

LARB 0226 1152 2018

Complaint ID 1152

Roll No. 232253001

LOCAL ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: October 23, 2018

PRESIDING OFFICER: A. Knight

BOARD MEMBER: V. Keeler

BOARD MEMBER: A. Gamble

BETWEEN:

SHELDON FOSS

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 the County of Mountain View as follows:

ROLL NUMBER: 232253001

MUNICIPAL ADDRESS: Site 1 Rge Rd 4, Mountain View County, Alberta

ASSESSMENT AMOUNT: \$ 741,170

The complaint was heard by the Local Assessment Review Board on the 23rd day of October, 2018, at The County of Mountain View, in the province of Alberta.

Appeared on behalf of the Complainant: Sheldon Foss

Appeared on behalf of the Respondent: Adam D. Martin and Steve Nedoshytko

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

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”], and The County of Mountainview, Bylaw No. 15/15, *Regional Assessment Review Board Bylaw* (November 14, 2011).

PROPERTY DESCRIPTION AND BACKGROUND

- [2] The subject property is a 1863 sq. ft. single family dwelling with attached garage located on a 10.01 acres of land, legal land description SE-25-32-2-W5, zoned R-CR County Residential District in the County of Mountain View, within the province of Alberta. It is classified as Residential.
- [3] A property assessment complaint was filed on June 18, 2018. Confirmation of Receipt of the Complaint and Notice of Hearing was sent to the parties on September 14, 2018.

PRELIMINARY MATTERS

- [4] The Board Chair confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [5] Neither party raised any objection to the panel hearing the complaint.
- [6] The Chair confirmed the issue before the Board is the assessment amount. The Complainant did not request an assessment amount.
- [7] The Board confirmed the submissions of the parties and entered the following Exhibits into the record:
- A1 – Hearing Materials (9 pages)
- R1 – Respondent Disclosure (24 pages)
- [8] 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

- [9] The Complainant stated the property taxes on the subject property increased by \$423.83 or 11.5% from 2017 as shown in the 2017 tax receipt and the 2018 assessment notice provided to the Board in the Complainant’s initial filing.

- [10] The Complainant stated the 2018 property taxes no longer had an allowance for farm buildings, and other farm operations. He further argued that he does not believe the property increased in value from previous years due since we are still in a recession.
- [11] The Complainant further stated that although he does not currently have any stock on the property, he does not understand why a portion of the property is no longer classed as farm land. He further questioned if the class of land throughout the County changes from year to year if farming ceases temporarily. He explained that he has made no changes to the property for farming operations such as fence lines and trees etc.
- [12] The Complainant requested that the Board reduce the assessment on the subject property but did not suggest an amount.

Position of the Respondent

- [13] The Respondent stated that the increase in the assessment of the property is not reflective of an increase in market value, but a change from Farm Residential to Residential status.
- [14] The Respondent explained the following:
- I. that during the 2016/2017 assessment/tax year, the subject property reflected a 3 acre regulated market land site with the remaining 7.01 acres being assessed using the regulated farm land productivity rating;
 - II. that during the 2017 annual inspection, it was discovered that the subject property was no longer being utilized for farm purposes;
 - III. the assessment value was changed to reflect the condition of the property as of December 31, 2017;
 - IV. that prior to 2017, the property had been used to raise miniature donkeys for sale which falls under what constitutes "*Farming Operations*" as defined section 2(1)(i) in *Matters Relating to Assessment and Taxation regulations* ["MRAT"];
 - V. that since there was no longer farming operations taking place on the property, as determined in conversations with the landowner, it was the obligation of the assessment department to remove the farm status from the property;
 - VI. that the assessed value for the land and improvements (previous farm land 7.01 acres) is reflective of the change in valuation standards. This change resulted in an increase from 3 acres to 10.01 acres of land valued at market value, thus increasing the assessment.
 - VII. the County has assessed the subject property based on the direct sales comparison approach to value.

- [15] The Respondent provided a sales comparable chart of nine properties of which five of these sales were within the valuation period of July, 2016 to July 1, 2017. The remaining sale comparables are outside of the valuation period and were not time adjusted. Details such as land size, building size and sale price were noted. The average value of the comparable properties is \$847,898.
- [16] In summary, the Respondent requested that the Board confirm the assessment of \$741,170.

