

LARB 0226 1114 2018

Complaint ID 1114

Roll No. 33021000

LOCAL ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: OCTOBER 23, 2018

PRESIDING OFFICER: A. Gamble

BOARD MEMBER: A. Knight

BOARD MEMBER: V. Keeler

BETWEEN:

DONALD GORDON WILSON

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 Mountain View County as follows:

ROLL NUMBER: 33021000

MUNICIPAL ADDRESS: 30374 Range Road 3-3

ASSESSMENT AMOUNT: \$193,860

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

Appeared on behalf of the Complainant: Donald Gordon Wilson

Appeared on behalf of the Respondent: Steve Nedoshytko & Shedon Farrell

DECISION: The assessed value of the subject property is varied to \$37,800.

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 parcel of land containing 160 acres. The property is zoned A Agricultural District.
- [3] A property assessment complaint was filed on May 31, 2018. Confirmation of Receipt of the Complaint and Notice of Hearing was sent to the parties on June 25, 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 classification of a 3.00 acre market value site situated at 30374 Range Road 3-3 in the County of Mountain View.
- [7] The Board confirmed the submissions of the parties and entered the following exhibits in to the record:
- A1 – Hearing Materials provided by Clerk (7 pages)
 - C1 - Complainant submission (16 pages)
 - C2 - Complainant Rebuttal (3 pages)
 - R1 - Respondent submission (29 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.

ISSUES

- [9] The Board considered the parties’ positions and determined the following questions are to be addressed within this decision:
- a) Is the classification of the subject property correct based on the evidence presented?
 - b) Is the subject property assessment fair and equitable based on the evidence presented?

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

- [10] The Complainant stated that on December 24, 2017, he found a notice from Mountain View County dated December 18, 2017 on the property that indicated that they would be adding a 3.00 acre site at market value for recreation use on the property assessment. Subsequently, a farm residential site was added to the 2018 assessment tax notice.
- [11] The Complainant submits that a 3.00 acre site at market value should not be added to the property for the following reasons:
- There is no residence on the property.
 - 2 RV trailers were stored on the property; Mountain View County allows 4 RVs to be stored outdoors on an agricultural property with no development permit required.
 - At no time has an RV trailer been used as a residence since there was no sewer ever in place on the property, nor any winter skirting.
 - On December 31, 2017 the 160 acre parcel was being used for farming operations.
 - There has been no development done on the property, no subdivision registered or development permit obtained.
 - A residential parcel has been assessed on another property for farming operations connected to the subject property.
- [12] The Complainant's written submission explains that in 2015 and 2016, his daughter and son in law stayed in one of the RV trailers as needed while farming the property and managing their horse breeding and training operation. At this time Mountain View County added a residential site to the property. The County advised the Complainant that if the RV trailer was moved and parked near the Complainant's residence prior to the end of 2015, the farm residential site would be taken off the property.
- [13] The Complainant further explained due to inclement weather, the trailer was not moved until 2016 and the residential site was not removed from the property assessment and the tax was paid in error. The farm residential assessment was removed from the property in 2017 but again added to the property in 2018.
- [14] In rebuttal, the Complainant addressed the Respondent's submission which displays several pictures taken by the County in 2017 and 2018 to demonstrate recreation use on the farm residential site, notes the following:
- The RV trailer shown in the 2017 picture is stored on the property occasionally because it is used for holidays etc.
 - The pictures do not show a RV trailer hooked to services.
 - The RV trailers in the pictures are not skirted.
 - The trampoline shown is being stored and does not show it set up for use.
 - The dog house is not being used as evidenced by the undisturbed grass in the picture.
 - The firepit was left on the property in 2016 and is used as a horse training obstacle.
 - The round pen is used to train horses.
 - The band saw pictured, (not a log lathe as referenced by the Respondent) was used to make planks for the on-site corral and other farming operations but has now been sold and will be removed from the property.

- [15] In summary, the Complainant asked the Board to remove the 3.00 acre residential parcel from the property assessment as the property is being used for farming operations.

