



Complaint ID 0262 1601
Roll No. 30001711425

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: JULY 4, 2022

PRESIDING OFFICER: D. ROBERTS
BOARD MEMBER: R. BROWN
BOARD MEMBER: M. CHALACK

BETWEEN:

551090 Alberta Ltd.
(as represented by Altus Group Limited)

Complainant

-and-

City of Red Deer

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 City of Red Deer as follows:

ROLL NUMBER: 30001711425

MUNICIPAL ADDRESS: 4946 – 53rd Ave., Red Deer, Alberta

ASSESSMENT AMOUNT: \$2,146,300

The complaint was heard by the Composite Assessment Review Board on the 4th day of July, 2022, via virtual technology (ZOOM).

Appeared on behalf of the Complainant: A. Izard, Agent, Altus Group Limited

Appeared on behalf of the Respondent: J. Lindsay, AMAA Residential Coordinator, City of Red Deer
D. Davies, AMAA Senior Assessor, City of Red Deer (observer)

DECISION: The assessed value of the subject property is not changed.

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 referred to as West Towne Centre and is a single storey building located in the 222 Downtown Retail Strip area of the City of Red Deer. The land area is reported to be 1.59 acres and the improvement is a 23,205 square foot (sf) building constructed in 1959. The property is assessed on the income approach methodology with the following key components:

Retail-CRU/1 – range	\$ 9.50/sf
Retail-CRU/1 – range	\$10.00/sf
Vacancy Allowance	20.00%
Operating Costs	\$ 5.00/sf
Net Operating Income (NOI)	\$150,238
Capitalization Rate (cap rate)	7.00%
Valuation	\$2,146,257

ISSUE

- [3] Should 12,427 sf of the subject building used by the Red Deer Bingo Association 1989 (Association) as a bingo hall, be exempted from taxation under the Community Organization Property Tax Exemption Regulation (COPTER) requiring an amendment to the tax exemption status of \$1,117,720.

PRELIMINARY MATTERS

- [4] The Presiding Officer confirmed that no Board Member raised any conflicts of interest regarding the matters before them.
- [5] Neither party raised any objection to the panel hearing the complaint.
- [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 provided a 202-page disclosure document that was entered into evidence as Complainant C-1.
- [8] The Complainant stated the subject property is multi-tenanted, and that the Association occupies 12,427 sf of the building.
- [9] In December 2020, the Minister of Alberta Municipal Affairs corresponded with the Chief Executive Officer of Bingo Alberta. Bingo Alberta represents several charitable bingo organizations in Alberta.

In the letter, the Minister advised that COPTER was amended regarding tax exemptions for non-profit bingo halls. The letter advised that the revised legislation took effect for the 2021 tax year.

- [10] The Complainant further advised that Alberta Municipal Affairs – Assessment Services Branch in an Assessment Bulletin dated January 2021, confirmed that the amendments related to section 8(2) of COPTER, and was for non-profit bingo facilities licensed under the Alberta Gaming, Liquor, and Cannabis Corporation (AGLC), and that the amendment took effect for the 2021 tax year.
- [11] The Complainant confirmed that the Association was licensed by ALGC and accordingly was eligible for the 2021 tax exemption; however, did not submit the necessary application to the Respondent for the 2021 tax year. The subject appeal is for the 2022 tax year. The Complainant confirmed in questioning that an application for the 2022 tax year had not been submitted.
- [12] The Complainant provided evidence that the Association is a non-profit organization. A Corporate Registry Corporation/Non-Profit Search confirmed the Association is an Alberta Society and is referred to as “Active”.
- [13] The Complainant also provided a copy of the AGLC Bingo License Terms and Conditions.
- [14] In support of the Complainant’s position, a 12,000-sf comparable property in Wetaskiwin, Alberta was used as a bingo hall, and was deemed to be tax exempt in 2021. The bingo was The Peace Hills Bingo Association and was also an Alberta Society. It was the Complainant’s position that the assessor for Wetaskiwin did not require an application and simply applied the tax-exempt status to the property.
- [15] The Complainant also provided comparable bingo halls in Calgary (Bingo Palace, Bingo Barn, and Five Star Bingo & Pub) where the City of Calgary directed administration to cancel the municipal portion of the 2020 property taxes for the properties.
- [16] The Complainant submitted that there is only one bingo hall in Red Deer, and that based on the change to COPTER the Respondent should have reached out to assist in providing tax exempt status to the Association, through the property assessment. The Complainant through questioning of the Respondent was advised that there are 150 properties in Red Deer eligible for tax exemption, and that the Respondent worked with those groups to confirm their tax-exempt status continued.
- [17] The Complainant’s position was that notwithstanding that the Association, or the property owner, did not complete the application for tax exemption, the Respondent should have reached out to advise of the eligibility and to work with the Association to allow tax exempt status.
- [18] The Complainant stated that the correct assessment should be \$1,028,520.

