



COMPLAINT ID 0263 2038
ROLL NO. 545232004

LOCAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: NOVEMBER 14, 2024

PRESIDING OFFICER: S. DUSHANEK
BOARD MEMBER: S. ROBERTS
BOARD MEMBER: D. WIELINGA

BETWEEN:

CRAIG PULLAN & JOANNE PULLAN

Complainant

-and-

ASSESSMENT DEPARTMENT
FOR RED DEER 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 Red Deer County as follows:

ROLL NUMBER: 545232004
MUNICIPAL ADDRESS: 35377 Range RD 42, Red Deer County, AB, T4G 0L4
ASSESSMENT AMOUNT: \$314,440

The complaint was heard by the Local Assessment Review Board on the 14th of November 2024 via video conferencing.

The Board derives its authority from the Municipal Government Act, R.S.A 2000, Chapter M-26 (the MGA) and related legislation as set out in Appendix "B".

Appeared on behalf of the Complainant: Craig Pullan

Appeared on behalf of the Respondent: Michael Arnold, AMAA, Assessment Services Manager
Cole Castellan, AMAA, BBA, Property Assessor

DECISION: The assessed value of the subject property requires no change.

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 69 kilometers southwest of the City of Red Deer, approximately 3 kilometers off the paved Range Road 40, at NW-23-35-4W5. The property encompasses a total area of 159.97 acres. For the 2023 assessment (2024 tax year), 156.97 acres have been valued using regulated farmland rates, while 3.00 acres have been assessed at residential market value. On December 31, 2023, situated on the 3.00 acres classified as residential land, was a partially completed 2,417-square-foot home with an attached, unfinished garage.

PRELIMINARY MATTERS

- [3] The Presiding Officer confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [4] Neither party raised any objection to the panel hearing the complaint.
- [5] Preliminary issues were raised with the Complaint Form at Exhibit A.1 page three (3) of the Hearing Materials. The Board clarified which issues the Complainant intended to mark as the copy was unclear. The Complainant confirmed they had intended to mark the assessment amount and the assessment class. The Respondent pointed out that the requested reassessed value section of the form contained no value. The Complainant confirmed that he was not familiar about what number to include but indicated that he wished to have the property assessed with a similar value of prior years before construction commenced.
- [6] No additional preliminary or procedural matters were raised by any party. Both parties indicated that they were prepared to proceed with the complaint.

POSITION OF THE PARTIES**Position of the Complainant**

- [7] The Complainant explained that construction of a residential home on this property began in May 2022 and stalled in November 2022 when approximately 40% of the home was complete. The construction was stopped due to deficiencies in the build. From November 2022 to March 2024, the home was left exposed to the elements and remained untouched while legal proceedings were underway.
- [8] The Complainant submitted reports from four independent companies as evidence, detailing a range of deficiencies in various aspects of the home's construction. Based on the findings outlined in these reports, the Complainant believed that the home would require complete demolition. The Complainant spoke on the TJAY Enterprises Ltd. report, which stated demolition was the preferred option (Exhibit C2).

- [9] The Complainant argued that the incomplete structure would have been demolished sooner, however they were provided legal advice that demolishing the structure could potentially interfere with evidence relevant to the ongoing legal proceedings.
- [10] The Complainant contacted the Respondent upon receiving the 2023 property assessment and believed they explained their position and situation clearly. An assessor attended the property and explained the process. The Complainant was advised they were being assessed on a building that was partially constructed.
- [11] The investigations pertaining to the legal case were concluded in 2024 and at which point the building was demolished in and around March.
- [12] The Complainant argued that, due to their inability to complete or demolish the structure during the assessment year, the 3-acre parcel of land should be reclassified from 'residential' to 'farmland.' As a result, he requested that the assessment value for this portion of the property be adjusted accordingly and that he be provided a refund of taxes paid to date.

Position of the Respondent

- [13] The Respondent advised that they conducted a site inspection on Dec 12, 2023, at which time it was noted portions of the roof were not complete, therefore framing had been exposed to the elements for over a year. The Respondent explained these observations were factored into the assessment of the property and the value was reduced approximately \$200,000 when comparing the 2022 to 2023 assessments.
- [14] The Respondent explained that in accordance with Section 289(2)(a) of the Municipal Government Act (MGA), they are required to assess the property to reflect an estimate of value for all characteristics and physical condition of the property as of December 31st for that year (the condition date). Further, the Respondent stated that the subject property was assessed with that in mind since the house was still on the property as of December 31, 2023.
- [15] The Respondent also referred to Section 297(1) of the MGA, which defines four potential property assessment classes; Class 1 – residential, Class 2 – non-residential, Class 3 – farm land, and Class 4 – machinery and equipment. They provided a detailed explanation of each class and concluded that Class 1 - Residential is the only classification applicable to the 3-acre parcel due to the structure on the land.
- [16] The Respondent argued that the Complainant did not provide sufficient reasoning to justify reclassifying the 3-acre parcel under a different class as per regulation.
- [17] The Respondent argued that under MGA Section 291(2.1) an assessment must be prepared for an improvement whether or not it is complete or capable of being used for its intended purpose.
- [18] The Respondent argued that, despite the home's incomplete state and exposure to the elements for over a year, the structure still contributes value to the land. The land has been cleared and prepped for the home and many construction materials have already been utilized.

