

Central Alberta

Regional Assessment Review Board

Decision No.: LARB 0377 592/2013

Complaint ID: 592

Roll No: 3404194001

LOCAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: NOVEMBER 28, 2013

PRESIDING OFFICER: R. KERBER

BOARD MEMBER: A. KNIGHT

BOARD MEMBER: R. SCHALLER

BETWEEN:

735622 ALBERTA LTD. (MR. CHRIS HUHN)

Complainant

-and-

CLEARWATER COUNTY

Respondent

[1] This is a complaint to the Central Alberta Regional Assessment Review Board in respect of a property assessment entered in the 2013 Assessment Roll as follows:

ROLL NUMBER:	3404194001
MUNICIPAL ADDRESS:	SW 19 – 38 – 4 - 5
ASSESSMENT	\$291,820

[2] The complaint was heard by the Local Assessment Review Board (Board) on the 28 day of November, 2013, in the Council Chambers at Clearwater County.

[3] Appeared on behalf of the Complainant:

- Chris Huhn, Owner, 735622 Alberta Ltd

[4] Appeared on behalf of the Respondent:

- Denniece Crout, Manager, Assessment & Revenue

JURISDICTION

[5] The Central Alberta Regional Assessment Review Board (hereinafter, "the Board") has been established in accordance with section 456 of the *Municipal Government Act R.S.A. 2000, ch M-26* (hereinafter, "the MGA").

[6] Neither party raised an objection to any Board member hearing the complaint. Although the Complainant noted that Mr. R. Schaller had sat on a previous hearing involving the subject property. The Presiding Officer noted that the Board members were serving without a bias.

[7] No procedural or jurisdictional matters were raised by either party.

PRELIMINARY MATTER

[8] The Respondent noted some changes to the Complainant's package, however, they were not significant and all parties agreed to proceed.

BACKGROUND

[9] The subject property consists of 160 acres located south of the Town of Rocky Mountain House, with the following breakdown:

Farmland	\$ 4,380
Primary Residential Exemption	\$ 4,380
Residential Land	<u>\$283,060</u>
Total Assessment	\$291,820

[10] As per the above, 157.0 acres were assessed at the regulated rates for farmland. The remaining 3 acres were assessed at market value as per s 4(3)(c) of the Matters Relating to Assessment and Taxation Regulation (MRAT) which states:

"...the valuation standard for the following property is market value...an area of 3 acres located within a larger parcel of land where any part of the larger parcel is used but not necessarily occupied for residential purposes."

ISSUES AND FINDINGS

[11] The Board has identified the following issues:

1. Is the description of the residential portion of the assessment for the subject property correct?
2. Is the residential assessment accurately assessed?
1. Is the description of the residential property portion for the subject property correct?

[12] **Complainant:** The Complainant asserted that the description of the subject property on the roll is incorrect. The Complainant indicated that he uses the agricultural land for raising a number of buffalo; grassland, cropland and some areas are left as natural habitat. The Complainant uses the house on an intermittent basis but it is not a permanent residence.

[13] The residential area, as defined on the assessment, consists of a two storey log house with a deck, no landscaping and a gravel road from the county road. He indicated the building was serviced with power, water or sewage facility. There are no other buildings on the property.

[14] The Complainant has previously complained the structural data (square footage of the house, floor finish, window size etc.) recorded on the roll for the house has been incorrect for years (Summary sheets submitted for 2003 – 2012).

[15] The Complainant indicated the subject property is a "no frills" home and no landscaping (see pictures provided in C1). There were a number of other issues raised by the Landowner including poor snow removal, which creates access problems to the property particularly if there was ever a safety occurrence. A sour gas facility and two compressor stations nearby (3 miles) have had a significant number of odor and safety issues since 2003. Studies show that the hazard zone for sub lethal effects around a sour gas well ranges from 400 m to 6500 m, which have caused the landowner numerous medical problems in the past.

[16] The Complainant indicated that due to poor local drainage his land has experienced flooding in the spring and has limited his crop production.

[17] **Respondent:** The Respondent agreed on the description of the property presented by the Complainant, stated that previously they were unable to do an on-site inspection, resulting in incorrect data. The Respondent has been dealing with an appeal on the property for 3 years. The owner made a request for an inspection on September 5, 2013 and an on-site inspection was made on November 7, 2013.

[18] Changes to the description that the Respondent agreed to were as follows:

- Sq. Ft. = 932 sq. ft.
- Bathroom = 3 piece
- Windows = 8.89 m2 (Respondent indicated she had a lower number but presented no specific details)
- Crawl Space = concrete
- Deck = 1,098 sq.ft.

[19] The Respondent indicated that under the MGA s 297(1) properties are classified under four classes.

