

**CITY OF MEDICINE HAT
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB – 0217-0017/2010

IN THE MATTER OF A COMPLAINT filed with the City of Medicine Hat Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

BETWEEN:

889479 Alberta Ltd. - Complainant

- a n d -

City of Medicine Hat - Respondent

BEFORE:

Members:

M. Vercillo, Presiding Officer

J. Lazar, Member

R. Woodward, Member

A hearing was held on Thursday, November 4, 2010 in the City of Medicine Hat in the Province of Alberta to consider complaints about the assessment of the following property tax roll number:

Account #	Assessed value	Owner
146834	\$4,525,050	889479 Alberta Ltd.

Appeared on behalf of the Complainant:

- J. Hashem
- A. Stark

Appeared on behalf of the Respondent:

- L. Evenson
- S. Sterkenberg
- R. Belau

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PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property is a vacant land parcel located in the Box Springs Business Park development in Medicine Hat. The subject has an assessable land area of approximately 22.073 acres or approximately 89,330 square meters. The property is adjacent to the Costco on both the east and northwest sides.

The subject property is zoned "General Commercial" and is assessed at a rate of approximately \$205,032 per acre. The base assessment rate applied to General Commercial property in the Box Springs development is \$400,000 per acre. The assessment rate applied to the subject is broken up into two parts:

- Approximately 50% of the subject property directly east of Costco is assessed by applying the General Commercial base rate and is then reduced by two factors as follows:
 - \$400,000 per acre, reduced
 - 0% for "lack of servicing", and
 - 30% for "development/time".
- Approximately 50% of the subject property directly northwest of Costco is assessed by applying the General Commercial base rate and is then reduced by two factors as follows:
 - \$400,000 per acre, reduced
 - 35% for "lack of servicing", and
 - 50% for "development/time".

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

The CARB derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

PART C: ISSUES

The CARB considered the complaint form together with the representations and materials presented by the parties. The matters or issues raised on the complaint form and addressed at the hearing are restated as follows:

1. The subject property's assessment was appealed in the prior year (2009) and was reduced significantly. Since there has been no changes to the property and since the market value of the property has stayed constant, there should be no change from the 2009 assessed value.
2. The subject property should be assessed as farmland.

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ISSUE 1:

The subject property's assessment was appealed in the prior year (2009) and was reduced significantly. Since there has been no changes to the property and since the market value of the property has stayed constant, there should be no change from the 2009 assessed value.

The Complainant's position with respect to issue 1:

The Complainant provided a brief written presentation entered as "Exhibit C1" during the hearing. The Complainant stated that the original 2009 assessment of the subject was \$5,657,810. The 2009 assessment was appealed and was reduced to \$3,049,450. Since "market value has stayed constant in the past year", the Complainant requested that the 2010 assessment be reduced to \$3,049,450, as was the finding of the 2009 assessment appeal of the Municipal Government Board (MGB).

The Respondent's position with respect to issue 1:

The Respondent provided an "Assessment Brief" document that was entered as "Exhibit R1" during the hearing. Contained therein, the following evidence was provided:

1. A February 5, 2010 phone conversation between Mr. Belau and Mr. Hashem, quoted Mr. Hashem confirming the asking and selling price for commercial land in the Box Springs Business Park was around \$400,000 per acre, while light industrial was approximately \$275,000 per acre.
2. The Respondent provided a chart and corresponding map of two "Light Industrial" zoned land sales that occurred in the Box Springs area between June, 2008 and February, 2009. The median derived from these sales was \$262,755 per acre.
3. The Respondent provided a chart and corresponding map of four "General Commercial" zoned land sales that occurred in the Box Springs area between July, 2008 and May, 2009. The median derived from these sales was \$423,455 per acre.
4. A statement quoted from an appraisal from Gettel Appraisals dated January 23, 2009 concluded that land in the Box Springs subdivision was valued at \$450,000 per acre.
5. A post-facto sale in November, 2009 involving Suncor Energy Inc. showed that a land sale zoned "General Commercial" in the Box Springs area was sold for \$450,117 per acre.
6. A post-facto land exchange in November, 2009 involving 889479 Alberta Ltd (the Complainant) showed that a land exchange zoned "Light Industrial" in the Box Springs area was sold for \$22,363 per acre. This property is north of the subject.

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7. The Respondent provided a table and corresponding map of "Equity Assessment Comparisons". The assessments for properties zoned General Commercial ranged from \$28,000 per acre to \$400,000 per acre depending on its proximity to Costco and other development. Properties around and south of Costco contained no adjustments and were assessed at \$400,000 per acre. Properties north of Costco and therefore further away from development were adjusted to \$70,000 per acre and down to \$28,000 per acre as one proceeded further north.

Decision: Issue 1:

In view of the above considerations, the CARB finds as follows with respect to Issue 1:

The Complainant has failed to justify that the subject's assessment should be reduced to the 2009 assessed value as revised under a 2009 appeal for the following reasons:

- The Complainant has failed to provide any rationale for the 2010 assessment of the subject property to be reduced to 2009 assessment appeal levels. The Complainant failed to provide any calculations or plausible explanations as to how the 2009 assessments of the properties were reduced under appeal, and how those calculations or explanations would apply to the subject's 2010 assessment. The onus lies with the Complainant to illustrate how the Respondent may have incorrectly assessed the fair market value of the subject property and offer alternatives through evidence. The Complainant failed in this endeavor.
- The CARB accepts the evidence submitted by the Respondent that General Commercial zoned property in the Box Springs development is properly assessed at \$400,000 per acre.
- The subject property is assessed at approximately \$205,035 per acre. The adjustments offered to the subject's General Commercial assessment base rate appear to be equitably applied in comparison to other General Commercial and Light Industrial properties in the Box Springs area based on their proximity to other development.

ISSUE 2:

The subject property should be assessed as farmland.

The Complainant's position with respect to issue 1:

The Complainant's "Exhibit C1" claimed that the 2009 appeal process was a lengthy process, whose outcome was not known until July, 20, 2010. As a result, no seeding of the subject property was done until after that date. The Complainant requests the subject property, be assessed as farmland in the following manner:

- 3 acres at \$134,800 per acre, and

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- 19.62 acres at \$168 per acre.
- The total requested assessment is \$407,696.

The Respondent's position with respect to issue 1:

Within the Respondent's "Exhibit R1, the Respondent provided both aerial and ground pictures of the subject property. A map and ground pictures dated in July 22, 2010, provided by the Complainant to the Respondent, indicated that seeding of the subject property had commenced.

Decision: Issue 2:

In view of the above considerations, the CARB finds that the subject property was not farmed within the assessment year. The valuation date of the subject property was July 1, 2009 and the valuation must reflect the physical condition of the subject property as at December 31, 2009. Both parties clearly provided evidence to suggest the subject property did not have an agricultural use within the assessment year and therefore was correctly not assessed as farmland.

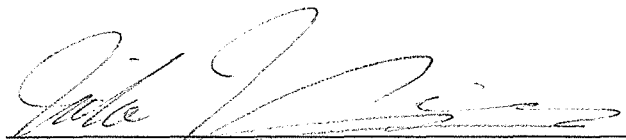
PART D: FINAL DISPOSITION OF COMPLAINT

The complaint is denied and the assessment is confirmed as follows:

Roll No./Property identifier	Value as set by the CARB	Owner
146834	\$4,525,050	889479 Alberta Ltd.

It is so ordered.

Dated in the City of Medicine Hat, in the Province of Alberta, this 18th day of November, 2010.



Presiding Officer