Position of the Respondent

- [19] The Respondent provided an 86-page disclosure document that was entered into evidence as Respondent R-1.
- [20] The Respondent confirmed the property details and spoke to its position regarding the tax-exempt status being requested.

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- [21] The Respondent acknowledged the Minister's December 2020 letter confirming the amendments to COPTER, as well as the Assessment Service Branch – Assessment Bulletin dated January 2021. The requirements outlined in those documents makes the provision of an application for tax exempt status mandatory, and not discretionary.
- [22] The Respondent testified concerning the administrative process for tax exemption in Red Deer. It was the Respondent's position that COPTER sets the criteria and classification for property tax exemptions. The Respondent requires non-profit organizations to submit an application as well as supporting documents that are clearly contained in the application form, a copy of which can be found on the Respondent's web site. The application form must be submitted to the Respondent prior to September 30 of the year prior to the tax year (for 2022 tax year the form must be submitted by September 30, 2021). The September 30 application date is to allow the Respondent to know what property may be tax-exempt in consideration of the overall tax base of the Respondent. Once again, the requirement is mandatory and not discretionary.
- [23] The Respondent referred to COPTER and the requirements under section 8(1) which states:
- For the purposes of section 365(2) of the Act, property described in section 36(1)(n) of the Act and Part 3 of this Regulation in respect of which a bingo license, casino license, pull ticket license, Class C liquor license or a special event license is issued under the Gaming, Liquor and Cannabis Regulation (AR 143/96) is exempt from taxation if the requirements of section 362(1)(n) and this Regulation in respect of the property are met.*
- [24] The Respondent then referred to the Act and section 36(1)(n) and confirmed that based on the information provided by the Complainant, it appeared that a portion of the Association property would qualify for tax exempt status.
- [25] The Respondent also referred to section 16(1)(a) of COPTER which requires that non-profit organizations must apply for tax exempt status by September 30 of the year prior to taxation.
- [26] It was the Respondent's position that neither the property owner, nor the Association, had made an application prior to September 30, 2021 for the 2022 tax year. The Respondent also confirmed that after September 30, no application has been received by the Respondent.
- [27] The Respondent also advised that the Association held a Class B liquor license, which is not the same as a Class C liquor license. Accordingly, the area set aside for the Class B liquor license would not be eligible for tax exempt status.
- [28] The Respondent also noted that it has not confirmed the size of the space that might be eligible for tax exemption, which would be reduced by the Class B liquor license. It was unable to verify this as there was no application submitted which would inform the Respondent of this information.
- [29] The Respondent also spoke to the City of Calgary examples provided by the Complainant and testified that the exemption was not done based on the Minister's letter or based on the Assessment Bulletin. The waiver was based on a motion of council to cancel property tax, and not to amend the tax-exempt portion of the assessment. As well, this motion preceded the Minister's announcement as it was for 2020.

- [30] In questioning by the Board, the Respondent was asked whether to be considered reasonable, fair, and equitable, had this matter been referred to City Council. The Respondent advised it had not been referred and did not consider the role of the Assessment Department was to advocate for the rate payer. In further questioning, the Respondent confirmed there was only one bingo hall in Red Deer and that after the appeal being filed, the Respondent reached out to the Association to visit the property; however, the Respondent did not offer any assistance to the Association. The Respondent's position was that there is no obligation by the Respondent to advocate for the Association.
- [31] The Respondent also provided a few prior Board decisions for consideration. In questioning, it was confirmed that the decisions were not entirely on point. It was the Respondent's position that the decisions were submitted to demonstrate that there are certain requirements which must be met to qualify for tax exempt status.


BOARD FINDINGS and DECISION

- [32] The Respondent presented a few previous Assessment Review Board decisions. While the Board respects those decisions, it is mindful that those decisions were made in respect of issues and evidence that may not be like the evidence presented to this Board. As a result, the Board gives limited weight to those decisions, unless the issues and evidence are shown to be timely, relevant, and materially like the subject complaint.
- [33] The Board finds that the eligibility for tax exempt status requires that the applicant makes a submission for tax exemption by September 30 annually. In the case of the 2022 taxation year the application was to be submitted by September 30, 2021. The Respondent's position is that the application and information and due date is mandatory, and not discretionary, and the Board accepts that requirement.
- [34] The Complainant confirmed that it had not submitted the required application.
- [35] The Board acknowledges that the Respondent might have helped the Association, or the property owner to apply for tax exempt status; however, there is no requirement that the Respondent is obligated to assist rate payers.
- [36] In that the filing of an application and requisite information is mandatory to be considered for tax exemption, the Board finds that the Complainant has not met this test and as a result is not eligible for tax exemption for the 2022 tax year.

DECISION SUMMARY

- [37] The Board finds that the original assessed value is not changed.

[38] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 27th day of July, 2022 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, Roberts
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.

<u>NO.</u>		<u>ITEM</u>
1. A.1	51 pages	Hearing Materials provided by Clerk
2. C.1	202 pages	Complainant submission
3. R.1	86 pages	Respondent submission