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F E B R U A R Y 2 2 , 1 9 9 9

T A B L E O F C O N T E N T S

ORGANIZATIONAL CHANGES	1
NEW REGULATIONS	1
Assessment Equalization Regulation -----	1
Standards of Assessment Regulation -----	4
Transitional Regulation-----	12
Community Organization Property Tax Exemption Regulation -----	19
Regional Shopping Centre Allocation of Assessment Regulation -----	30
ASSESSMENT AUDIT & EQUALIZATION REPORTS	37
ASSESSMENT AUDIT FORMS	37
ASSESSMENT & TAXATION OF ROAD RIGHT-OF-WAY	40
MUNICIPAL GOVERNMENT BOARD ORDERS	41

Please note that Edmonton's area code has changed to 780

ORGANIZATIONAL CHANGES

On January 1, 1999, Eric McGhan became the Deputy Minister for Alberta Municipal Affairs. Brad Pickering was appointed Assistant Deputy Minister of the Local Government Services Division on February 8. Until a new executive director for Assessment Services is chosen, Larry Collins is the Acting Executive Director. We will keep you posted on any further developments.

NEW REGULATIONS

The province recently approved three amended regulations and the new Community Organization Property Tax Exemption Regulation (AR 281/98).

The amended portions have been highlighted for your convenience. Anyone making use of these consolidations should be reminded that they have no legislative authority. They have been included here for convenience only. The original regulation should be consulted for all purposes of interpreting and applying the law.

In addition to these regulations, the Regional Shopping Centre Allocation of Assessment Regulation (AR 244/98) has been reprinted - with corrections to typing errors that appeared in Issue No. 2.

ASSESSMENT EQUALIZATION REGULATION

The Assessment Equalization Regulation (AR 366/94) was amended by Alberta Regulation 280/98. The changes clarify the process used to prepare equalized assessments.

**ALBERTA REGULATION 366/94
Municipal Government Act
(Consolidated up to 280/98)**

ASSESSMENT EQUALIZATION REGULATION

Table of Contents

Definitions	1
Information provided by municipality under section 319(1) of the Act	1.1
Preparation of equalized assessment	2
Limit on increases in equalized assessments	2.1
City of Lloydminster	3
Coming into force	6

Definitions 1 In this Regulation,

(a) "Act" means the *Municipal Government Act*, SA 1994 cM-26.1;

(b) "assessment level" for a specified group of properties means the overall ratio of assessments to indicators of market value;

(c) "assessment ratio" has the meaning given to it in Schedule 2 of the *Standards of Assessment Regulation* (Alta. 365/94);

(d) "overall ratio" means the weighted ratio for a group of properties, calculated using the median assessment ratios for subgroups of properties within that group.

AR 366/94 s1;318/96; 280/98

Information provided by municipality under section 319(1) of the Act 1.1 (1) **On receiving information from a municipality pursuant to section 319(1) of the Act, the Minister must assess the information and determine if the information is acceptable.**

(2) **If the Minister determines that the information is acceptable, the Minister may use and rely on the information when preparing the equalized assessment for the municipality.**

(3) **If the Minister determines that the information is not acceptable, the Minister must prepare the equalized assessment using whatever information is available about the municipality.**

(4) **The information provided pursuant to section 319(1) of the Act must include assessment levels.**

AR 280/98 s3

- Preparation of equalized assessment
- 2 (1) In this section, "regulated property" means property in respect of which an assessment is prepared using the valuation standard referred to in section 2(1)(b), 5, 6 or 7 of the *Standards of Assessment Regulation* (AR 365/94).
- (2) In preparing the equalized assessment for a municipality,
- (a) the assessments for regulated property, reported in accordance with section 319(1) of the Act or derived from information in accordance with section 319(2) of the Act or section 1.1(3) of this Regulation, must be adjusted to reflect a common year by applying factors that the Minister considers appropriate, and
- (b) the assessments for property other than regulated property, reported in accordance with section 319(1) of the Act or derived from information in accordance with section 319(2) of the Act or section 1.1(3) of this Regulation, must be adjusted in the manner the Minister considers appropriate
- (i) to reflect a common year,
- (ii) to reflect an assessment level of 1.00, and
- (iii) to compensate for differences between the *Standards of Assessment Regulation* (AR 365/94) and the applicable assessment legislation and regulations that were in force when assessments were last prepared for all property in the municipality.

AR 366/94 s2;299/95;318/96; 280/98

- Limit on increases in equalized assessments
- 2.1 (1) Pursuant to section 325 of the Act, the Minister may by order limit the amount by which equalized assessments for any class of property listed in section 297 of the Act may increase from one year to the next.
- (2) Subsection (1) applies only to equalized assessments being prepared for 1999 or a subsequent year.

AR 318/96 s3; 280/98

- City of Lloydminster
- 3 The equalized assessment for the portion of the City of Lloydminster that is in Alberta must reflect assessments as if they were prepared in accordance with the Act.

4 and 5 Repealed AR 280/98 s6.

- Coming into force
- 6 This Regulation comes into force on January 1, 1995.

SCHEDULE - Repealed AR 280/98 s7.

STANDARDS OF ASSESSMENT REGULATION

The Standards of Assessment Regulation (AR 365/94) was amended by Alberta Regulation 282/98. The changes include removal of depreciated replacement cost as an assessment method, clarifies the valuation of a three-acre site within a parcel of land assessed at market value, and implements 1994 regulated rates for machinery and equipment for the next two years.

**ALBERTA REGULATION 365/94
Municipal Government Act
(Consolidated up to 282/98)**

STANDARDS OF ASSESSMENT REGULATION

Table of Contents

Definitions	1
Valuation standard for a parcel of land	2
Valuation standard for improvements	3
Valuation standard for railway	5
Valuation standard for linear property	6
Valuation standard for machinery and equipment	7
Valuation standard for a parcel and improvements	7.1
Actions under the Municipal Government Act	8
Assessment based on July 1 value of property	9
Quality standards	10
Recording information on assessment record	11
Duty to record information	12
Duty to provide information to Minister	13
Coming into force	14

Schedules

Definitions	1	In this Regulation,
		(a) "Act" means the <i>Municipal Government Act</i> , SA 1994 cM-26.1;
		(b) "agricultural use value" means the value of a parcel of land based exclusively on its use for farming operations;
		(c) "assessment year" means the year in which assessments are prepared for property in a municipality to be used for taxation in the following year;
		(d) repealed AR 282/98 s2;
		(e) "farming operations" means the raising, production and sale of agricultural products and includes
		(i) horticulture, aviculture, apiculture and aquiculture,

- (ii) the production of livestock as defined in the Livestock and Livestock Products Act, and
- (iii) the planting, growing and sale of sod;
- (f) "farm building" means any improvement other than a residence, to the extent it is used for farming operations;
- (g) "machinery and equipment" means materials, devices, fittings, installations, appliances, apparatus and tanks other than tanks used exclusively for storage, including supporting foundations and footings and any other thing prescribed by the Minister that forms an integral part of an operational unit intended for or used in
 - (i) manufacturing,
 - (ii) processing,
 - (iii) the production or transmission by pipeline of natural resources or products or byproducts of that production, but not including pipeline that fits within the definition of linear property in section 284(k)(iii) of the Act,
 - (iv) the excavation or transportation of coal or oil sands, as defined in the *Oil Sands Conservation Act*,
 - (v) a telecommunications system, or
 - (vi) an electric power system,

whether or not the materials, devices, fittings, installations, appliances, apparatus, tanks, foundations, footings or other things are affixed to land in such a manner that they would be transferred without special mention by a transfer or sale of the land;
- (h) "mass appraisal" means the process of preparing assessments for a group of properties using standard methods and common data and allowing for statistical testing.

AR 365/94 s1; 282/98

Valuation
standard for a
parcel of land

- 2 (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.
- (2)** In preparing an assessment for a parcel of land based on agricultural use value, the assessor must follow the procedures set out in the Alberta Farm Land Assessment Minister's

Guidelines established and maintained by the Department of Municipal Affairs, as amended from time to time.

- (3) Despite subsection (1)(b), the valuation standard for the following property is market value
- (a) a parcel of land containing less than one acre;
 - (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 by using water and sewer distribution lines located in land that is adjacent to the parcel;**
 - (c) **an area of 3 acres located within a larger parcel of land where any part of the larger parcel is used but not necessarily occupied for residential purposes;**
 - (d) an area of 3 acres that
 - (i) is located within a parcel of land, and
 - (ii) **can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;**
 - (e) any area that
 - (i) is located within a parcel of land,
 - (ii) is used for commercial or industrial purposes, and
 - (iii) cannot be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;
 - (f) an area of 3 acres or more that
 - (i) is located within a parcel of land,
 - (ii) is used for commercial or industrial purposes, and
 - (iii) can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel.
- (4) An area referred to in subsection (3)(c), (d), (e) or (f) must be assessed as if it is a parcel of land.

- (5) The valuation standard for strata space, as defined in section 87 of the Land Titles Act, is market value.
- AR 365/98 s2; 282/98
- Valuation standard for improvements
- 3 (1) The valuation standard for improvements is
- (a) the valuation standard set out in section 5, 6 or 7, for the improvements referred to in those sections, or
- (b) for other improvements, market value.**
- (2) Repealed AR 282/98 s4.
- (3) In preparing an assessment for a farm building, the assessor must determine its value based on its use for farming operations.
- AR 365/94 s3; 282/98
- (4) **Repealed AR 282/98 s5.**
- Valuation standard for railway
- 5 (1) The valuation standard for railway is the value determined in accordance with Schedule 1.
- (2) Each rail company must report the type and length of line in each municipality annually to the designated assessor.
- AR 365/94 s5; 313/96
- Valuation standard for linear property
- 6 (1) The valuation standard for linear property is that calculated in accordance with the procedures referred to in subsection (2).
- (2) In preparing an assessment for linear property, the assessor must follow the procedures set out in the Alberta Linear Property Assessment Minister's Guidelines established and maintained by the Department of Municipal Affairs, as amended from time to time.
- AR 365/94 s6;313/96;290/97
- Valuation standard for machinery and equipment
- 7 (1) The valuation standard for machinery and equipment is that calculated in accordance with the procedures referred to in subsection (2).
- (2) In preparing an assessment for machinery and equipment, the assessor must follow the procedures set out in the Alberta Machinery and Equipment Assessment Minister's Guidelines established and maintained by the Department of Municipal Affairs, as amended from time to time.

