

**COMPOSITE ASSESSMENT REVIEW BOARD
MUNICIPAL DISTRICT OF FOOTHILLS NO. 31**

NOTICE OF DECISION

IN THE MATTER OF A COMPLAINT against the assessment of property pursuant to the *Municipal Government Act RSA 2000, Chapter M-26, January 1, 2010 and Amendments Thereto* and *Matters Relating to Assessment Complaints Regulation AR 310/2009*.

between:

Don Green Holdings Ltd., Complainant

and

Municipal District of Foothills NO. 31, Respondent

before:

C. J. Griffin, Presiding Officer

David Anderson & Roger Taylor, Board Members

This is the decision of the Composite Assessment Review Board regarding a complaint filed respecting:

ROLL #1928042510

PLAN 6437 HR, BLOCK A

ASSESSED VALUE: \$802,070.

This complaint was heard on the 5th day of November, 2012 at the M.D. of Foothills Administration Building, 309 MacLeod Trail in High River, AB.

Present on behalf of the Complainant:

Don Green

Present on behalf of the Respondent:

Susan Staley

Diane Fraser

BACKGROUND/SUMMARY:

The subject property is a 6.4 acre parcel of unimproved land that has been assessed at Market Value based upon its Land Use Designation of Highway Commercial. In the past the parcel has been assessed as farm land; however, there having been no evidence of farming activity in the assessment year (2011), the farm status of the parcel was removed.

ISSUES:

The issues to be considered by the *Composite Assessment Review Board* (CARB) are:

1. Should the subject property be categorised as farm land or not and
2. Is the assessed value of the property fair and equitable in comparison to similar properties within the Municipal District of Foothills No. 31?

PRELIMINARY MATTERS:

It was brought to the attention of the CARB that this Complaint was originally brought forward to a *Local Assessment Review Board* (LARB) on the basis that the subject was thought to have been categorised as farm land. At that Hearing the LARB, with the agreement of both parties, abridged the Disclosure Deadlines as outlined under the MGA and the *Matters Relating to Assessment Complaints Regulation* (MRAT). This abridgement of disclosure time was then carried forward to become effective for this Hearing. As the LARB does not have the authority to abridge the disclosure times required for a CARB Hearing, this Board, with the agreement of both parties, agrees to abridge the disclosure times, as requested, in order that the Hearing may proceed.

RECORD OF PROCEEDINGS

Complainant's Position:

The Complainant contends that the subject parcel of land is farm land and it should be assessed as such as it has been in the past. The Complainant maintains that the relatively small size of the parcel (6.4 acres) precludes it from being an economic farming unit and even makes it difficult to lease the property out for any farming purposes. The Complainant introduced (Exhibit C-1) a copy of a lease for the subject lands between *Dan Green Holdings Ltd.* (Lessor) and *W.S. Farms Ltd.* (Lessee) for a term of Ten (10) years commencing January 1, 2012. The Lessee carries on business as a farmer and the annual rental rate due to the Lessor shall be the entire grass or hay crop grown on the land. The Complainant acknowledges that the subject lands were not leased for farming purposes in 2011 but this is a result of the small size of the parcel and the resulting inability to attract a tenant. The Complainant requests the CARB to revert the status of the land to "farm" and reinstate the previous assessed value of \$1,280 established under that category.

Respondent's Position:

The Respondent advised the CARB that the change in status of the subject land parcel stems from the fact that there was no evidence of farm use for the land noted during the most recent inspection of the parcel. The Respondent provided (Exhibit R-1) an excerpt from the *Matters Relating to Assessment and Taxation Regulation* (MRAT), Alberta Regulation 220/2004 which states:

- (i) *"farming operations" mean 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;*

The Respondent also included (Exhibit R-1) a copy of the *Declaration Re: Farming Operations* that was provided to the Complainant but which was not completed by the Complainant and was not returned to the Assessor. Additionally, the Respondent included within this same Exhibit R-1 a copy of a letter, dated February 10/12, to the Complainant advising that, as a result of a recent inspection of the lands, it was determined that the status of the parcel no longer met the criteria of "farming operation" and that a significant increase in the assessed value was anticipated for the 2012 tax year.

In terms of the assessed value, the Respondent provided the CARB with summaries of several sales of Highway Commercial lands which were utilized to derive a value estimate for the subject lands. In addition, the Respondent advised the CARB that the adjacent parcel, of approximately the same size, also has a Highway Commercial Land Use Designation which is assessed at a value of \$798,460 and it would be inequitable to assess the subject differently. The Respondent also noted that this adjacent parcel has been advertised For Sale at a price in the range of \$1,000,000 and while it has not sold this does provide an indication as to the owner's opinion of value.

DECISION:

After considering the circumstances and merits of the case, the Board determined that the assessment is to be confirmed at \$802,070.

REASONS FOR DECISION:

The CARB must be aware of the valuation standards and definitions as outlined in the guiding legislation. In this regard the CARB refers to MRAT 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.

and

MRAT 1(b)

"agricultural use value" means the value of a parcel of land based exclusively on its use for farming operations.

In the case before us the CARB was not provided with any evidence of "farming operations" being carried out on the subject parcel of land in 2011. The Respondent, evidently being aware of the significant increase in assessed value, advised the Complainant of this increase (Exhibit R-1) and provided the Complainant with an opportunity to provide proof of "farming operations" through a *Declaration Re: Farming Operations*; however, the latter was not returned to the Respondent with the result that no proof of "farming operations" was provided to the Respondent.

The Complainant provided the CARB with a copy of a lease which does indicate the parcel being used for "farming operations" however, this lease was not in force for the July 1, 2011 valuation date in question, but rather is for the next base assessment year (2012). The Complainant provided no evidence of "farming operations" being carried out as at the valuation date (July 1, 2011) for the CARB to consider. Additionally, the Complainant did not provide the CARB with any evidence to suggest that the assessed value was incorrect.

It is the responsibility of the Complainant to provide the CARB with unequivocal evidence to warrant a change in the assessed value and the Complainant failed to do so. The Legislation and Assessment Regulations are quite clear in terms of what is required for a land parcel to be categorized as "farming operations" and given same the CARB is of the judgment that the Respondent has assessed the property correctly.

Dated at the Municipal District of Foothills No. 31, this 23 day of Nov., 2012.


C. J. Griffin
Presiding Officer

APPENDIX "A"

PERSONS WHO WERE IN ATTENDANCE, MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARING:

	<u>NAME</u>	<u>CAPACITY</u>
1.	Don Green	Complainant
2.	Susan Staley	Respondent
3.	Diane Fraser	Respondent
4.	C. J. Griffin	Presiding Officer
5.	Roger Taylor	Board Member
6.	Dave Anderson	Board Member
7.	Sherri Barrett	Board Clerk

APPENDIX "B"

EXHIBITS

NO. ITEM

1. Assessment Review Board Complaint & Complainant's Disclosure Statement
C-1 "Farm Lease"
2. Hearing Notice
3. Respondent's Disclosure Statement
R-1 Page 14 "Declaration Re: Farming Operations"
4. Correspondence with the Municipality "C-2"
5. LARB Consent to Abridge Time

Procedure for Appeal

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.