Position of the Respondent

- [16] The Respondent stated that physical inspection of the property in August of 2017 confirmed multiple recreational vehicles plugged into services, trampoline, fire pit, riding fences and a lathe were set up on the property. This is supported by pictorial evidence Exhibit R1 pages 20-23.
- [17] The Respondent further stated this type of use goes beyond what is described as farming operations.
- [18] The Respondent argued that the pictures indicate recreational use which, as per Section 7(1) and 7(3)(c) of *Matters Relating to Assessment and Taxation regulations* ["MRAT"] requires the County to assess a 3.00 acre parcel on the property at market value if any part of the larger parcel is used but not necessarily occupied for residential purposes.
- [19] The Respondent explained MRAT section 7(1) 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: (b) a parcel of land containing at least one acre but not more than 3 acres that is used but not necessarily occupied for residential purposes or can be serviced".
- [20] The Respondent explained that Provincial Legislation requires that mass appraisal techniques be used to assess market value property and must reflect the market value as of July 1, 2017, based on its physical characteristics as of December 31, 2017.
- [21] The Respondent stated that he had spoken to Mr. Morrish, the Complainants son in law. Mr. Morrish confirmed that he had rented the property for a number of years and had stayed in one of the RV trailers when farming, but now he only rents 20 acres to raise and breed horses. Mr. Morrish also indicated that he cuts logs for his own use but that he sells overages on Kijiji.
- [22] The Respondent submitted that although there has been no subdivision request, assessment is based on the use of a property.
- [23] The Respondent stated that the 3.00 acre parcel on the property re-classified as Farm Residential was assessed \$166,510. When asked by the Board what the assessed value of the 3.00 acre site would be if assessed as farmland, the Respondent replied that it would be \$651 (\$217 per acre).
- [24] Based on the foregoing evidence the Respondent requests the Board confirm the assessment of \$193,860 as indicated in Exhibit R-1 page 27.

BOARD FINDINGS and DECISION**Issue One**

Is the classification of the subject property correct based on the evidence presented?

[25] The Board finds that legislation relevant to assessment and valuation of property provides 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.

Valuation standard for a parcel of land

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.

[26] 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;

[27] The Board acknowledges that the County’s land use bylaw allows 4 RV units to be stored outdoors on a farmland property.

[28] The Board is not convinced that the pictures taken in 2017 and 2018 by the Respondent demonstrates recreational use since they do not indicate:

- I. the recreational vehicles were used for any other purpose than storage;
- II. the tent in the pictures was used for a residential purpose;
- III. the trampoline stored on the property constitutes use;
- IV. the corral was used for any purpose other than a riding pen;

- V. the band saw is not used for cutting planks for the corral and other farming operations;
- VI. the firepit was not left on the property from 2016 occupancy and is not being used for hurdles for the horses.

- [29] The Board accepts evidence from both the Complainant and the Respondent that the daughter and son in law occupied a RV trailer on the property during 2015, 2016 and part of 2017 during farming operations.
- [30] The Board accepts evidence from both the Complainant and the Respondent that a residential parcel has been assessed on another property for farming operations.
- [31] The Board accepts the Complainant's verification that there was no residential occupancy on the property on December 31, 2017.
- [32] The Board finds that the Respondent has failed to provide convincing evidence that the property is used for recreational use.
- [33] The Board finds the Complainant's evidence that the property was used for farming operations in 2017 convincing.
- [34] Based on the evidence, the Board accepts that the property is being used for Farming Operations as described in the above definition. Therefore the Board finds the 3.00 acre parcel of Residential Farm land on the subject property be reclassified as Farm Land.

Issue Two

is the subject property assessment fair and equitable based on the evidence presented?

- [35] The Board concurs with the regulated farmland value of \$217 per acre for farm land as provided by the Respondent.
- [36] Based on the Board's prior finding that the 3.00 acre parcel on the subject property be returned to the original classification, the Board finds the class 150 Farm Residential assessment of \$166,510 be revised to class 100 Vacant Farmland \$650 (3 x \$217 = \$651 rounded to \$650).
- [37] The Board finds the fair and equitable assessed value for the subject property is \$37,800.

DECISION SUMMARY

1. The Board finds that the assessed value be varied to \$37,800.
2. 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 GAMBLE
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.

NO.

ITEM

A1 – Hearing Materials provided by Clerk (7 pages)

C1 - Complainant submission (16 pages)

C2 - Complainant Rebuttal (3 pages)

R1 - Respondent submission (29 pages)