- (a) class 1 : residential
- (b) class 2 : non-residential
- (c) class 3 : farmland
- (d) class 4 : machinery and equipment

[20] Under the MGA s 297 (4)(c) "residential" in respect to property means property that is not classed by the assessor as farmland, machinery and equipment or non-residential. The respondent indicated that under MRAT 4 (3) (c) which states:

- 4(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.

(3) Despite subsection (1)(b), the valuation standard for the following property is market value;

(c) an area of 3 acres located within a larger parcel of land where any part of the larger parcel is used but not necessarily occupied for residential purposes”

[21] **Board Finding:** The Board finds that the assessment descriptors for the property were incorrect.

[22] It is noted by the Board that the Complainant and the Respondent agreed on what the correct descriptors for the subject property should be. The Board finds that the correct property description is as follows:

- Sq. Ft. of the house is 932 sq. ft.;
- 3 piece bathroom;
- Windows are 8.89 m2;
- Crawl Space is concrete; and
- Deck is 1,098 sq.ft.

[23] Photos provided by the Respondent support the Board decision. The Perry Assessment report (C2, Tab 'Items 1-8') provided by the Complainant indicates that the house is a “modest” building with builder grade materials and the overall condition is considered to be average for its age.

[24] The sour gas wells and compressor stations may be an issue, however no evidence was presented to establish how much of an impact they would have on the market value of the property.

[25] The incident of the flooding of the residential house and resulting septic tank backup were raised by the Complainant, however, due to lack of information on how this issue would affect the market value of the property, the Board finds that there is insufficient evidence to warrant an adjustment to the assessed value relative to this issue.

[26] The Respondent indicated the changes to the description would result in an increase of the assessment from \$291,820 to \$297,760, the Respondent clearly stated no increase was being requested for the 2012 taxation year.

(2) Is the residential assessment accurately assessed?

[27] **Complainant:** The Complainant argued that the assessed value of the subject property is excessive as many of the house descriptors were incorrect. The November 7, 2013 on-site inspection verified this point.

[28] The Complainant presented three comparable properties all within 3 miles of the subject property. Comparable A has a floor space of 1186 sq. ft. with a basement and built in 1959 and an assessment value of \$231,840. Comparable B has a floor space of 1,260 sq. ft. with a basement and built around 1952 and an assessment value of \$231,370. Comparable C has a floor space of 1,465 sq. ft. with a basement and built in 1992 with an assessment value of \$297,950. All three comparables have some renovations and have landscaping.

[29] The Complainant utilized the average per sq. ft. of the comparables to the subject property and came to a requested assessed value of \$181,393 using a floor area of 923 sq. ft. The Complainant increase this assessed value to \$207,425 by averaging the sq. ft. with the most recent assessment of \$291,820.

[30] **Respondent:** The Respondent indicated under the MGA s. 297(1) and 297(4) the parcel size legislated is 3 acres and must be assessed as residential land at market value and using mass appraisal valuation techniques as specified in the MGA section 284(1)(r).

[31] The Respondent provided the following three sales comparables of properties within approximately 15 miles of the subject property:

	Subject	Comparable 1	Comparable 2	Comparable 3
Roll	3404194001	3404331002	3606122006	3505112002
Total Assmt (\$)	291,820	240,170	224,570	339,747
Acres @ M.V.	3.00	1.58	5.51	7.04
Sale Date		April 2012	August 2011	August 2012
Time Adjusted Sale Price		309,200	241,500	222,500
Year Built	1999	1980	1977	1959
Floor Area (sq. ft.)	1165	876	871	768

[32] The subject property is located on 160 acres with a square footage of 932 (was listed on assessment sheet as 1,165 sq. ft.), built in 1999, has an assessed value of \$291,820 in 2012.

[33] **Board Finding:** The Board finds that the assessed value is fair and equitable.

[34] The comparables presented by the Complainant do not provide sufficient detail to allow the Board to determine if these properties are in fact comparable to the subject properties. It is important to understand that there are many factors that need to be considered beyond sq. ft., such as structure type, finish and overall condition, that have a significant impact on a per sq. ft. value. The Complainant's assessment comparables may well be comparable to the subject property, but without sufficient detail, the board cannot find that to be a fact.


SUMMARY

[35] The Board finds that the assessment is correct. For the reasons noted above the assessed value of the subject property is CONFIRMED as follows:

Roll # 3404194001

\$ 291,820.

Dated at the City of Red Deer, in the Province of Alberta this 27 day of December, 2013 and signed by the Presiding Officer on behalf of all three panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



S. Parsons, on behalf of R. Kerber, Presiding Officer

This decision can be appealed to the Court of Queen's Bench on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 470 of the Municipal Government Act which requires an application for leave to appeal to be filed and served within 30 days of being notified of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX "A"

Documents Presented at the Hearing
and considered by the Board

NO.

ITEM

1. A1- Hearing Materials
2. C1- Site Inspections Report
3. C2 - Complainants Report to Board
4. R1-Submission of Clearwater County