- (3) The assessor must elect to comply with Appendix III or Appendix IV to the guidelines referred to in subsection (2) and on making the election must prepare all assessments for machinery and equipment in the municipality in accordance with that election.
- (4) Where the assessor elects to comply with Appendix III to the guidelines referred to in subsection (2), the assessor must notify the Minister of that election.
- (5) Subsections (3) and (4) have no effect after December 31, 1999.

AR 365/94 s7; 282/98

Valuation standard for a parcel and improvements

- 7.1** 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
- (a) unless the land is a parcel used for farming operations, in which case the valuation standard in section 2(1)(b) applies to the land, and
 - (b) unless the improvement is railway, linear property or machinery and equipment, in which case the valuation standard in section 5, 6 or 7, as the case may be, applies to the improvement.

AR 282/98 s7

Actions under the Municipal Government Act

- 8** When a property is used for farming operations or residential purposes and an action is taken under Part 17 of the Act that has the effect of permitting or prescribing for that property some other use, the assessor must determine its value
- (a) in accordance with its residential use, for that part of the property that is occupied by the owner or the purchaser or the spouse or dependent of the owner or purchaser, and is used exclusively for residential purposes, or
 - (b) based on agricultural use value, if the property is used for farming operations, unless section 2(3) applies.

AR 365/94 s8;290/97; 282/98

Assessment based on July 1 value of property

- 9** 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.

Quality standards

- 10** Assessments for property other than

- (a) land, based on agricultural use value,
 - (b) railway,
 - (c) linear property, and
 - (d) machinery and equipment
- must be prepared having regard to the quality standards required by Schedule 2.
- Mass appraisal **11** 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.
- AR 365/94 s11; 282/98
- Duty to record information **12** The assessor must keep a record of the information set out in Schedule 3 for each property, if applicable.
- Duty to provide information to Minister **13** A municipality must provide to the Minister, in the manner required by the Minister, information and statistics about
- (a) the municipality, and
 - (b) similar properties in the municipality.
- Coming into force **14** This Regulation comes into force on January 1, 1995.

SCHEDULE 1
VALUATION STANDARD FOR RAILWAY

The valuation standard for railway is \$391 000 per kilometre, as adjusted by

- (a) firstly, multiplying the valuation standard by the applicable assessment year modifier, and
- (b) secondly, multiplying the product of the valuation standard and the applicable assessment year modifier by the applicable factor for the applicable annual traffic:

ASSESSMENT YEAR	MODIFIER
1995	1.00
1996	1.00
1997	1.00
1998	1.00

AVERAGE ANNUAL TRAFFIC		FACTOR
Type 1	More than 25 million tonnes	0.400
Type 2	More than 15 million tonnes to a maximum of 25 million tonnes	0.300
Type 3	More than 7 million tonnes to a maximum of 15 million tonnes	0.150
Type 4	More than 3 million tonnes to a maximum of 7 million tonnes	0.040
Type 5	More than 1 million tonnes to a maximum of 3 million tonnes	0.030
Type 6	Up to 1 million tonnes	0.025
Type 7	Abandoned rail line or zero tonnes	0.010
Type 8	Spur line on station ground, private land or marshalling or maintaining yards	0.020*

*Indicates rail value only. Land is valued separately.

AR 365/94 Sched.1;313/96

SCHEDULE 2 QUALITY STANDARDS

In this Schedule,

- (a) "assessment level" for a specified group of properties means the overall ratio of assessments to indicators of market value;
- (a.1) "assessment ratio" means the ratio of the assessment to an indicator of market value for a property;
- (b) "coefficient of dispersion" means the average percentage deviation of the assessment ratios from the median assessment ratio;
- (c) "median assessment ratio" means the middle assessment ratio when the assessment ratios for a group of properties are arranged in order of magnitude;
- (d) "property" means property other than
 - (i) land, where the assessment is based on agricultural use value,
 - (ii) railway,
 - (iii) linear property, and
 - (iv) machinery and equipment.

The following quality standards must be met in the preparation of assessments of property:

Property Type	Median Assessment Ratio	Coefficient of Dispersion
Residential	.90 - 1.10	0 - 15.0
Income properties		
Cities	.90 - 1.10	0 - 20.0
Other municipalities	.90 - 1.10	0 - 20.0
Vacant property	.90 - 1.10	0 - 20.0

The median assessment ratio of any group must be within 5% of the assessment level.

AR 365/94 Sched.2;313/96

SCHEDULE 3 INFORMATION TO BE RECORDED

For each parcel of land - legal description, parcel size, land use bylaw code and actual use

For each improvement - quality rating, classification, size, effective year built and condition

For a sale - certificate of title, sale price, adjustments and sale date

TRANSITIONAL REGULATION

The Transitional Regulation (AR 372/94) was amended by Alberta Regulation 283/98. Some transitional provisions have expired and are no longer required. The amendments also provide Red Deer County and Yellowhead County an extra year to prepare updated farmland assessments.

**ALBERTA REGULATION 372/94
Municipal Government Act
(Consolidated up to 283/98)**

TRANSITIONAL REGULATION*Table of Contents*

Definitions	1
Year in which the new Act applies to assessments	2
Preparation of assessment roll	3
Assessed values	4
Application of Property Tax Exemption Regulation	5
Assessments for condominiums	7
Public vote bylaws	13.1
Land use bylaws - transfer of land	13.2
Planning bylaws	13.3
Assessment appeals	16
Tax recovery matters	17
Continuation of lease, licence or permit	18
Auditor	20.15
Business revitalization zones	20.3
Investments	20.4
Authority to sit as member of Alberta Assessment Appeal Board	20.5
Coming into force	21

Definitions

1

In this Regulation,

- (a) "Alberta Assessment Appeal Board" means the Alberta Assessment Appeal Board appointed under the former *Assessment Appeal Board Act*;
- (b) "former Assessment Appeal Board Act" means the *Assessment Appeal Board Act*, RSA 1980 cA-46;
- (c) "former Municipal Government Act" means the *Municipal Government Act*, RSA 1980 cM-26;
- (d) "former Municipal Tax Exemption Act" means the *Municipal Tax Exemption Act*, RSA 1980 cM-30;
- (e) "former Municipal Taxation Act" means the *Municipal Taxation Act*, RSA 1980 cM-31;
- (e.1) "former Planning Act" means the *Planning Act*, RSA 1980

cP-9;

- (f) "former Tax Recovery Act" means the *Tax Recovery Act*, RSA 1980 cT-1;
- (g) "machinery and equipment" has the meaning given to it in section 1(g)(i), (ii) and (iii) of the *Standards of Assessment Regulation* (Alta. Reg. 365/94);
- (h) "new Act" means the *Municipal Government Act*, SA 1994 cM-26.1.

AR 372/94 s1;220/95

Year in which the new Act applies to assessments

- 2 (1) A municipality that completed a general assessment under the former *Municipal Taxation Act* in 1992 or any earlier year must prepare assessments for property in the municipality in accordance with the new Act not later than 1996, for taxation in the following year.
- (2) A municipality that completed a general assessment under the former *Municipal Taxation Act* in 1993 or 1994 must prepare assessments for property in the municipality in accordance with the new Act not later than 1997, for taxation in the following year.
- (3) **Repealed AR 283/98 s2.**
- (4) Despite subsections (1) and (2),
 - (a) the City of Edmonton must prepare assessments for property in that municipality in accordance with the new Act,
 - (b) the City of Calgary must prepare assessments for property in that municipality in accordance with the new Act, and
 - (c) the City of Wetaskiwin must prepare assessments for property in that municipality in accordance with the new Act,
 not later than for the taxation year 1999.
- (5) **Despite subsections (1) and (2), the County of Red Deer and Yellowhead County must prepare assessments in accordance with the new Act for property in those municipalities that falls within class 3 as set out in section 297(1)(c) of the new Act not later than for the taxation year 2000.**

AR 372/94 s2;315/96;162/97;283/98

Preparation of assessment roll

- 3 (1) A municipality that has been required under section 2 to prepare assessments in accordance with the new Act must prepare its assessment roll to reflect those assessments.
- (2) A municipality that has not yet been required under section 2 to prepare assessments in accordance with the new Act may prepare

its assessment roll to reflect the following:

- (a) the assessed values prepared or adopted for property before the coming into force of the new Act;
- (b) the assessed values determined in accordance with section 35 of the former *Municipal Taxation Act* for property that was exempt under the former *Municipal Taxation Act*, but excluding any assessed values determined for property listed in section 298 of the new Act;
- (c) the assessed values prepared or adopted for property after the coming into force of the new Act, but excluding any assessed values determined for property listed in section 298 of the new Act.

(3) and (4) repealed AR 283/98 s3.

AR 372/94 s3;283/98

Assessed values 4 The assessed values referred to in section 3(2)(c) must reflect the property values that existed in the last year when assessments were prepared for all property in the municipality.

Application of Property Tax Exemption Regulation 5 The exemptions from taxation in section 2(a) and (b) of the *Property Tax Exemption Regulation* (Alta. Reg. 368/94) do not apply to a municipality

- (a) that has not yet been required under section 2 of this Regulation to prepare assessments in accordance with the new Act, and
- (b) that is not affected by the *Rural Improvements Assessment Exemption Regulation* (Alta. Reg. 373/88) for taxation purposes in 1995.

6 Repealed AR 283/98 s4

Assessments for condominiums 7 (1) The rules set out in the former Municipal Taxation Act relating to the assessment of condominiums continue to apply to a municipality until the municipality has prepared assessments for condominium property in that municipality in accordance with the new Act.

(2) Section 737(10) of the new Act has no effect in a municipality until the municipality has prepared assessments for condominium property in that municipality in accordance with the new Act.

AR 372/94 s7;220/95

8 to 13 Repealed AR 283/98 s4.

Public vote bylaws 13.1 (1) In this section, "public vote bylaw" means a bylaw passed in 1990, 1991, 1992, 1993 or 1994 under section 125 of the former

Municipal Government Act as a result of a vote of the electors.

