



Complaint ID 0226 2050
Roll No. 432074000

LOCAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: OCTOBER 30, 2024

PRESIDING OFFICER: A TARNOCZI
BOARD MEMBER: T HANDLEY
BOARD MEMBER: S ROBERTS

BETWEEN:

FRANK DEVETTEN

Complainant

-and-

ASSESSMENT SERVICES DEPARTMENT
For 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 Mountain View County as follows:

ROLL NUMBER: 432074000
MUNICIPAL ADDRESS: 32127 – RANGE ROAD 50
LEGAL DESCRIPTION: SW-07-32-04-5, MOUNTAIN VIEW COUNTY, ALBERTA
ASSESSMENT AMOUNT: \$879,640

The complaint was heard by the Local Assessment Review Board on the 30th day of October 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: Frank DeVetten, Property Owner

Appeared on behalf of the Respondent: Adam Martin AMAA
Michael Krieger, Manager Assessment Services
Mountain View County

DECISION: The assessed value of the subject property requires no change at \$879,640.

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 a 155-acre parcel with a 3,360 sq ft metal clad shop located a 32127 – Range Road 50 (legal land description SW-07-32-04-5) in Mountain View County.

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] No additional preliminary or procedural matters were raised by any party. Both parties indicated that they were prepared to proceed with the complaints.

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

- [6] The Complainant stated that he had purchased the property in 2023 and in the course of the sale the annual taxes were disclosed as \$95.82. The Complainant noted that the property assessment had increased and the assessment class had changed (from Farm to Residential) after the land was purchased. The Complainant stated the use of the land had not changed from the previous owner. Specifically, the land was leased back to the previous owner who was using it as they had prior to the sale.
- [7] The Complainant argued that since the use of the land had not changed the assessment class should not change.
- [8] The Complainant noted that the subject property lease permitted up to 18 horses on the property. The Complainant also provided evidence of the sale of two horses and the purchase of one horse buy the lessee (all transactions took place between June and July 2024). The Complainant argued that since the property was used to pasture horses and that horses are bought and sold, this meets the *Matters Relating to Assessment and Taxation Regulation, 2018 A.R. 2003/2017* (MRAT) definition of farming operations. The Complainant asserted that because the operations were consistent with the farming operations definition, the subject property should be classified as a farm.
- [9] The Complainant stated that while crops are not taken off the property, the lessee’s horses are pastured on the property. The Complainant argued that the lease revenue was equivalent to selling horse feed (grass) to the lessee. The Complainant asserted that this equivalence qualified this property as a farming operation under MRAT and therefore the property should be classified as a farm.

- [10] The Complainant stated that he has the intention of farming the land and meeting the requirements for the property to be classified as a farm. The Complainant requested that the Board give the Complainant time to comply with the requirements that would allow the property to be classified as a farm.
- [11] The Complainant questioned whether the County received the incomplete statement of agricultural land form as it was not date stamped as received.
- [12] The Complainant did confirm that although box 10 of section 4 of the Assessment Review Board Complaint form (referring to whether a property or business is exempt under section 10) was ticked, it did not apply in this case.

Position of the Respondent

- [13] The Respondent stated that upon sale of the property to the Complainant, Mountain View County assessment department sent the Complainant a sale confirmation package including a statement of agricultural land and a statement of agricultural buildings questionnaire. The Complainant filled out the statement of agricultural buildings, indicated the shop was a "farm shop" but had left the statement of agricultural land blank. This was in contrast to the previous owner who indicated that she was grazing 34 cow calf pairs, as well as boarding 3 to 6 horses. The Respondent included copies of both the Complainant's and the previous owner's statements in their submission package.
- [14] The Respondent noted that as a result of the Complainant's response to the statement of agricultural land and a statement of agricultural buildings questionnaire a physical inspection of the property was conducted, and additional information was sought directly from the Complainant. The Respondent asserted that during this interview the Complainant indicated to the assessor that there was a lease with the previous owner to graze her personal horses and the shop was being used for personal storage.
- [15] The Respondent included a letter from the lessee (the previous owner) of the property that confirmed she buys and sells horses and hay. As well, the letter stated that there were no horse sales in 2023 and that the lessee trains horses for trail riding and endurance. Attached to the letter was a profit and loss statement for the lessee's 2023 operations. The Respondent, in a phone call with the lessee, confirmed that the last sale of a horse (prior to the summer 2024 sales) was about three years ago and that hay was not produced on the subject property.
- [16] The Respondent offered two assessment class comparable properties within ten miles of the subject property showing that Mountain View County does assess similar properties at market value when they are not used for farming.
- [17] The Respondent included an aerial photograph of the property that showed the bulk of the property was tree and bush covered.
- [18] The Respondent argued that the response to the questionnaire, the visual inspection and the responses given by the complainant all indicated that the land was not being used for farm purposes and therefore assessed the entire parcel to a full market valuation.

