that this process is flawed and does not allow for ratepayers to properly know the composition of the entire assessment.

[19] The Complainant stated in closing that he believes the Trailer meets the legislated requirements to be considered non-assessable. The Trailer is licensed for highway travel, not connected to any public utility services and not attached or connected to any structure. The Complainant requested that the Board accept this reasoning and reduce the assessment amount by the value attributed to the Trailer.

Position of the Respondent

[20] The Respondent stated that the Subject Property is assessed as a condominium, comprised of the land component and improvement, a Travel Trailer.

[21] The Respondent agreed that the Trailer has a visible licence plate to indicate it is licensed for highway travel and meets the definition of a Travel Trailer in Section 284(1)(w.1) of the MGA.

[22] The Respondent further agreed with that the Trailer is not attached or connected to any structure, as stated in Section 289(1) of the MGA. However, the Respondent stated Section 298(1)(bb) also indicates the trailer must not be connected to any utility services provided by a public utility. Adding, public utility is defined in Section 1(1)(y) of the MGA:

(y) "public utility" means a system or works used to provide one or more of the following for public consumption, benefit, convenience or use:

(i) water or steam;

(ii) sewage disposal;

(iii) public transportation operated by or on behalf of the municipality;

(iv) irrigation;

(v) drainage;

(vi) fuel;

(vii) electric power;

(viii) heat;

(ix) waste management;

(x) residential and commercial street lighting,

and includes the thing that is provided for public consumption, benefit, convenience or use;

[23] The Respondent referred to the MGA Section 284(1)(c) and Section 284(1)(r) regarding the Complainant's contention that the Trailer located on the subject property is not solely owned by the Property Owner and therefore should not be assessed with the lot.

Interpretation provisions for Parts 9 to 12

284(1) In this Part and Parts 10, 11 and 12,

(c) "assessment" means a value of property determined in accordance with this Part and the regulations;

(r) "property" means

(i) a parcel of land,

(ii) an improvement, or

(iii) a parcel of land and the improvements to it;

[24] The Respondent stated there is no indication in the legislation that an improvement can only be assessed if it is owned solely by the Property Owner. The assessment before the Board includes a property that was improved with a Trailer, and these are the characteristics and condition of the property as of December 31st (the condition date). The Respondent referred to the MGA Section 289(2):

(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) the valuation and other standards set out in the regulations for that property.

[25] The Respondent stated that Mountain View County informed affected ratepayers of pending changes to the assessment of their properties by letter. A copy of the letter sent to the Complainant dated June 12, 2019 is included in Exhibit R1, schedule E, p. 33. The Assessment Department for the Municipality offered rate payers the opportunity, before assessments were mailed out and during an inquiry period, to call, review and/or request their individual assessment details.

[26] The Respondent also stated that the Notice of Assessment that is sent out to all rate payers for the Municipality is prepared in accordance with the legislation, and there is nothing to support the Complainant's suggestion that the land and improvement must be listed separately on the Assessment Notice.

[27] The Respondent further stated that a breakdown is available to any ratepayer upon request to the Municipality in accordance with Section 299(1) of the MGA. The Respondent added that he would provide the Complainant's suggestion to the County for its consideration.

[28] Regarding the Complainant's assertion that the County is not treating all ratepayers the same because not all RV Parks in the County have been assessed in the same way, the Respondent stated that each park has different ownership. Without going into specifics the Respondent stated that Coyote Creek is a condominium with individual ownership of each lot, while others are owned by a business and the lots are rented. The Respondent refuted the Complainant's assertion by stating there were other types of campgrounds.

[29] The Respondent stated it is their position that this Trailer is assessable. As written in Exhibit R1, Summary Argument, p.17, *"the intent of the definition of "Trailer" was to have no assessment prepared for those Trailers parked in your drive-way, backyard or in storage, and are typically towed to various locations throughout annual vacations. The intent was not to exempt Trailers occupying recreational properties and used for recreational purposes. This was to allow for the assessment of Trailers in the same capacity as a summer cabin or cottage. Services are available to each lot within the development."*

[30] The Respondent stated the legislation in relation to Trailers supports his position as both Section 284(1)(w.1) and 298(1)(bb) of the MGA would be need to be met in order to be considered non-assessable.

Part 9
Assessment of Property

Interpretation provisions for Parts 9 to 12

284(1) In this Part and Parts 10, 11 and 12,

(w.1) "travel trailer" means a trailer intended to provide accommodation for vacation use and licensed and equipped to travel on a road;

Non-assessable property

298(1) No assessment is to be prepared for the following property:

(bb) travel trailers that are

(i) not connected to any utility services provided by a public utility, and

(ii) not attached or connected to any structure;

[31] The Respondent stated that section 1(1)(y) of the MGA also defines a public utility:

Interpretation

1(1) In this Act,

(y) "public utility" means a system or works used to provide one or more of the following for public consumption, benefit, convenience or use:

(i) water or steam;

(ii) sewage disposal;

(iii) public transportation operated by or on behalf of the municipality;

(iv) irrigation;

(v) drainage;

(vi) fuel;

(vii) electric power;

(viii) heat;

(ix) waste management;

(x) residential and commercial street lighting,

and includes the thing that is provided for public consumption, benefit, convenience or use;

[32] The Respondent presented a previous Municipal Government Board Order: MGB 109/07, Exhibit R1 pages 19 – 28 in support of their position that the Complainant's Trailer is connected to a public utility.

