



Complaint ID 0226 1798  
Roll No. 130072000

COMPOSITE ASSESSMENT REVIEW BOARD DECISION  
HEARING DATE: OCTOBER 25, 2023

PRESIDING OFFICER: H. KIM  
BOARD MEMBER: J. GRAU

BETWEEN:

Don Day

Complainant

-and-

Mountain View County

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 Mountain View County as follows:

ROLL NUMBER: 130072000

LEGAL DESCRIPTION: NW-07-30-01-5

ASSESSMENT AMOUNT: \$157,960

The complaint was heard by the Central Alberta Regional Assessment Review Board on the 25<sup>th</sup> day of October 2023, via videoconference.

Appeared on behalf of the Complainant: Donald Day

Appeared on behalf of the Respondent: Sheldon Farrell, Micheal Krieger & Adam Martin

**DECISION:** The assessed value of the subject property is confirmed.

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## **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”].

## **PRELIMINARY MATTERS**

- [2] The Presiding Officer confirmed that no Board Member raised any conflicts of interest with regard to matters before them. Neither party raised any objection to the panel hearing the complaint.
- [3] The hearing commenced with three members; however, during the course of the hearing, one of the members had a power failure and could not continue. The remaining two members proceeded as a quorum.

## **PROPERTY DESCRIPTION AND BACKGROUND**

- [4] The subject property is a predominantly farmed quarter section located 1/2 mile west of the Town of Carstairs. It was redesignated from Agricultural to A-RF Recreational Facility District in 1998. The A-RF district was transitioned to P-PR Parks and Recreation district under the current Land Use Bylaw. A Development Permit (DP) application was made in 2021 for a tourist campground and recreational vehicle storage in two phases comprising 6.8 acres of the parcel. The assessment under complaint is based on 6.8 acres of non-residential land at \$140,350, non-residential improvements for fence and gate costed using Marshall & Swift at \$5,920 and 105.9 acres of farmland at various ratings for \$11,690. The \$157,960 assessment under complaint is the total of \$11,690 vacant farmland and \$146,270 non-residential.

## **ISSUES**

- [5] The only issue in this complaint is whether a portion of the property should be assessed as non-residential when the project is not complete.

## **POSITION OF THE PARTIES**

### **Position of the Complainant**

- [6] The Complainant did not provide disclosure, relying on oral argument and the submission on the complaint form, which stated only “Project not complete.” He stated that he had applied for the DP but due to Covid and supply chain issues the costs had increased 40% from when he had commenced planning for the project. The Complainant decided to do the work himself, which resulted in the project being delayed, as well as modifications to the original plans to reduce costs, such as replacing chain link with elk fencing.
- [7] The Complainant’s main point of contention was that as the project was not complete and there was no income; therefore, he did not believe it was reasonable to apply the increased assessment. The Complainant noted that with his previous projects, he had good communication with the

County and they were lenient, whereas in this case there was no communication from the County and no accommodation for the project being incomplete and unable to generate income.

- [8] The Complainant stated that he had no dispute with the quantum of the assessment and did not provide argument with respect to valuation.

### **Position of the Respondent**

- [9] The Respondent stated that the property was inspected on September 16th, 2022, as part of the annual inspection process. It was noted that farmland had been stripped away, gravel had been laid for the RV storage and the entrance gate was installed along with some chain link fencing. Aerial photographs indicated that 19 campground sites had been created, and that the area in use for RV storage was 4 acres and the area in use for campground was 2.8 acres, for a total of 6.8 acres.

- [10] An assessment must be prepared in accordance with the legislation and reflect the physical characteristics of a property as of December 31, 2022. An assessment is based on market value unless agricultural use is taking place. Once the land was stripped away and taken from agricultural use, it is to be valued at market value and re-assigned to an appropriate assessment class. Since the 6.8 acres is not intended to be used for residential purposes, it is not residential assessment class. The use of land does not fit the machinery and equipment class. Regardless of whether the project is complete, the correct assessment class for the 6.8 acres of land is non-residential.

- [11] In summary, the Respondent stated the assessment had been properly prepared in accordance with the legislation and requested it be confirmed.

### **BOARD FINDINGS and DECISION**

- [12] The portion of the property that has been stripped and graveled is properly assessed as non-residential at market value, and the assessment under complaint is confirmed.