- (2) For the purposes of applying section 240(1)(b) of the new Act to a public vote bylaw, the reference to "3 years" in section 240(1)(b) is deemed to be a reference to "5 years".
- (3) This section ceases to apply to a public vote bylaw 5 years from the date that the bylaw was passed.
- (4) This section does not affect the validity of a bylaw that amends or repeals a public vote bylaw if the amendment or repeal was passed in accordance with the new Act between January 1, 1995 and the coming into force of this section.

AR 105/95 s2

Land use bylaws
- transfer of land

13.2

If land is transferred from one municipal authority to another as a result of an amalgamation, annexation or separation made under the former Municipal Government Act, the land use bylaw of the municipal authority from which the land was transferred continues to apply to the land until repealed or amended by the municipal authority that received the land.

AR 220/95 s4

Planning bylaws

13.3

- (1) In this section,
 - (a) "proposed adoption bylaw" means a bylaw to adopt or amend a statutory plan as defined in the former *Planning Act* and that received first reading before September 1, 1995 but was not passed before September 1, 1995;
 - (b) "proposed land use bylaw" means a land use bylaw or an amendment to a land use bylaw that received first reading before September 1, 1995 but was not passed before September 1, 1995.
- (2) Despite Part 17 of the new Act, the provisions of the former Planning Act relating to the passage of a bylaw that adopts or amends a statutory plan as defined in the former *Planning Act* and the provisions respecting the content of those plans continue to apply to a proposed adoption bylaw until January 1, 1996 or the bylaw is passed, whichever occurs first.
- (3) A joint general municipal plan that is adopted or amended by a proposed adoption bylaw that is passed before January 1, 1996 is deemed to be an intermunicipal development plan under the new Act and must be amended on or before September 1, 1998 to provide for the matters referred to in section 631(2)(b) of the new Act if those matters are not provided for in the plan.
- (4) A general municipal plan that is adopted or amended by a proposed adoption bylaw that is passed before January 1, 1996 is deemed to be a municipal development plan under the new Act and must be amended on or before September 1, 1998 to provide for the matters referred to in section 632(3)(a), (d) and (e) of the

new Act if those matters are not provided for in the plan.

- (5) An area structure plan that is adopted by a proposed adoption bylaw that is passed before January 1, 1996 is deemed to be an area structure plan under the new Act.
- (6) An area redevelopment plan that is adopted by a proposed adoption bylaw that is passed before January 1, 1996 is deemed to be an area redevelopment plan under the new Act.
- (7) Despite Part 17 of the new Act, the provisions of the former *Planning Act* relating to the passage, amendment and content of a land use bylaw continue to apply to a proposed land use bylaw until January 1, 1996 or the bylaw is passed, whichever occurs first.
- (8) A proposed land use bylaw that is passed before January 1, 1996 is deemed to be a land use bylaw under the new Act and must be amended on or before September 1, 1998 to provide for the matters described in section 640(2) of the new Act if those matters are not provided for in the bylaw.

AR 220/95 s4

14 and 15 Repealed AR 283/98 s4.

Assessment appeals 16 Section 730 of the new Act applies only if the notice of appeal was served on the person and within the time specified in section 57 of the former *Municipal Taxation Act*.

AR 372/94 s16;220/95

Tax recovery matters 17 (1) Where a tax recovery notification is registered against a parcel of land before January 1, 1995 by the Registrar of the proper land titles office under section 4(1) of the former *Tax Recovery Act*, the parcel must be offered for sale at a public auction held not later than January 1, 1996.

(2) If a parcel of land is offered for sale by a municipality but is not sold at a public auction held before January 1, 1995 and there are tax arrears in respect of the parcel, the municipality becomes the owner of the parcel on the expiration of one year following the public auction, unless it has started an action under section 411(1)(b) of the new Act before the expiration of that year.

(2.1) In the circumstances referred to in subsection (2), the Minister may, by order, permit the municipality to become the owner of the parcel before the expiration of the one-year period referred to in subsection (2).

(3) A person who had a right to apply under section 28 of the former *Tax Recovery Act* for all or part of the money held in a tax sale trust account before the coming into force of the new Act may make that application at any time before January 1, 1996.

AR 372/94 s17;133/95

Continuation of lease on tax recovery land **18** If a tax recovery notification is registered against a parcel of land before January 1, 1995 by the Registrar of the proper land titles office under section 4(1) of the former *Tax Recovery Act* and a lease, licence or permit has been granted by the municipality or a member of the Executive Council of Alberta in respect of the parcel before January 1, 1995, the lease, licence or permit continues until the term specified in it expires.

19, 20 and 20.1 Repealed AR 283/98 s4.

Auditor **20.15 (1)** Despite section 280(3) of the new Act, a council may appoint an employee of the municipality to be its auditor for the purposes of preparing the auditor's report for the municipality's financial information return in respect of the 1994 financial year.

(2) The employee referred to in subsection (1) may not be appointed unless the employee reports directly to council and is a chartered accountant, certified management accountant or certified general accountant.

AR 191/95 s2

20.2 Repealed AR 220/95 s7.

Business revitalization zones **20.3 (1)** If a request to designate an area as a business revitalization zone and to establish its board was received by a council before January 1, 1995, then, despite sections 2 to 5(1) of the *Business Revitalization Zone Regulation* (Alta. Reg. 377/94), section 171.2(1) to (4) of the former Municipal Government Act apply to the request.

(2) If a council receives a request referred to in subsection (1) and there is no bylaw providing for the assessment of businesses in the municipality before January 1, 1995, then

(a) the references in section 171.2(1) and (2) to persons shown on the current assessment roll as being assessed for business assessment are deemed to refer to persons who operate businesses in the proposed business revitalization zone and who would be liable to pay a business revitalization zone tax in respect of those businesses if the zone was established, and

(b) the reference in section 171.2(3) to persons entitled to notice representing at least 1/3 of the business assessment is deemed to refer to persons who represent at least 1/3 of the businesses whose operators would be liable to pay a business revitalization zone tax in respect of those businesses if the zone was established.

(3) If a business revitalization zone is to be established as a result of a request referred to in subsection (1), the bylaw establishing the zone and its board is subject to section 5(2) of the *Business*

Revitalization Zone Regulation (Alta. Reg. 377/94).

AR 19/95 s2

- | | | |
|-------------|-------------|--|
| Investments | 20.4 | <p>(1) Section 250 of the new Act does not apply to investments made by a municipality before January 1, 1995 under the former <i>Municipal Government Act</i>.</p> <p>(2) Money from an investment referred to in subsection (1) that is invested after January 1, 1995 is subject to section 250 of the new Act.</p> |
|-------------|-------------|--|

AR 19/95 s2

- | | | |
|---|-------------|---|
| Authority to sit as member of Alberta Assessment Appeal Board | 20.5 | <p>A person appointed as a member of the Municipal Government Board under section 486(1) of the new Act may sit as a member of the Alberta Assessment Appeal Board for the purpose of hearing appeals under section 730 of the new Act.</p> |
|---|-------------|---|

AR 102/95 s2;220/95

- | | | |
|-------------------|-----------|--|
| Coming into force | 21 | <p><i>This Regulation comes into force on January 1, 1995.</i></p> |
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**ALBERTA REGULATION 281/98
Municipal Government Act**

COMMUNITY ORGANIZATION PROPERTY TAX EXEMPTION REGULATION

Table of Contents

Interpretation	1
Part 1 General Rules	
Application	2
Part of a property	3
Primary use of property	4
Holding property	5
Non-profit organization	6
Meaning of restricted	7
Gaming and liquor licences	8
Part 2 Qualifications for Exemptions under Section 362(1)(n)(ii) to (v)	
Exemption under section 362(1)(n)(ii) of the Act	9
Exemption under section 362(1)(n)(iii) of the Act	10
Exemption under section 362(1)(n)(iv) of the Act	11
Exemption under section 362(1)(n)(v) of the Act	12
Part 3 Other Property Exempt under Section 362(1)(n)	
Definitions	13
Exemption for other property	14
Day cares, museums and other facilities	15
Conditions for exemption	16
Waiver of application requirement	17
Retail commercial areas	18
Part 4 Transitional Matters	
Application for 1999 exemption	19
Requirements for 1999 exemption	20
Waiver of application requirement in 1999	21
Part 5 Repeal and Review	
Repeal	22
Expiry	23

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|----------------|-------|--|
| Interpretation | 1 (1) | <p>In this Regulation,</p> <p>(a) "Act" means the <i>Municipal Government Act</i>;</p> <p>(b) "charitable or benevolent purpose" means the relief of poverty, the advancement of education, the advancement of religion or any other purpose beneficial to the community;</p> <p>(c) "general public" means pertaining to the general community, rather than a group with limited membership or a group of business associates;</p> <p>(d) "professional sports franchise" means a professional sports franchise operating in the National Hockey League, the Canadian Football League, the National Professional Soccer League or the Pacific Coast League;</p> <p>(e) "taxation" means taxation under Division 2 of Part 10 of the Act.</p> <p>(2) For the purposes of the Act and this Regulation, "community association" means an organization where membership is voluntary, but restricted to residents of a specific area, and that is formed for the purpose of</p> <p>(a) enhancing the quality of life for residents of the area or enhancing the programs, public facilities or services provided to the residents of the area, or</p> <p>(b) providing non-profit sporting, educational, social, recreational or other activities to the residents of the area.</p> <p>(3) The definitions in sections 1 and 284 of the Act apply to this Regulation.</p> |
|----------------|-------|--|

**PART 1
GENERAL RULES**

- | | | |
|-------------------------|-------|--|
| Application | 2 | This Regulation applies to taxation in 1999 and later years. |
| Part of a property | 3 | An exemption under section 362(1)(n)(i) to (v) of the Act or Part 3 of this Regulation applies only to the part of a property that qualifies for the exemption. |
| Primary use of property | 4 (1) | Property is not exempt from taxation under section 362(1)(n)(iii), (iv) or (v) of the Act or Part 3 of this Regulation unless the property is primarily used for the purpose or use described in those provisions. |
| | (2) | For the purposes of this Regulation, a property is primarily used for a purpose or use if the property is used for the specified purpose or use at least 60% of the time that the property is in use. |

- Holding property **5** When section 362(1)(n)(i) to (v) of the Act or Part 3 of this Regulation requires property to be held by a non-profit organization, a society as defined in the *Agricultural Societies Act* or a community association for the property to be exempt from taxation, the property is not exempt unless
- (a) the organization, society or association is the owner of the property and the property is not subject to a lease, licence or permit, or
 - (b) the organization, society or association holds the property under a lease, licence or permit.
- Non-profit organization **6** When section 362(1)(n)(i) to (v) of the Act or Part 3 of this Regulation requires property to be held by a non-profit organization or community association for the property to be exempt from taxation, the property is not exempt unless
- (a) the organization or association is a society incorporated under the *Societies Act*, or
 - (b) the organization or association is
 - (i) a corporation incorporated in any jurisdiction, or
 - (ii) any other entity established under a federal law or law of Alberta
- that is prohibited, by the laws of the jurisdiction governing its formation or establishment, from distributing income or property to its shareholders or members during its existence.
- Meaning of restricted **7 (1)** In this Regulation, a reference to the use of property being restricted means, subject to subsections (2) and (3), that individuals are restricted from using the property on any basis, including a restriction based on
- (a) race, culture, ethnic origin or religious belief,
 - (b) the ownership of property,
 - (c) the requirement to pay fees of any kind, other than minor entrance or service fees, or
 - (d) the requirement to become a member of an organization.
- (2)** The requirement to become a member of an organization does not make the use of the property restricted so long as
- (a) membership in the organization is not restricted on any basis, other than the requirement to fill out an application and pay a minor membership fee, and
 - (b) membership occurs within a short period of time after any

application or minor fee requirement is satisfied.