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- [19] The Respondent addressed the evidence submitted by the Complainant and argued that only one of the reports submitted supported demolition as the preferred option. The Respondent further argued that other reports provided by the Complainant indicated that certain materials or components of the structure might be salvageable. The Respondent highlighted the absence of cost comparisons between reconstruction and demolition in the submitted materials. The Respondent's position is that if parts of the home remain or materials were salvageable those factors would contribute to the market value of the property.
- [20] During questioning the Board inquired whether the Respondent had encountered similar situations, to which the Respondent explained that although each case is unique, there have been instances where construction had stalled for various reasons. In such cases, assessments were still completed at the current state with the corresponding classification. In this instance, the 3-acre parcel of land was classified as residential rather than farmland due to the presence of a partially constructed house and garage. The Respondent stated that the assessed land value for this residential land is similar to other properties classed as residential land in that part of the County. The respondent stated that the property does not need to be completed or occupied to be assessed as residential.
- [21] The Respondent addressed the Complainant's request for a tax refund. The Respondent referenced MGA Section 460 and argued that a tax refund was not listed, therefore he believed that considering refunding taxes already paid was outside the jurisdiction of the board.

BOARD FINDINGS and DECISION

- [22] The Board acknowledges the significant challenges the Complainant has experienced due to construction issues and related legal disputes. While mindful of the Complainant's circumstances, the Board is constrained by the limitations of its scope and authority in making this decision. However, the Board reviewed all relevant information thoroughly and carefully to ensure a fair and accurate decision.
- [23] It is the Board's understanding that the County's property assessment notice for the 2024 taxation year for NW 23-35-4W5 is comprised of three components – 156.97 acres of land classified as farmland, 3 acres of land classified as residential land, and a partially constructed residence and garage located on the 3 acres of residential land.
- [24] Both parties agree that the 156.97 acres noted above is properly classified as farmland and the Complainant did not dispute the assessed value of this portion of the quarter section. Therefore, this is not a matter that the Board will review.
- [25] Both parties agree that on December 31, 2023, a partially constructed residence and garage existed on the 3-acre portion of the quarter section. The Board referred to the MGA section 289(2)(a) which states that an assessment must reflect the characteristics and physical condition of the property as of December 31. The Board finds that given the structure existed on the property as of December 31 it was proper that a value for it be included in the assessment.
- [26] The main disagreement between the parties is whether the 3-acre parcel of land should be classified and assessed as residential or farmland. The Board referred to the MGA section 297(4)(a) which states that farmland means land used for farming operations as defined in the regulations. The Matters Relating to Assessment and Taxation Regulation (MRAT) section 2(1)(f) defines farming

operations and states that it means the raising, production and sale of agricultural products. The Complainant did not provide the Board any evidence to show that the 3-acre parcel was utilized as a farming operation. Therefore, the Board finds that the Respondent properly classified the 3-acre parcel of the quarter section as residential.

- [27] The Board finds that the classification of the 3-acre parcel was determined properly by the Respondent pursuant to MGA 289 and 297(1), and that it requires no change and is correctly within class 1 'Residential'.
- [28] Upon review of the evidence submitted, the Board notes the value of land and improvements for the 3-acre parcel is \$281,600. Further, the Board notes that neither the Respondent nor the Complainant provided comparable sales to determine market value. As such, the Board was left with the information on the subject property's 2022 and 2023 Assessment Notices. The Board acknowledges that the Respondent decreased the total Residential assessed value by approximately \$200,000 upon review of Appendix of R.1 from 2022 to the 2023. The Board accepts the Respondent's explanation that the reduction was to account for the portions of the roof that were not completed, and the framing materials being exposed to the elements for over a year.
- [29] The Board was provided no evidence to make further adjustments to the assessment. Further, given the Board has determined no changes are required to the classification of the subject property the current assessment remains unchanged.
- [30] The Board, in accordance with MGA Section 460(5) and section 460(8), did not consider any information related to a refund of taxes, or tax rate as the Regional Assessment Review Board (RARB) lacks the authority or jurisdiction to issue tax refunds.

DECISION SUMMARY

- [31] The Board finds that the original assessed value is confirmed at \$314,440 and no change is required.
- [32] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 9th day of December 2024 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.



S. Dushanek
Presiding Officer

This decision may be judicially reviewed by the Court of King's Bench pursuant to section 470(1) of the Municipal Government Act, RSA 2000, c M-26.