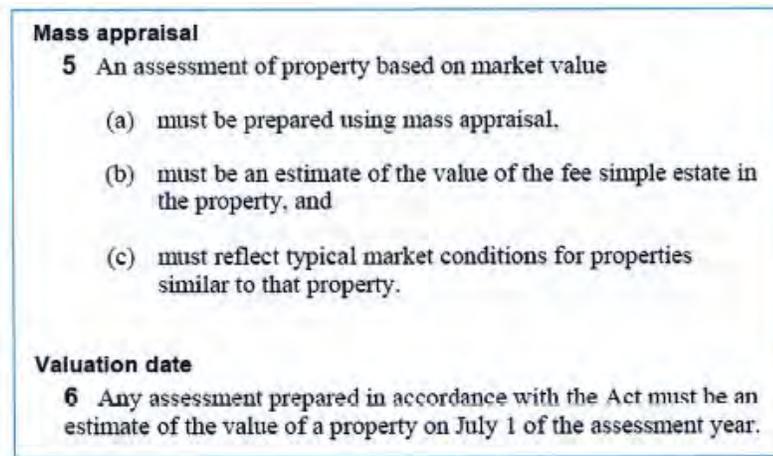
BOARD FINDINGS and DECISION

ISSUE

Should the subject property be re-classed from Farm Residential to Residential?

Is the subject property assessment fair and equitable based on the evidence submitted?

- [17] The Board finds that legislation relevant to assessment and valuation of property provided clear guidance for this complaint in the Municipal Government Act, RSA 2000, c M-26 ["MGA"], and in Regulations passed pursuant to this Act, specifically Matters Relating to Assessment and Taxation Regulation ["MRAT"]. This legislation governs the assessor in completing assessments, and the Board must make decisions based on the same legislation.



- [18] The Board accepts the Respondent has prepared that assessment utilizing the direct comparison approach to value pursuant to all legislations using market value techniques. MGA section (1)(n): Definition of Market Value;

- (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;

- [19] The Board accepts it is the duty of the Assessor to prepare the assessment in a fair and equitable manner, and to apply the valuation and other standards set out in the regulations, MGA section 293(1);

Duties of assessors

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.

(2) If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.

(3) The municipal assessor must, in accordance with the regulations, provide the Minister or the provincial assessor with information that the Minister or the provincial assessor requires about property in the municipality.

RSA 2000 cM-26 s293;2002 c19 s3;2009 c29 s4;
2016 c24 s26

- [20] The Board accepts the definition of “farming operation” as stated in MRAT section 1(i)(i)(ii) which states.

- (i) “farming operations” means the raising, production and sale of agricultural products and includes
 - (i) horticulture, aviculture, apiculture and aquaculture,
 - (ii) the production of horses, cattle, bison, sheep, swine, goats, fur-bearing animals raised in captivity, domestic cervids within the meaning of the *Livestock Industry Diversification Act*, and domestic camelids, and
 - (iii) the planting, growing and sale of sod;

- [21] The Board is not convinced, based on the evidence submitted/presented, that the property is being used for farming operations, as described in the above definition. Therefore the Board finds the Respondent’s reclassification of the property from farm residential to residential in line with regulations, and that the Assessor followed all legislated guidelines.

- [22] The Board recognizes that the valuation standard for a parcel of land is market value, MRAT section 4(1)(a), therefore accepts the increased assessed value of 7.01 acres increased due to the change in classification from farm operations to market value.

Valuation standard for a parcel of land

4(1) The valuation standard for a parcel of land is

- (a) market value, or

- [23] The Board acknowledges the assessment process whereby the best indicator of market value is considered to be comparable sales of similar properties in close proximity to the subject property.
- [24] The Board notes that the Complainant provided information related to a tax increase but did not present any other information pertaining to use.
- [25] The Board finds that the Complainant has failed to provide convincing evidence to establish that the Respondent's recommended assessed value is not reflective of the subject property's market value.
- [26] The Board places little weight on the comparable sales chart presented since it is not pertinent to the key issues of the hearing.
- [27] The Board finds that the Respondent's assessment of the subject property is reflective of its market value and is supportable, fair, and equitable.
- [28] In summary the Board did not have sufficient evidence to convince us that the property should be classified as Farm Residential.

DECISION SUMMARY

- [29] Based on the reasons herein, the Board finds that the assessed value of the Respondent is confirmed at \$741,170.
- (i) Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 22 day of November, 2018 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.



Al Knight
Presiding Officer

This decision can be appealed to the Court of Queen's Bench. 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 within 60 days of being notified 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

A1 – Hearing Materials (9 pages)

R1 – Respondent Disclosure (24 pages)