- (3) Not permitting an individual to use a property for safety or liability reasons or because the individual's use of the property would contravene a law does not make the use of the property restricted.

Gaming and
liquor
licences

- 8 (1) For the purposes of section 365(2) of the Act, property described in section 362(1)(n) of the Act and Part 3 of this Regulation in respect of which a bingo licence, casino licence, pull ticket licence, Class C liquor licence or a special event licence is issued under the *Gaming and Liquor Regulation* (AR 143/96) is exempt from taxation if the requirements of section 362(1)(n) and this Regulation in respect of the property are met.
- (2) Despite subsection (1), property in respect of which a bingo facility licence or casino facility licence is issued is not exempt from taxation.

PART 2
QUALIFICATIONS FOR EXEMPTIONS
UNDER SECTION 362(1)(n)(ii) TO (v)

Exemption
under section
362(1)(n)(ii)
of the Act

- 9 (1) The following property is not exempt from taxation under section 362(1)(n)(ii) of the Act:
- (a) property to the extent that it is used in the operation of a professional sports franchise;
- (b) property that is used solely for community games, sports, athletics or recreation if, for more than 40% of the time that the property is in use, the majority of those participating in the activities held on the property are 18 years of age or older.
- (2) Property is not exempt from taxation under section 362(1)(n)(ii) of the Act if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7 as modified by subsection (3).
- (3) For the purposes of subsection (2), limiting the participation in activities held on a property to persons of a certain age does not make the use of the property restricted.

Exemption
under section
362(1)(n)(iii)
of the Act

- 10 (1) Property referred to in section 362(1)(n)(iii) of the Act is not exempt from taxation unless
- (a) the charitable or benevolent purpose for which the property is primarily used is a purpose that benefits the general public in the community in which the property is located, and
- (b) the resources of the non-profit organization that holds the property are devoted chiefly to the charitable or benevolent purpose for which the property is used.

- (2) Property is not exempt from taxation under section 362(1)(n)(iii) of the Act if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7.
- Exemption under section 362(1)(n)(iv) of the Act 11 Property referred to in section 362(1)(n)(iv) of the Act is not exempt from taxation unless the accommodation provided to senior citizens is subsidized accommodation as defined in the *General Regulation* (AR 213/94).
- Exemption under section 362(1)(n)(v) of the Act 12 (1) The following property is not exempt from taxation under section 362(1)(n)(v) of the Act:
- (a) property to the extent that it is used in the operation of a professional sports franchise;
 - (b) property if, for more than 40% of the time that the property is in use, the majority of those participating in the activities held on the property are 18 years of age or older;
 - (c) property in Calgary or Edmonton that is held by and used in connection with a community association if the association is not a member of the Federation of Calgary Communities or the Edmonton Federation of Community Leagues
- (2) Property is not exempt from taxation under section 362(1)(n)(v) of the Act if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7 as modified by subsection (3).
- (3) For the purposes of subsection (2), limiting the participation in activities held on a property to persons of a certain age does not make the use of the property restricted.

**PART 3
OTHER PROPERTY EXEMPT
UNDER SECTION 362(1)(n)**

- Definitions 13 In this section,
- (a) "arts" means theatre, literature, music, painting, sculpture or graphic arts and includes any other similar creative or interpretive activity;
 - (b) "chamber of commerce" means a chamber of commerce that is a non- profit organization and is a member of the Alberta Chamber of Commerce;
 - (c) "ethno-cultural association" means an organization formed for the purpose of serving the interests of a community defined in terms of the racial, cultural, ethnic, national or linguistic origins or interests of its members;
 - (d) "linguistic organization" means an organization formed for

the purpose of promoting the use of English or French in Alberta;

- (e) "museum" means a facility that is established for the purpose of conserving, studying, interpreting, assembling and exhibiting, for the instruction and enjoyment of the general public, art, objects or specimens of educational and cultural value or historical, technological, anthropological, scientific or philosophical inventions, instruments, models or designs;
- (f) "retail commercial area" means property used to sell food, beverages, merchandise or services;
- (g) "sheltered workshop" means a facility designed to provide an occupation for and to promote the adjustment and rehabilitation of persons who would otherwise have difficulty obtaining employment because of physical, mental or developmental disabilities;
- (h) "thrift shop" means a retail outlet operated for a charitable or benevolent purpose that sells donated clothing, appliances, furniture, household items and other items of value at a nominal cost to people in need.

Exemption
for other
property

14

This Part describes property that is exempt from taxation under section 362(1)(n) of the Act that is not exempt under section 362(1)(n)(i) to (v) of the Act.

Day cares,
museums
and other
facilities

15

A non-profit organization that holds property on which any of the following facilities are operated may apply to the municipality within whose area the property is located for an exemption from taxation:

- (a) a facility used for sports or recreation to the extent that the facility is not used in the operation of a professional sports franchise;
- (b) a facility used for fairs or exhibitions, including agricultural exhibitions;
- (c) a facility used for the arts or a museum;
- (d) a facility used for the care and supervision of children and that is
 - (i) a day care facility as defined in the Day Care Regulation (AR 333/90), and
 - (ii) licensed under that Regulation;
- (e) a facility used by a linguistic organization if
 - (i) the use of the property by the general public is

actively encouraged, and

- (ii) a sign is prominently posted in the facility indicating the hours that the whole or part of the facility is accessible to the public;
- (f) a facility used by an ethno-cultural association for sports, recreation or education or for charitable or other benevolent purposes if
 - (i) the use of the property by the general public is actively encouraged, and
 - (ii) a sign is prominently posted in the facility indicating the hours that the whole or part of the facility is accessible to the public;
- (g) a facility in a municipality operated and used by an organization for a charitable or benevolent purpose where the majority of the organization's beneficiaries do not reside in the municipality;
- (h) a facility used as a thrift shop;
- (i) a facility used as a sheltered workshop;
- (j) a facility operated and used by a chamber of commerce;
- (k) a facility used for a charitable or benevolent purpose that is for the benefit of the general public if
 - (i) the charitable or benevolent purpose for which the facility is primarily used is a purpose that benefits the general public in the community in which the facility is located, and
 - (ii) the resources of the non-profit organization that holds the facility are devoted chiefly to the charitable or benevolent purpose for which the facility is used.

Conditions for exemption

- 16 (1)** A municipality must grant a non-profit organization an exemption from taxation in a taxation year in respect of property referred to in section 15 that is held by the organization if
- (a) the non-profit organization makes an application for an exemption to the municipality by November 30 of the year preceding the taxation year and supplies the municipality with the following by February 15 in the taxation year:
 - (i) any information the municipality requires to determine if the organization meets the conditions

- for the exemption, and
- (ii) a description of any retail commercial areas in the facility,
- (b) the facility on the property is one of the facilities described in section 15 and the non-profit organization operates the facility on a non-profit basis,
 - (c) the funds of the non-profit organization are chiefly used for the purposes of the organization and not for the benefit of the organization's directors and employees,
 - (d) the property is not disqualified by virtue of subsection (2) or (3), and
 - (e) the requirements of subsections (4) and (5), if applicable, are met.
- (2)** Property referred to in section 15(a), (b), (c), (e), (f), (j) or (k) is not exempt from taxation if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7.
- (3)** Property referred to in section 15(d) or (g) to (i) is not exempt from taxation if an individual is not permitted to use the property because of the individual's race, culture, ethnic origin or religious belief.
- (4)** Before granting an exemption under this section in respect of a property that is held by a non-profit organization, the municipality may require that an agreement between the organization and the municipality be in force that sets out that
- (a) the organization will provide the municipality with a report by a time and in a manner specified in the agreement that sets out the information the municipality requires to determine if the organization met the conditions for the exemption during the taxation year, and
 - (b) if the organization does not comply with the provisions referred to in clause (a), the organization will pay the municipality an amount equivalent to the property taxes that would be payable in respect of the property for the taxation year if the property was not exempt.
- (5)** Before granting an exemption under this section in respect of a property that is owned by a non-profit organization, the municipality may require that an agreement between the organization and the municipality be in force that sets out that
- (a) no disposition of the property may be made without the approval of the municipality, and
 - (b) if the organization is being wound-up and dissolved, the

organization must, if required by the municipality, transfer the property to the municipality.