BOARD FINDINGS and DECISION

[19] As the Board considered whether the subject property should be classified as farm land it looked to apply MRAT section 7(1) which states:

“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.”

[20] Based on MRAT section 7(1) the Board determined that the subject property could only be classified as farm land if it was **used** for farming operations. Farming operations is defined in MRAT section 2(1)(f) which reads:

“(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;”

[21] In determining whether there were farming operations on the property the Board considered the Complainant’s argument that there was no change in use from the previous owner who was granted a farm classification for the subject property.

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- [22] The Board reviewed the differences between the two ownership periods and found them significant. Specifically, the Complainant's declaration on Mountain View County's Statement of Agricultural Land was left blank while the previous owner referenced a cow calf operation. Although the Complainant questioned the validity of the blank form, he did not provide evidence to show that this form was completed. Second, the Complainant stated that he was not farming and that he had a lease with the previous owner to pasture horses. The Board determined that these differences in use were significant enough that a property reclassification cannot be dismissed.
- [23] Further, the Board determined that because MRAT section 7(1) includes the phrase "**is used for farming operations**", the Board must look at current usage when determining assessment class. Thus, arguments regarding past usage were given minimal weight.
- [24] The Board considered the Complainant's argument that pasturing the lessee's horses on the subject property constitutes farming operations. In applying MRAT section 2(1)(f)(ii)(A), which defines what farming operations entails relative to horses (paragraph 19 of this decision), it states "(ii) the raising, production and sale of (A) horses...."
- [25] The Board noted that the lessee provided evidence that she "trains" horses. She made no reference to raising or production. There was no evidence presented that this was a horse production or breeding operation. Further the Board noted the lessee's statement that she made no sales in the past three years (with the exception of two in summer 2024).
- [26] The Board determined that there was insufficient evidence to support the contention that this currently is a farming operation. Further, the evidence presented was not consistent with the MRAT definition of farming operations.
- [27] The Board considered the Complainant's argument that the lease revenue for pasturing horses on the subject property was equivalent to selling hay from the property. The Board applied MRAT section 2(1)(f) which reads "'farming operations means the raising, production **and** sale of agricultural products....'" The Board noted the definition required three components (raising, production and sale). The Board focused on the "production" criteria. The Complainant provided no evidence of how pasturing horses could be considered part of a production process. If one of the criteria is not met the land use cannot be considered farming operations. Therefore, the Board determined that the operations described by the Complainant did not fall under the legislated definition of farming operations.
- [28] The Board noted that while the Complainant did contest the property classification, he did not contest the assessed market value that the Respondent applied (\$879,640). As a result, the Board did not consider changing the assessed market value.
- [29] The Board acknowledges the Complainant's request to provide time for the Complainant to meet the conditions for the property to be classified as a farm. The Board determined that this request was outside the legislative jurisdiction of the Board. That determination was based on The Municipal Government Act section 460.1(1) and section 460(1)(5) as noted in Appendix B.

[30] The Respondent requested that the Board address the following question, “What is the threshold for the sale of an animal to be considered livestock and grant farm status?” The Board considered the request and determined that it was not in a position to give a general answer to this question since the answer would depend on the particulars of the farming operation.

DECISION SUMMARY

[31] The Board finds that the original assessed value is confirmed at \$879,640 and no change is required.

[32] The Board finds that the assessment class for this property currently is Residential.

[33] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 07th day of November 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.

Lori Stubbard

L. Stubbard, Clerk
on behalf of
A Tarnoczi, 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 "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	8
C.1	Complainant Submissions	8
C.2	Complainant Rebuttal	3
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.

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(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
- or
- (b) a tax notice other than a property tax notice, business tax notice or improvement tax notice

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,