MGA 470(1) Where a decision of an assessment review board is the subject of an application for judicial review, the application must be filed with the Court of King's Bench and served not more than 60 days after the date of the decision.

(2) Notice of an application for judicial review must be given to

- (a) the assessment review board that made the decision,*
- (b) the complainant, other than an applicant for the judicial review,*
- (c) an assessed person who is directly affected by the decision, other than the complainant,*
- (d) a municipality, if the decision that is the subject of the judicial review relates to property that is within the boundaries of that municipality, and*
- (e) the Minister.*

Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX "A"DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:

<u>EXHIBIT NO.</u>	<u>ITEM</u>	<u>PAGES</u>
A.1	Hearing Materials	07
C.1	Pullans Letter	06
C.2	TJAY Enterprise Report – Mar 9	26
C.3	CanWest Foundation Report	05
C.4	Engineers (RCA22166) – SEALED REPORT AMMENDED	11
C.5	Accurate Scan Report	01
C.6	Accurate Scan Sketch	01
R.1	Respondent Submissions	37

APPENDIX "B"

LEGISLATIVE AUTHORITIES CONSIDERED BY THE BOARD:

Municipal Government Act, R.S.A. 2000, Chapter M-26 (the MGA)**Interpretation**

s 1(1)(n) In this Act,

(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

Assessments for property other than designated industrial property

s 289(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.

Assigning assessment classes to property

297(1) When preparing an assessment of property, the assessor must assign one or more of the following assessment classes to the property:

- (a) class 1 - residential;
- (b) class 2 - non-residential;
- (c) class 3 - farm land;
- (d) class 4 - machinery and equipment.

(4) In this section,

- (a) "farm land" means land used for farming operations as defined in the regulations;
- (a.1) "machinery and equipment" does not include
 - (i) any thing that falls within the definition of linear property as set out in section 284(1)(k),
or
 - (ii) any component of a manufacturing or processing facility that is used for the cogeneration of power;
- (b) "non-residential", in respect of property, means linear property, components of manufacturing or processing facilities that are used for the cogeneration of power or other property on which industry, commerce or another use takes place or is permitted to take place under a land use bylaw passed by a council, but does not include farm land or land that is used or intended to be used for permanent living accommodation;

- (c) “residential”, in respect of property, means property that is not classed by the assessor as farm land, machinery and equipment or non-residential.

Joint establishment of assessment review boards

s.455(1) Two or more councils may agree to jointly establish the local assessment review board or the composite assessment review board, or both, to have jurisdiction in their municipalities.

Complaints

s.460(1) A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.

(5) A complaint may be about any of the following matters, as shown on an assessment or tax notice:

- (a) the description of a property or business;
- (b) the name and mailing address of an assessed person or taxpayer;
- (c) an assessment;
- (d) an assessment class;
- (e) an assessment sub-class;
- (f) the type of property;
- (g) the type of improvement;
- (h) school support;
- (i) whether the property is assessable;
- (j) whether the property or business is exempt from taxation under Part 10;
- (k) any extent to which the property is exempt from taxation under a bylaw under section 364.1;
- (l) whether the collection of tax on the property is deferred under a bylaw under section 364.1.

Jurisdiction of assessment review boards

s.460.1(1) A local assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on

- (a) an assessment notice for
 - (i) residential property with 3 or fewer dwelling units, or

(ii) farm land

s.460.1(2) Subject to section 460(14) and (15), a composite assessment review board has jurisdiction to hear complaints about

(a) any matter referred to in section 460(5) that is shown on

(i) an assessment notice for property other than property described in subsection (1)(a)

Decisions of assessment review board

s. 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

(1.1) For greater certainty, the power to make a change under subsection (1) includes the power to increase or decrease an assessed value shown on an assessment roll or tax roll.

(2) An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 460(9).

(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

(a) the valuation and other standards set out in the regulations,

(b) the procedures set out in the regulations, and

(c) the assessments of similar property or businesses in the same municipality.

(4) An assessment review board must not alter any assessment of farm land, machinery and equipment or railway property that has been prepared correctly in accordance with the regulations.

Matters Relating to Assessment and Taxation Regulation, 2018 A.R. 2003/2017 (MRAT)

Interpretation provisions for Parts 9 to 12 of the Act

s. 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 (AR 188/2014), 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;"

Mass Appraisal

s. 5 An assessment of property based on market value

- (a) must be prepared using mass appraisal
- (b) must be an estimate of the value of the fee simple estate in the property, and
- (c) must reflect typical market conditions for properties similar to that property.

Valuation Date

s. 6 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

Valuation standard for a parcel of land

s. 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.

Valuation standard for a parcel and improvements

s. 9(1) When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvements is market value unless subsection (2) or (3) applies.

Matters Relating to Assessment Complaints Regulation, AR 201/2017 (MRAC)

Personal Attendance not required

s. 19(1) Parties to a hearing before a panel of an assessment review board may attend the hearing in person or may, instead of attending in person,