- (6) If a municipality grants an exemption to a non-profit organization and later determines that the organization did not meet the conditions that applied to the organization for the exemption for all or part of the taxation year, the municipality may in the taxation year cancel the exemption for all or part of the taxation year, as the case may be, and require the organization to pay property tax in respect of the property for the period that the exemption is canceled.
- Waiver of application requirement
- 17 (1) If a municipality has granted a non-profit organization an exemption from taxation under section 16 in respect of a property, the municipality may grant the non-profit organization an exemption from taxation in the following taxation year under section 16 in respect of the property without requiring the organization to apply for the exemption.
- (2) A municipality that has waived an application requirement under subsection (1) in respect of a property for a taxation year may
- (a) require the non-profit organization that holds the property to provide any information that the organization may be required to provide if it was applying for an exemption, and
- (b) if the non-profit organization does not provide the information, cancel in that taxation year the exemption for all or part of that taxation year and require the organization to pay property tax in respect of the property for the period that the exemption is canceled.
- (3) A municipality may not waive the application requirement under subsection (1) in respect of a property for more than 3 consecutive taxation years.
- Retail commercial areas
- 18 (1) In this section, "exempt facility" means a facility or part of a facility held by a non-profit organization, a society as defined in the Agricultural Societies Act or a community association that is exempt from taxation under section 362(1)(n)(i) to (v) of the Act or section 16 of this Regulation.
- (2) A retail commercial area that is located within an exempt facility is exempt from taxation if
- (a) the non-profit organization, society as defined in the Agricultural Societies Act or community association that holds the exempt facility also holds and operates the retail commercial area, and
- (b) the net income from the retail commercial area is used
- (i) to pay all or part of the operational or capital costs of the exempt facility, or

- (ii) to pay all or part of the operational or capital costs of any other facility that is held by the non-profit organization, society or community association and that is exempt from taxation under section 362 of the Act or section 16 of this Regulation.

**PART 4
TRANSITIONAL MATTERS**

- | | | |
|---|-----------|--|
| Application for 1999 exemption | 19 | <p>(1) For the 1999 taxation year, a municipality may grant a non-profit organization an exemption from taxation in respect of property under section 16 if the organization makes an application for the exemption to the municipality by April 30, 1999 and supplies the information described in section 16(1)(a)(i) and (ii) by May 31, 1999.</p> <p>(2) A municipality may, in respect of a non-profit organization, establish dates that are later than those referred to in subsection (1) for making an application or supplying information.</p> |
| Requirements for 1999 exemption | 20 | <p>(1) This section applies to the 1999 taxation year.</p> <p>(2) A municipality may grant a non-profit organization an exemption from taxation in respect of property referred to in section 15 that is held by the organization only if</p> <ul style="list-style-type: none"> (a) the facility on the property or any retail commercial area in the facility does not provide significant competition with one or more taxable businesses in the municipality or surrounding area, and (b) the municipality is satisfied that the operations of the non-profit organization on the property provide significant benefits. <p>(3) Despite subsection (2), a municipality may, in respect of a non-profit organization, waive either or both of the requirements in subsection (2)(a) and (b).</p> |
| Waiver of application requirement in 1999 | 21 | <p>For the 1999 taxation year, the power of a municipality to waive an application requirement under section 17(1) also applies when the municipality has granted an exemption from taxation under section 15 of the <i>Community Organization 1998 Property Tax Exemption Regulation</i> (AR 289/97).</p> |

**PART 5
REPEAL AND REVIEW**

- | | | |
|--------|-----------|--|
| Repeal | 22 | <p>(1) The Community Organization 1998 Property Tax Exemption Regulation (AR 289/97) is repealed.</p> <p>(2) Despite the repeal of the Community Organization 1998 Property Tax Exemption Regulation (AR 289/97), that Regulation continues</p> |
|--------|-----------|--|

to apply to taxation in 1998.

Expiry

23

For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on December 31, 2003.

Following is a re-print of the Regional Shopping Centre Allocation of Assessment Regulation with corrections to typing errors. Please disregard the one in Issue No. 2, December 21, 1998.

**ALBERTA REGULATION 244/98
Municipal Government Act**

REGIONAL SHOPPING CENTRE ALLOCATION OF ASSESSMENT REGULATION

Table of Contents

Definitions	1
Purpose	2
Application of regulation	3
Application for allocation of assessment	4
Calculation of allocation of assessment	5
Effect of allocation of assessment	6
Provision of information	7
Charges	8
Recalculation	9
Review	10
Repeal	11
Schedule	

- Definitions 1 In this Regulation,
- (a) "Act" means the Municipal Government Act;
- (b) "allocation of assessment" means the allocation of the total assessment of a regional shopping centre among the components of the regional shopping centre;
- (c) "anchor tenant" means, with respect to a regional shopping centre listed in Column 2 of the Schedule, the anchor tenants that are listed in Column 3 of the Schedule;
- (d) "assessed person" means the assessed person of the regional shopping centre;
- (e) "commercial retail unit" or "CRU" means a retail or service premises in a regional shopping centre, other than the following:
- (i) anchor tenant premises;
- (ii) free-standing premises;
- (iii) office premises;
- (iv) hotel premises;
- (v) the exterior common area and interior common area;

- (f) "component" of a regional shopping centre means the following:
- (i) each anchor tenant premises;
 - (ii) the aggregate of the CRU premises;
 - (iii) each free-standing premises;
 - (iv) the aggregate interior common area;
 - (v) the aggregate exterior common area;
 - (vi) each premises that is not included in any of subclauses (i) to (v), including office premises and hotel premises;
- (g) "exterior common area" includes that part of a regional shopping centre that consists of pavement, parking structures and land;
- (h) "interior common area" means that part of the gross building area of a regional shopping centre that is not gross leasable area;
- (i) "office premises" means any area within a regional shopping centre that consists of more than 6 offices and is specifically designated to be used for office purposes;
- (j) "regional shopping centre" means, subject to section 3(3), a regional shopping centre listed in Column 2 of the Schedule;
- (k) "total assessment" means the assessment shown for the regional shopping centre on the municipality's assessment roll, but where section 3(3) applies, excludes that part of the total assessment that is attributable to the addition referred to in that subsection.

Purpose	2	The purpose of this Regulation is to provide an allocation of assessment for use by regional shopping centres for the purpose of internal allocation of property taxes among the components of regional shopping centres.
Application of regulation	3	<p>(1) This Regulation applies only in respect of the taxation years 1999 to 2008 inclusive.</p> <p>(2) This Regulation applies in respect of a regional shopping centre in respect of a taxation year only where</p> <ul style="list-style-type: none"> (a) at least one lease agreement between an anchor tenant and the assessed person provides for the allocation of the property tax payable in respect of the regional shopping centre based on either separate assessments or on the methodology used by the municipality to derive the

assessment for the regional shopping centre,

(b) the assessment for the regional shopping centre as determined by the municipality for the taxation year is based chiefly on the income approach to value, and

(c) the assessed person applies in writing to the municipality not later than December 31 preceding the taxation year for an allocation of assessment under this Regulation.

(3) Where the building footprint or envelope of a regional shopping centre changes by reason of an addition to the shopping centre that is completed after December 31, 1997, the addition shall not be considered to be part of the regional shopping centre for the purposes of this Regulation.

Application
for allocation
of
assessment

4 An application referred to in section 3(2)(c) must be in a form acceptable to and contain the information prescribed by the municipality.

Calculation
of allocation
of
assessment

5 (1) If the conditions in section 3(2) are met with respect to a regional shopping centre, the municipality shall do the following:

(a) determine the value of each component by using the assessment method that was used by the municipality in the year preceding the first year in which an assessment using the income approach to value is prepared;

(b) prepare an allocation to each component of the total value of all components determined under clause (a) by

(i) dividing the value for each component determined under clause (a) by the total value of all components so determined to determine the percentage that the value of each component is of the total value, and

(ii) multiplying the percentage determined under subclause (i) for each component by the total assessment prepared using the income approach to value;

(c) annually prepare an allocation of the total assessment to each component by using the same income approach to value that was used in preparing the assessment;

(d) prepare an annual allocation of assessment for each component by

- (i) determining the difference in valuation for the component as calculated under clauses (b) and (c), and
 - (ii) increasing or decreasing the allocation of value for the component calculated under clause (b) for each taxation year set out in the Table at the end of this section by a yearly increment equal to the corresponding percentage of the difference or valuation that is specified for that year in column 2 of that Table.
- (2) Where the assessed person first makes application under section 3(2)(c) in respect of a year after 1999, the percentage increments for the purposes of subsection (1)(d)(ii) are set out in Column 3 of the Table at the end of this section.
- (3) Subject to section 9(1), the percentages determined under subsection (1)(b)(i) shall remain constant for all taxation years to which this Regulation applies.

Table

Column 1	Column 2	Column 3
Taxation Year	Percentage Increment (section 5(1)(d)(ii))	Percentage Increment (section 5(2))
1999	10.00%	N/A
2000	20.00%	11.1111%
2001	30.00%	12.5000%
2002	40.00%	14.2857%
2003	50.00%	16.6666%
2004	60.00%	20.0000%
2005	70.00%	25.0000%
2006	80.00%	33.3333%
2007	90.00%	50.0000%
2008	100.00%	100.0000%

- Effect of allocation of assessment
- 6 (1) An allocation of assessment for a component that is prepared in accordance with section 5(1)(d) is deemed to be a separate assessment of the component for the purposes of an agreement referred to in section 3(2)(a).
- (2) Nothing in this Regulation affects an assessed person's liability to pay taxes under the Act.
- Provision of information
- 7 In each taxation year in which this Regulation applies in respect of a regional shopping centre, the municipality shall, not later than the date on which it sends the tax notice in respect of the regional shopping centre to the assessed person, provide to the assessed person
- (a) a schedule setting out the allocations of assessment in respect of the components of the regional shopping centre

for the taxation year, together with the details of how the allocations of assessment were calculated, and

- (b) sufficient information to disclose the details as to how the total assessment and other valuations used for the purposes of this Regulation were calculated.

- Charges **8 (1)** A municipality may impose a reasonable charge on the assessed person for
- (a) the preparation and provision of the material referred to in section 7, and
- (b) making a recalculation under section 9
- and the charge may, without limitation, include a charge for the time spent by the municipality's employees or agents in the preparation and provision of the material or the making of the recalculation.
- (2)** A municipality may add the reasonable charge authorized under subsection (1) to the tax roll of the regional shopping centre.
- Recalculation **9 (1)** Where property forming part of a regional shopping centre is destroyed or is the subject of a subdivision, or where a change in the component breakdown of the regional shopping centre occurs, the municipality shall recalculate the allocations of assessment for the remaining applicable taxation years referred to in section 3(1).
- (2)** Where the assessment for a regional shopping centre for a taxation year changes as a result of the operation of Part 11 or 12 of the Act, the municipality shall recalculate the allocations of assessment for that taxation year.
- (3)** On making a recalculation under subsection (1) or (2), the municipality shall forthwith comply with section 7.
- Review **10 (1)** The assessed person may, not later than August 31, apply to the Minister for a review of any or all of the following with respect to the taxation year:
- (a) any amount determined under section 5(1), other than the amount of the assessment for the regional shopping centre that is shown on the municipality's assessment roll and uses the income approach to value;
- (b) a recalculation of allocations of assessment under section 9;
- (c) the charge imposed on the assessed person under section 8.
- (2)** An application must contain the information required by and be in a form acceptable to the Minister.