[33] In the Order, the MGB Board determined that the utilities available to the Trailers under appeal were specifically planned, designed and approved for the particular Trailer that has been placed on the lot.

[34] The Respondent brought the Board's attention to the portion of the decision concerning the word "connected". The MGB Board agreed that the ordinary meaning of the word "connected" must be applied when interpreting MGA section 298(1)(bb). The Respondent also noted there is nothing in the act that indicates the word "connected" should be interpreted to mean "permanently connected" or "connected throughout the year".

[35] The Respondent highlighted the following statement in MGB 109/07 (Exhibit R1, p.23): *"Furthermore, the fact that the meter does not register any power consumption during the off season does not result in the termination of the connection for the purposes of the Act. It merely means that the electricity has not been accessed or used during the off season. There is no concept*

of seasonality in the Act." The Respondent interprets this to be similar to the Complainant's situation whereby the electrical service is available, but is not accessed or used.

[36] The Respondent brought the Board's attention to the portion of the decision concerning shallow water and sewer services provided by the Condominium Corporation, and which were available to the Appellants of that case. The Respondent argued this is similar to the Complainant's situation, in which water and sewer is provided by Coyote Creek (the Development). It is a personal choice whether or not to utilize the available services.

[37] In closing, the Respondent reiterated his argument for the Board. In order to be considered non-assessable the Trailer must meet all of the conditions outlined in the MGA sections 284(1)(w.1) and 298(1)(bb). It is the position of the Respondent that the utility services are available to be utilized at any time regardless if the property owner chooses to access these services or not. This results in them being considered to be connected.

[38] The Respondent requested the Board to uphold the current assessment of $70,090.

BOARD FINDINGS and DECISION

[39] The Complainant and Respondent agree that the assessed value of the land, $63,650 is fair.

[40] The Complainant and Respondent agree that the Trailer meets the definition of a Trailer in accordance with the MGA section 284(1)(w.1).

[41] The Complainant and Respondent agree that the Trailer is not attached or connected to any structure.

[42] The Complainant stated that the Trailer is not solely owned by the Property Owner and therefore should not be assessable with the lot.

[43] The Respondent addressed this matter and provided evidence from the MGA Section 284(1)(c) and Section 284(1)(r) to show there is no indication in the legislation that an improvement can only be assessed if it is solely owned by the Property Owner.

[44] The Board accepts the Respondents argument that the assessment before the Board includes a property that was improved with a Trailer, and these are the characteristics and condition of the property as of December 31st (the condition date).

[45] The Complainant asserted that the Respondent is not utilizing a fair and equitable process for assessing properties as it did not reassess all RV Parks under its changed method of including Trailers. The Respondent explained that each park has different ownership which results in different methods of assessment. The Board has determined that this is not a matter within its jurisdiction to consider.

[46] The Complainant stated that the Notice of Assessment is not transparent to ratepayers because it does not break down components of the assessment. The Respondent provided references to legislation about Notice of Assessment requirements. The Board has reviewed this legislation and finds that the Notice of Assessment is satisfactory.

[47] The primary issue is whether or not the Trailer is considered to be connected to a public utility. Power, water and sewer services are available on the property. The Complainant stated that although they are available, they are not used and therefore not connected to the Trailer.

[48] The Respondent's primary argument for assessing this Trailer is based on a previous decision, Board Order: MGB 109/07. A portion of this written decision was submitted in Exhibit R1 Appendix A. Page 23 of Exhibit R1 states *"The MGB accepts the Respondent's evidence that each owner had their own account with EPCOR, and that EPCOR supplied the units with electricity throughout the year. Accordingly, the MGB finds that all of the Trailers under appeal were connected to electricity."*

[49] The Board has relied on the Complainants testimony that there is no power meter connecting the trailer with a provider. The absence of a power meter demonstrates no connection to a provider. The Respondent has not provided contrary evidence to the absence of a power meter.

[50] MGB 109/07 found that all of the units under appeal were connected to water and sewage. However, there is no description in the evidence provided to clearly explain how the units were connected so this Board cannot properly determine whether there is a similarity between that situation and this one.

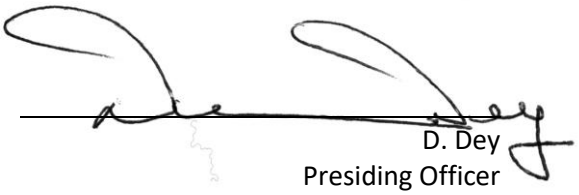
[51] The Complainant stated that because the Trailer is winterized and has been so for the past 4 years, he has not utilized or connected to the water and sewer services at the lot. The photo of the Trailer in Exhibit R1 page 10 does not show any plumbing lines between the Trailer and the services. The Board does not consider that evidence has been provided to show that the Trailer is connected to water or sewer utilities.

[52] Given the above, the Board finds that the subject Trailer is not assessable.

DECISION SUMMARY

[53] The assessment of the subject property is changed to the value of the land only and is $63,650.

[54] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 26th day of October, 2020 and signed by the Presiding Officer on behalf of all the panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



D. Dey
Presiding Officer

If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for judicial review to be filed and served not more than 60 days after the date of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents presented at the Hearing and considered by the Board.

NO.	ITEM
1. A.1	Hearing Materials – 6 pages provided by Clerk
2. C.1	Complainant Submission (Letter) 2 pages
3. C.2	Complainant Submission – 2 pages
4. C.3	Complainant Submission – 9 pages
5. C.4	Complainant Rebuttal – 3 pages
6. R.1	Respondent Submission – 33 pages