### **REASONS**

- [13] The purpose of assessment is to fairly distribute the cost of municipal government among taxpayers in the municipality. This is well articulated by the Court of Appeal in *Strathcona (County) v. Alberta Assessment Appeal Board*, 1995 ABCA 165 (*Strathcona*),

[8] ... the two fundamental principles of municipal taxation in Canada, firstly, that property be assessed on the common basis of fair actual value so that the cost of municipal government will fairly be borne by taxpayers *inter se* in proportion to the relative values of their assessable properties and, secondly, that the assessor shall determine the fair actual value in a manner that is fair and equitable with the level of value prescribed for use in determining the fair actual value of other like improvements in the municipality.

- [14] While the specific legislation has changed since *Strathcona* was decided, the principles remain unchanged. The *MGA* states:

293(1) In preparing an assessment, an assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

[15] The valuation standards are specified in *Matters Relating to Assessment and Taxation Regulation, 2018 Alberta Regulation 203/2017 (Regulation)* which states:

- 7(1) The valuation standard for a parcel of land is
  - (a) market value, or
  - (b) if the parcel is used for farming operations, agricultural use value.
- (2) In preparing an assessment for a parcel of land based on agricultural use value, the assessor must follow the procedures set out in the Alberta Farm Land Assessment Minister's Guidelines.

[16] Typically, the agricultural use value of farmland is significantly lower than market value; however, is the valuation standard specified in the legislation for a parcel that is used for farming operations. The *Regulation* also states that if land is used for farming operations, it is not relevant that it was redistricted to allow uses other than farming, as was the case for the subject land when it was redistricted in 1998:

- 15 When a property is used for farming operations or residential purposes and an action is taken under Part 17 of the Act that has the effect of permitting or prescribing for that property some other use, the assessor must determine its value ...
  - (b) based on agricultural use value, if the property is used for farming operations, unless section 7(3) applies.

[17] The Regulation defines farming operations:

- 2(1) For the purposes of Parts 9 to 12 of the Act and this Regulation, ...
    - (f) "farming operations" means the raising, production and sale of agricultural products and includes
      - (i) horticulture, aviculture, apiculture and aquaculture,
      - (ii) the raising, production and sale of
        - (A) horses, cattle, bison, sheep, swine, goats or other livestock,
        - (B) fur-bearing animals raised in captivity,
        - (C) domestic cervids within the meaning of the Domestic Cervid Industry Regulation, or
        - (D) domestic camelids,
      - (iii) the planting, growing and sale of sod, and
      - (iv) an operation on a parcel of land for which a woodland management plan has been approved by the Woodlot Association of Alberta or a forester registered under the Regulated Forest Management Profession Act for the production of timber primarily marketed as whole logs, seed cones or Christmas trees,
- but does not include any operation or activity on land that has been stripped for the purposes of, or in a manner that leaves the land more suitable for, future development;

[18] In the subject situation, the land at issue was properly assessed as farmland until it was stripped and graveled, at which point it ceased to qualify to be assessed as farm land. The *MGA* requires the 2023 assessment of the subject land to be based on the physical condition of the property at December 31, 2022:

289(1) Assessments for all property in a municipality, other than designated industrial property, must be prepared by the municipal assessor.

(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.

[19] There was no evidence to dispute the Respondent's statement that in September, 2022 there were 6.8 acres of land that had been stripped and graveled in preparation for use as campground and RV storage. Under such circumstances it could no longer be assessed at the farmland rate; therefore, the valuation standard must be market value as required under the *Regulation*. No evidence was led with respect to whether the land value was appropriate, and the Complainant stated that there was no dispute with respect to the quantum of the assessment; therefore, the Board did not consider whether the assessment of the 6.8 acres of non-residential land was a reasonable estimate of market value, nor whether the value of the improvements was accurate.

[20] The Board rejects the Complainant's position that the Respondent should have applied leniency in view of the lack of income potential in an incomplete project. The legislation clearly requires the assessment of improvements under construction at December 31 of the year prior to the imposition of property taxes. It would be inappropriate and inequitable for the Respondent to apply leniency with respect to assessment of incomplete property. The legislation requires property to be assessed based on what exists at the condition date. Such leniency, if it were to be applied, would not only be contrary to the legislation, but would be unfair to all the other taxpayers in the municipality.

#### **DECISION SUMMARY**

[21] For the reasons noted above, the assessment is confirmed.

[22] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 7th day of November 2023 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.



L. Stubbard, Board Clerk  
on behalf of  
H. Kim, 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](http://www.albertacourts.ab.ca).*

## **APPENDIX**

Documents presented at the Hearing and considered by the Board.

<u>NO.</u>	<u>ITEM</u>
1. A.1	Hearing Materials provided by Clerk – 8 pages Complainant: no written submission
2. R.1	Respondent submission – 23 pages