

**CALGARY
COMPOSITE ASSESSMENT REVIEW BOARD (CARB)
DECISION WITH REASONS**

In the matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Glen W. Stoddart, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

P. Irwin, PRESIDING OFFICER

J. Massey, MEMBER

R. Roy, MEMBER

A hearing was convened on November 3rd, 2010 in Boardroom 10 at the office of the Calgary Assessment Review Board, located at 1212 – 31 Avenue NE, Calgary, Alberta in respect of the Property assessment prepared by the assessor of the City of Calgary, and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	201126463
LOCATION ADDRESS:	8775 17 AV SE
HEARING NUMBER:	57184
ASSESSMENT:	\$1,400,000

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a 19.47 acre parcel of land with a residence and non-residential improvements on it, located in the New Rocky View Annexation Area in south-eastern Calgary. The parcel was part of an annexation to the City of Calgary from the Municipal District (MD) of Rocky View in 2007.

PART B: PROCEDURAL OR JURISDICTIONAL MATTERS

There were no objections to the composition of the Board, nor were there any jurisdictional matters.

PART C: MATTERS/ ISSUES

1. Is farmland the proper assessment classification?
2. Is the correct assessment the 2007 Rocky View assessment?

The Complainant provided the Board with a historical overview of the subject property. The family has been on the property since 1959. In the past, there has been a slough covering about 7.5 acres of the parcel. In 1974, a Development Permit was issued for land reclamation by adding clay fill and loam. In recent years, Alberta Transportation has widened the nearby Highway 1A. In planning for a new Stoney Trail ring road, storm sewers are being put in. The last time the land was used as a farm was in 1973. Although the land is not currently being farmed, future plans are for timothy, alfalfa and mixed hay crops, now that the new loam has been added and levelled out.

The Complainant is requesting that the land be re-classified to farmland and that the assessment be reduced to the 2007 MD of Rocky View assessment of \$511,200.

The Respondent's presentation included an aerial photo of the subject property which shows the (former) slough as a dark area. Because of the presence of the slough, the market (assessable) land area was 12.00 acres, compared to a total area of 19.47 acres. The Respondent uses the same assessment rates as those applied to other Future Urban Development lands in Calgary. A table in the Respondent's disclosure package showing four pre-July 1, 2009 sales was referred to. The median sale price per acre (sppa) was ~\$126,000. Two post-July 1, 2009 sales showed a median sppa of ~\$123,000. It was noted that the issue of reclamation has not been previously raised.

The Respondent advised the Board that, in order for the parcel to be assessed as farmland, it has to be actively used as farmland; there would have to be some farming on the property. The assessor is bound by the *Municipal Government Act* and Regulations when assessing farmland. While the owner can move the property into farmland, he must adhere to the definitions in the legislation.

The Respondent noted that actual property taxes are based on the Rocky View mill rate.

Board's Findings and Reasons in Respect of Each Matter or Issue:

Issue #1

The Board finds that the subject property was not being used as farmland as of the valuation date and therefore the legislation would not permit it to be classified as farmland at that time and therefore the present land classification is not incorrect.

Issue #2

The Board finds no evidence was presented to support an assessment that is the same as the MD of Rocky View's 2007 assessment, and therefore confirms the Respondent's assessment.

PART D: FINAL DECISION(S)

The 2010 assessment on the subject property is confirmed, at \$1,400,000.

DATED AT THE CITY OF CALGARY THIS 12th DAY OF November 2010.



P. Irwin
Presiding Officer

APPENDIX "A" : ORAL REPRESENTATIONS

PERSON APPEARING CAPACITY

Glen W. Stoddart *on behalf of William J. Stoddart*
Jason Lepine *Assessor, City of Calgary*

APPENDIX "B" : DOCUMENTS RECEIVED BY THE ASSESSMENT REVIEW BOARD

Document C – 1 Complaint Brief (considered)
Document R – 1 Respondent's Brief (considered)

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- (a) the assessment review board, and*
- (b) any other persons as the judge directs.*