- (3) In a review, the Minister may make any changes in the allocations of assessment, recalculation or charges that the Minister considers appropriate.
- (4) The Minister's decision on a review is final.

Repeal 11 This Regulation is made under section 603(1) of the Act and is subject to repeal under section 603(2) of the Act.

SCHEDULE
Regional Shopping Centres in Alberta

Column 1	Column 2	Column 3
Municipality	Regional Shopping Centre	Anchor Tenants
<i>Brooks</i>	Cassil Shopping Centre	Zellers, Safeway
<i>Calgary</i>	Brentwood Village	K-Mart, London Drugs, Safeway
	Chinook Centre	Bay, Sears, Zellers
	Deer Valley	Co-op
	Deerfoot	Bay, Wal-Mart/Woolco
	Market Mall	Bay, Zellers, Safeway, Toys-R-Us, Famous Players, Alberta Liquor Control Board
	Marlborough	Wal-Mart, Sears
	North Hill Shopping Centre	North Hill Cinemas, Liquor Barn
	Northland Village	Eaton's, Wal-Mart, Cineplex
	Southcentre Mall	Bay, Eaton's, Safeway, Famous Players
	Sunridge Mall	Eaton's, Zellers
	Westhills Towne Centre	Safeway, Famous Players, Revelstoke, Chapters
<i>Edmonton</i>	Bonnie Doon	Sears, Zellers, Safeway
	Capilano	Wal-Mart, Safeway
	Edmonton Centre	Bay
	Heritage Mall	Sears, Eaton's Safeway, Woolco/Wal-Mart
	Kingsway Garden Mall	Bay, Sears, Zellers, Sears Tire Centre
	Londonderry Mall	Bay, Eaton's, Wal-Mart (Woolco)
	Meadowlark Shopping Centre	Zellers
	Millbourne Mall	Zellers
	Millwoods Towne Centre	Eaton's
	NorthTown Mall	K-Mart
	Northwood Mall	K-Mart, Zellers, Safeway
	Southgate Shopping Centre	Bay, Eaton's, Safeway, Alberta Liquor Control

Column 1	Column 2	Column 3
Municipality	Regional Shopping Centre	Anchor Tenants
<i>Fort McMurray</i>	West Edmonton Mall Westmount Peter Pond Shopping Centre	Board Bay (Phase 1), Eaton's, Sears, Zellers, Cineplex, Famous Players, London Drugs, Bay (Phase 3), Canadian Tire Zellers, Safeway Zellers
<i>Grande Prairie</i>	Prairie Mall	Zellers, Sears
<i>Lethbridge</i>	Centre Village Mall Lethbridge Centre Park Place Mall	Bay, Safeway Bay, Safeway, Twin Cinema Eaton's, Sears, Staples, Winners, Cineplex
<i>Medicine Hat</i>	Medicine Hat Mall Southview Mall	Bay, Sears, Zellers, Safeway K-Mart, Saan
<i>Red Deer</i>	Bower Place Parkland Mall	Bay, Eaton's, Toys-R-Us, Zellers Sears, Wal-Mart, Safeway
<i>St. Albert</i>	St. Albert Centre	Bay, Wal-Mart/Woolco
<i>Sherwood Park</i>	Sherwood Park Mall	Zellers, Safeway
<i>Wetaskiwin</i>	Wetaskiwin Mall	Wal-Mart, Safeway

ASSESSMENT AUDIT & EQUALIZATION REPORTS

For your information, copies of the 1998 Assessment Audit and the 1999 Assessment Equalization Report are enclosed with this issue of Advisory Aspects.

ASSESSMENT AUDIT FORMS

Please note the following summary of changes to the assessment audit forms for reporting in 1999. This table describes the changes in the Excel 5.0 assessment audit forms that were provided as sample audit forms. If you have developed your own forms, they should also be updated with these changes. New audit forms on diskette in Excel 5.0 or 7.0 are available from your auditor.

DATE	FORM	FIELD	CHANGE	REASON
22/12/98	Municipality Audit Form Field Descriptions MUNDESC.xls	Improved Residential Assessment Level	Change the term from Equalization Ratio to Assessment Level	Use the term from the Assessment Equalization Regulation 366/94
22/12/98	Municipality Audit Form MUN###YY.xls	Improved Residential Assessment Level	Change the term from Equalization Ratio to Assessment Level	Use the term from the Assessment Equalization Regulation 366/94
22/12/98	Municipality Audit Form Field Descriptions MUNDESC.xls	Improved Non-Residential Assessment Level	Change the term from Equalization Ratio to Assessment Level	Use the term from the Assessment Equalization Regulation 366/94
22/12/98	Municipality Audit Form MUN###YY.xls	Improved Non-Residential Assessment Level	Change the term from Equalization Ratio to Assessment Level	Use the term from the Assessment Equalization Regulation 366/94
22/12/98	Municipality Audit Form Field Descriptions MUNDESC.xls	Vacant Residential Assessment Level	Change the term from Equalization Ratio to Assessment Level	Use the term from the Assessment Equalization Regulation 366/94
22/12/98	Municipality Audit Form MUN###YY.xls	Vacant Residential Assessment Level	Change the term from Equalization Ratio to Assessment Level	Use the term from the Assessment Equalization Regulation 366/94
22/12/98	Municipality Audit Form Field Descriptions MUNDESC.xls	Vacant Non-Residential Assessment Level	Change the term from Equalization Ratio to Assessment Level	Use the term from the Assessment Equalization Regulation 366/94
22/12/98	Municipality Audit Form MUN###YY.xls	Vacant Non-Residential Assessment Level	Change the term from Equalization Ratio to Assessment Level	Use the term from the Assessment Equalization Regulation 366/94

A new Assessment Audit Form is being introduced for 1999. The Parcel Address Audit Form will help to identify property where the most appropriate method is by municipal address. Following are copies of the description spreadsheet and the audit form.

ADDRESS AUDIT FORM FIELD DESCRIPTIONS (ADDDESC)		
ADDRESS AUDIT FORM FIELD NAME	DATA FORMAT	DESCRIPTION
Municipality Code	varchar2(4) not null	the code assigned to a municipality by AMA Local Government Services Division
Asmnt Year	num(4) not null	assessment year which is being analyzed
Roll Nbr	Varchar2(17) not null	the municipality's roll number; must be unique for each property on the roll
Sale Sequence Nbr	num(2) not null	the sequence of the sale if more than one for the property
House Number	Varchar2(6)	the house or building number portion of the municipal address
Suite	Varchar2(5)	the suite number portion of the municipal address
Street	Varchar2(40)	the street number or street name portion of the municipal address
Street Type	char(2)	two characters representing the type of street (ST, AV, CR, DR, CL, SQ, PL, RD, TR, etc.) (define new ones in the narrative)
Quadrant	char(2)	Two character code for the quadrant (NE, NW, SE, SW); only these codes accepted
Postal Code	char(7)	Seven character postal code with a blank as the fourth character

Parcel Address Audit Form (ADD###YY)

Municipality Code	Asmnt Year	Roll Nbr	Sale Sequence Nbr	House Number	Suite	Street	Street Type	Quadrant	Postal Code
varchar2(4) not null	num(4) not null	Varchar2(17) not null	num(2) not null	Varchar2(6)	Varchar2(5)	Varchar2(40)	char(2)	char(2)	char(7)

Assessment Services Branch has asked system providers to give their systems the capability to download data for every assessment record in a municipality when requested by an auditor. This data will be required for detailed audits, the annual audit data requirements will remain as the assessment and sale data for the properties that have sold.

Detailed audit data will be requested for the following forms:

sal###yy.csv	res###yy.csv
adj###yy.csv	mfa###yy.csv
par###yy.csv	com###yy.csv
act###yy.csv	far###yy.csv
add###yy.csv	fld###yy.csv
imp###yy.csv	mld###yy.csv

The Assessment Services Branch appreciates the helpful cooperation and assistance that the assessment system providers have shown over the past year and since the introduction of the assessment audit program. Their helpful efforts have gone a long way in making the audit program function smoothly.

ASSESSMENT AUDIT INFORMATION SHEETS

The Assessment Audit Information Sheets have been updated. The term 'Assessment Level' has replaced the term 'Equalization Ratio'. This is consistent with the terminology in the *Assessment Equalization Regulation 366/94*. Please refer to the Assessment Audit Information Sheets when preparing submissions. The following Assessment Audit Information Sheets are available from your auditor:

- 96-1 Is a Sale Price Market Value?
- 96-2 How are Assessment Levels Calculated and Reported on the Assessment Audit Forms?
- 96-3 Questions on the Standards of Assessment Regulation
- 96-4 Questions and Answers on Using Assessment Audit Forms
- 97-1 Sample Size for Ratios Studies
- 97-2 Special Properties
- 97-3 Stratification of Property for Ratio Studies
- 97-4 Personal Property Adjustments
- 98-1 Guidelines For Stratification
- 98-2 Guidelines for Parcel Counts
- 98-3 Guidelines for Time Adjustments in Reporting For Assessment Audit

ASSESSMENT & TAXATION OF ROAD RIGHT-OF-WAY

Issue

The Crown purchased a 7.1 acre portion of land for the purpose of future construction of a road. A separate title was not issued and the road plan had not been registered.

The Crown's offer to sell agreement with the landowner is a standard form. The offer to sell generally outlines the area that applies and provides that within a certain number of days of the acceptance of the offer, the landowner agrees to deliver possession of the land.

The municipality has taken the position that the landowner remains responsible for all taxes on the entire parcel of land, including the portion that is the subject of the agreement, until that portion is excepted from the title to the parcel.

After agreements have been negotiated with landowners, it may take a few years for the road plan to be registered. It is likely easier to negotiate such a sale if no taxes are to be imposed upon the lands subject to the sale agreement.

Discussion

The governing legislation in this circumstance includes Parts 9 and 10 of the *Municipal Government Act*. It is our view that the lands, including the 7.1 acre portion of land, are appropriately assessable but are not taxable to the owner of the parcel of land.

First, the municipality has properly assessed the entire parcel of land, and the registered owner of the parcel of land as it exists at this time is the assessed person. "Property" is defined as a parcel of land, an improvement, or a parcel of land and the improvements to it. Section 304(1)(a) of the MGA states that the *assessed person* for a parcel of land is the owner of the parcel of land. "Owner" is defined in part in section 1(1)(u) as the person who is registered under the *Land Titles Act* as the owner of the fee simple estate in the land.

There are certain exemptions from assessment as outlined in section 298 of the Act. However, it appears that none of those exceptions applies. No assessment shall be prepared for "roads", but roads are defined as land shown as a road on a filed plan of survey or used as a public road. Neither circumstance is applicable to this case at this time. Therefore, it is the department's view that the entire property is *assessable* to the owner of the property. Once the road plan is registered, or the road is used as a public road, no assessment will be prepared by the municipality for that portion of the property.

The next issue to address is whether the individual is responsible for *paying taxes* on his entire assessed parcel. Under section 331 of the MGA, the person liable to pay a property tax is the person who is either the assessed person at the time the assessment is prepared or adopted, or who subsequently becomes an assessed person. In this case, the registered owner of the parcel is the assessed person.

However, section 362(1)(a) of the MGA provides that any interest held by the Crown in the right of Alberta is exempt from taxation. We do note that the Crown, as of the date of the offer to sell agreement has an interest in the land. The Crown has registered a caveat on the title evidencing this.

Section 368 of the MGA then provides that a taxable property or part of a taxable property becomes exempt if the use or occupant of the property changes to one that qualifies for an exemption. If the status changes, a tax imposed must be pro-rated so the tax is payable only for the part of the year in which the property is not exempt. On this basis, we are of the view that the municipality is required to make an adjustment to the taxes on the parcel of land from the date the Crown takes an interest in the land to ensure the 7.1 acres is not included for the appropriate time period.

In conclusion, the department's position is that until the road plan is registered, the owner of the land is properly assessable, but not taxable for the 7.1 acres dedicated to the development of a highway. This is our interpretation of the statutes. For your specific situations refer to the relevant legislation and regulations.

MUNICIPAL GOVERNMENT BOARD ORDERS

Under the authority of the Evidentiary Matters Regulation 121/97, the following complaints were referred back to the Assessment Review Board.

MGB 278/98

Wayne & Diane Keiver and Mountain View County

MGB 279/98

Dale Christianson and the M.D. of Clearwater No. 99

MGB 280/98

Berry Jackson and the Village of Innisfree

MGB 287/98

Town of Canmore

and

Minister of Municipal Affairs

The subject of this appeal is the Town of Canmore's 1998 equalized assessment. The issue of the appeal was whether the process used to equalize regulated property, especially farmland, is fair and equitable.

The appellant argued that the system used for the equalized assessment is not equitable. There is no mention of the term "market value" within the Minister's Guidelines for Farmland, Linear Property and Machinery & Equipment. The assessment of farmland is not valued the same as other property and, therefore, is not equal or equitable. Farmland is assessed at productivity rates which results in rural and urban municipalities being treated differently.

The respondent stated that the jurisdiction of the Board in this appeal is to determine whether the equalized assessment should be changed. The basis of this appeal concerns policy set by the government in legislation. The Board has no jurisdiction over government policy or to amend legislation. The manner in which farmland is assessed cannot be a foundation for an equalized appeal.

The appeal was denied.

MGB 297/98
City of Calgary
and
Tizirsands Property Tax Consultants on behalf of Jan and Daniele Sovak

Both parties appeared before the Board and made written and oral presentations. The Board requested that the parties submit written summations. Because of an oversight, the Board members did not receive the summations, and Board Order MGB 169/98 was prepared without them. The issues of this Board Order were whether the summations should have been considered and whether their inclusion would change the Board's decision.

Board Order MGB 169/98 is amended to include the written summations. The decision and the reasons for it remain unchanged.

MGB 298/98
Amending Board Order

Amends Board Order MGB 247/98.

MGB 299/98
City of Calgary
and
Property Tax Appeal Services on behalf of Hartford Management Inc.

The Board heard this appeal on March 25, 1998, but before a Board Order was issued, the City of Calgary requested a rehearing on the basis that the Board did not address the City's cross appeal. The issues to be decided were:

1. Did the Board give the City of Calgary an opportunity to provide evidence for its cross appeal?
2. Do the issues meet the requirements for rehearing appeals?
3. If the request for a rehearing is granted, should the whole matter be heard by a new panel of the Board?

The representatives from the City of Calgary stated that they were not given the opportunity to give evidence or provide arguments for the cross appeal. The City had informed the Board at the start of the hearing that the evidence for the cross appeal would depend on the evidence raised by the appellant. The hearing ended without the Board hearing evidence with respect to the cross appeal.

The Board decided that a rehearing of all matters of the appeal was necessary.

MGB 300/98
Union Pacific Resources Inc. (formerly Norcen Energy Resources Ltd.)
and
The Ministry of Municipal Affairs - Assessment Services Branch (The Department)

Prior to this hearing, Board Order MGB 247/98 dealt with preliminary matters. The complainants were to file a list of the specific reasons for each of the 3,320 roll numbers under appeal. Both parties reached an agreement which the Board accepted. The agreement included:

- 47 of the roll numbers received no submissions and were struck from the appeal.

- 2,944 roll numbers were withdrawn.
- The respondent agreed with the appellant's argument on 205 of the roll numbers and corrected the roll.
- 124 roll numbers were confirmed.
- A cost hearing was scheduled.

MGB 301/98**Macleod Dixon on behalf of Canadian Energy Research Institute
and
City of Calgary**

The appellant stated that they were of the understanding that the Board would have a complete record of the proceedings of the ARB. They were prepared to argue the proceedings and decision of the ARB, but were not prepared if they had to present all the evidence again. The Board advised that it did not receive, and does not usually receive, a copy of the proceedings or decision of the ARB. The appellant and respondent were allowed to present arguments on the role and jurisdiction of the Board. Both parties' arguments were essentially the same. They argued that the Evidentiary Matters Regulation modified the role of the Board because the Board can no longer consider any new evidence.

In order to give the Evidentiary Matters Regulation any meaningful interpretation, the Board's jurisdiction is not confined to that of an appellant tribunal. The Board has the power to determine the weight, relevance, and admissibility of any evidence before it, all in the context of the Evidentiary Matters Regulation. Both parties presented evidence to the ARB, and it should not be necessary for them to present their entire cases to this Board. Both parties wanted the Board to consider and address the issue of its role and jurisdiction in the context of the MGA and the Evidentiary Matters Regulation.

The request for a preliminary ruling by the Board regarding its role and jurisdiction was denied. The Board will address its role and jurisdiction only in the context of actual issues during a merit hearing. A schedule was set for the exchange of documentation in preparation for a merit hearing.

MGB 304/98**Gwen Gabel
and
Parkland County**

The subject of this appeal was the improvement assessment of a mobile home. The home is situated on 8.51 acres of land, three acres of which is assessed at market value and the remainder at farmland rates. The issues of the appeal were whether the assessment is comparable to other mobile homes in the municipality, and does the assessment reflect market value.

The improvement assessment was reduced at the ARB. The appellant argued that the improvement assessment is higher than other mobile homes in a similar or better setting. She referred to three homes of similar size located in a mobile home park in Stony Plain. All were nicer and more elaborate than hers, yet their assessments were much lower.

The appeal was allowed in part. The Board allowed for 10% additional depreciation.

MGB 002/99

**Thomas Holub
and
Town of Canmore**

The property under appeal was a single-family home. The issue of the appeal was whether the assessed value reflects the influences of location and traffic noise.

The appellant was not in attendance and entered evidence through a written submission. The appellant requested a reduction in the assessment because of excessive noise.

The appeal was denied.

**MGB 003/99
Roman and Elizabeth Piwowar
and
Town of Canmore**

The property under appeal was a single-family home. The issues were :

1. Whether the assessment reflects influences of location and site configuration.
2. Whether the increase in assessment from 1997 to 1998 is reasonable.

The appellant did not attend the hearing, evidence and argument was given by written submission. The appellant's submission stated that the assessment had increased significantly more than the value used by their insurance company. In addition, no allowance was made for a creek that cuts through the property.

The assessor stated that property values in Canmore have increased considerably in the last few years. The insurance company's appraisal of the property is for the building only and does not account for the increased land value.

The appeal was denied.

**MGB 004/99
Clayton Kennedy
and
Town of Canmore**

The property under appeal was two commercially zoned properties. One lot is improved with a residential building and a commercial building. There is a cabin on the other lot. The issues of the appeal were:

1. Whether the assessment reflects influences due to site configuration.
2. Whether the improvements add value to the land.

There was a large increase in the assessment from 1997 to 1998. The appellant stated that the use of the property must be taken into account. If the value of the property increased because of the land value, then the improvements are a detriment. All buildings on the two lots are rented.

The appeal was denied.

MGB 005/99

**City of Airdrie
and
Minister of Municipal Affairs**

This Board Order concerns the appeal of the City of Airdrie's 1997 equalized assessment. The appeal so far:

- | | |
|------------|--|
| MGB 74/98 | identified outstanding issues and provided for an exchange of information. |
| MGB 146/98 | the Board decided that it has jurisdiction to hear the appeal with respect to the use of blanket chattel adjustments by some municipalities. |
| MGB 184/98 | extended both the deadlines for written submissions and rebuttals and the hearing dates for one month. |
| MGB 221/98 | extended both the deadlines for written submissions and rebuttals and the hearing dates for four months. |

This Board Order is a request by both parties for a further extension of one month for written submissions and rebuttals. The request was granted.

**MGB 006/99
R & S Resource Services Ltd.
and
County of Red Deer No. 23**

The property under appeal consists of 26.11 acres of land located north of Red Deer. The appellant purchased the property in July 1997. The land is low marsh type that requires fill and drainage before industrial use. About one third of the site has been prepared. The issue of the appeal was whether the land is assessed too high considering its condition and in comparison with other industrial land in the area.

The appellant argued that the price paid must be considered market value. About eight acres of the land is now useable. The balance needs extensive land fill and drainage.

The appeal was allowed in part. The Board stated that the purchase price reflects the market value of the land in its natural state. It was convinced that the land should be assessed based on two components, the improved and the unimproved portions.

**MGB 007/99
Abraham and Toby Silverman
and
Summer Village of Grandview**

The property under appeal is a lake front lot on Pigeon Lake. In 1993, the owner of the adjacent property constructed a retaining wall that separates the two properties. The wall is made from creosote railroad ties. In 1996, the S.V. of Grandview adopted a bylaw prohibiting timber with creosote for any purpose which may result in the creosote leaching into the soil or lake. The appellant has been trying to force his neighbour to remove the wall. He appealed the assessment to the MGB in 1996 and was granted a 15% reduction to both the land and improvement assessments. In 1997, the assessor carried the 15% over for the improvement assessment but did not apply the factor to the land. The issue of the appeal was how much the retaining wall devalues the property.

The appellant did not argue that the assessment is incorrect. He asked that it be exempt from taxation because the land has been seriously compromised by the creosoted retaining wall. Because of the environmental impact, the property is likely not marketable.

The appeal was denied.

MGB 008/99
Amending Board Order

Amends Board Order MGB 297/98.

MGB 009/99
Shell Canada Limited
and
Municipal District of East Peace No. 131

This is an appeal of a decision of the 1997 Assessment Review Board. The property involved is buildings and structure, and machinery and equipment on 12 roll numbers. This Board Order sets out a schedule and timelines for the exchange of information and sets dates for a merit hearing.

MGB 010/99
Vernon Kallal
and
County of Beaver No. 9

This appeal concerns the land assessment of the Tofield Golf Course. The course has nine holes with grass greens, a clubhouse, driving range, golf cart warehouse and a metal maintenance building. The course was constructed over several years beginning in the 1960's. The improvements were valued using the Marshall & Swift Costing Manual. The issue was what amount should be added to the basic land value to reflect improvements to the land.

During the ARB hearing, the respondent referred to the assessments of eight golf courses in central Alberta as comparables. At this hearing, the appellant pointed out several inconsistencies with these comparables.

The appeal was allowed.

MGB 011/99
Paralee Property Tax Consultants Ltd. on behalf of Lauring Group of Companies
and
City of Edmonton

This was an appeal of a 1997 Assessment Review Board decision. The property under appeal was a two storey office building. The basement is leased by the Edmonton Musical Theatre Society (EMTS). The Canadian Mental Health Association Alberta North Central Region, 1986, (CMHA) leases the first and second floors. The issue of the appeal was whether any of the property qualifies for exemption.

The appellant argued that the property should be exempt because both organizations meet the provisions of either 362(n)(ii) or 362(n)(iii). The CMHA operates a seniors health line, day programs, a community outreach program, and social and recreational programs. Membership fees are low and volunteers are involved in all parts of the organization. EMTS, it is a non-profit musical theatre performance training organization. It was the appellant's opinion that

CMHA qualified for an exemption under section 362(n)(iii), and EMTS under section 362(n)(ii) of the MGA.

The appeal was denied. The Board examined whether the property qualified for exemption in the 1997 taxation year. The Board could not refer to regulation 289/97 or the new Interpretive Guide because the regulation applies to taxation in 1998. The work done by CMHA is overridden by the provisions of section 362(n)(iii). The property is not owned by the Crown, a municipality or any other body that is exempt from taxation and neither is it owned by the organization. EMTS failed to qualify for an exemption under section 362(n)(ii) and sections 3 and 5 of regulation 125/95.

MGB 012/99
Millwoods Pentecostal Assembly
and
City of Edmonton

This was an appeal of a 1996 Assessment Review Board decision. The land under appeal is 7.98 acres in size and located in southeast Edmonton. The land was vacant as of December 31, 1996. In 1995, the appellant successfully appealed the assessment on the grounds that the land was used for farming. Part of the evidence used in that appeal was an agreement with the dairy farm for crop years 1995, 1996, and 1997. The issue of this appeal was whether the parcel should be exempt from taxation under section 362(1)(k) of the MGA because it is owned by a religious body.

The appeal was denied. The Board found that the existing church was located a short distance from the land, and that is where religious activities took place. The land was not actually used for divine service, public worship, or religious education.

MGB 013/99
Rossllyn IGA/Megley Foods Inc., represented by AEC
and
City of Edmonton

This was a business assessment appeal. The property under appeal is located in northeast Edmonton and is leased by the appellant. The issues of the appeal were:

1. Does the assessment reflect typical market rents for similar properties?
2. Is the assessment based on the actual rent of the property or should it reflect typical market rents?

Six comparable properties were presented by the appellants in defense of their position that the assessment was too high. The comparables were similar in size and in the same area of the city as the subject. Their assessed rates per square foot were less than the property under appeal.

The appeal was allowed.

MGB 014/99

**Derbyshire Consultants (Western Canada) Ltd. on behalf of 3428851 Canada Inc.
and
City of Calgary**

Under the Evidentiary Matters Regulation 121/97, this appeal was returned to the ARB (MGB 286/98).

Before the ARB could hear the appeal, the City of Calgary filed an Originating Notice of Motion with the Court of Queen's Bench seeking judicial review of Board Order MGB 286/98. Both parties asked the Board to stay MGB 286/98 until a determination is made by the Court of Queen's Bench.

MGB 015/99

**Ackroyd Piasta Roth & Day on behalf of Alberta Association for Community Living
and
City of Edmonton**

This is an appeal from a decision of the 1996 and 1997 ARB's. The property under appeal is a two-storey building with an annex and is owned by the Alberta Association for Community Living. The building and annex are occupied by several non-profit organizations. The issue of the appeal was whether the property is used for a charitable or benevolent purpose for the benefit of the general public.

The appellant submitted that in addition to acting as an advocate for its member organizations, its activities and services benefit the general public. Both the operations of Alberta Association for Community Living and the various organizations that lease space in the building are charitable, benevolent and to the benefit of the general public.

The respondent argued that the property is used for administrative purposes and no services are provided directly to any clients. The Alberta Association for Community Living is a lobby group and does not provide any services to the clients of its member organizations.

The appeal was denied. The Board was of the opinion that the organizations are conducting works that would qualify for an exemption if those works were performed on the property. They are not providing a charitable or benevolent service and neither are the aims of the organization to the benefit of the general public.

MGB 016/99

**Institute of Psychology and Law
and
City of Edmonton**

This was a business assessment appeal. The property consists of an office located on the seventh floor of a 15-storey building in downtown Edmonton. The issues of the appeal were:

1. Should the actual contract rent be used to determine the business assessment?
2. Does the 1998 business assessment represent typical market rents when compared to other properties?
3. Does the Board have jurisdiction to authorize tax rebates for historical assessment errors?

The appellant argued that the actual rental rates should be used to determine the assessment. The City uses an average of rental rates to calculate the assessment. Comparables were presented as evidence. In addition, for 1990-1997, the reported office area was the wrong square footage which resulted in a higher assessment. The city granted a rebate for 1997 and 1998. The appellant requested rebates for 1990-1996.

The appeal was denied, and the request for tax rebates was dismissed.

MGB 017/99

**Canadian Valuation Group Ltd. on behalf of Big & Tall #2009 Repp Ltd.
and
City of Edmonton**

This was a business assessment appeal. The subject business was a clothing store in west Edmonton. It is located within a complex of two free standing buildings and an enclosed mall. The business is in the mall. It has outside exposure but access is through the mall. The issue was whether the assessment should reflect the typical rents of other businesses with mall access or those of other premises in the complex.

The appellant referred to the location of the premises in the mall in comparison with other businesses within the complex that have better visibility and pay similar or lower assessment rates.

The appeal was allowed in part.

MGB 019/99

**Scandinavian Light Co. Edm. Ltd./Arnt Industries Ltd.
and
City of Edmonton**

This was a business assessment appeal. The property under appeal was an industrial building on a 5.5 acre site. The issues of the appeal were:

1. Is the physical condition recognized in the assessment?
2. Is the base rental rate used to calculate the gross annual rental value achievable?
3. Is there a reduction in operating expenses for the unheated part of the building?
4. Is the assessment fair and equitable with other similar properties?

The appellant stated that the building is old and in poor condition. The property is not connected to the municipal sewer and water system and uses a water well and private sewage disposal system. The building rental rate that the assessment is based on could not be achieved.

The appeal was allowed.

MGB 020/99**Paintearth Gas Co-op Ltd.****and****The Crown in the Right of the Province of Alberta as represented by the Minister of Municipal Affairs**

This was an appeal of linear property. The property under appeal is located in the Village of Gadsby. The complainant is a rural gas cooperative organized under the Rural Utilities Act. The Complainant was granted a franchise under the Gas Distribution Act. The boundaries of the franchise area coincide with the boundaries of the County of Paintearth, but exclude municipalities within the area that have their own gas distribution system. The Village of Gadsby is within the franchise area. The issue of the appeal was whether the gas conveyance pipeline and the distribution lines in the Village of Gadsby are assessable as linear property.

The complainant argued that under section 298(1)(r) and (r.1), the property qualifies for an exemption for the following reasons:

- Under 298(1)(r), no assessment is to be prepared for linear property that is part of a rural gas distribution system or a transmission line located in a rural municipality. The linear property must be owned by a municipality or by a rural gas co-op organized under the Rural Utilities Act. The exceptions are linear property serving an urban municipality with a population over 500, or an industrial customer. The exceptions do not apply to the Village of Gadsby.
- The linear property is also exempt under 298(1)(r.1) because the linear property is part of a rural gas distribution system and is within a franchise approval area under the Gas Distribution Act.

The respondent stated that the exemption in section 298(1)(r) is intended for a certain type of system, a rural gas distribution system. The Village of Gadsby is an urban area. Urban gas distribution systems do not fall within the stated assessment exemption set out in section 298(1)(r). Only gas distribution systems located in a rural municipality and serving rural consumers and owned by gas co-ops are exempt from assessment under section 298(1)(r).

The complaint was allowed.

MGB 021/99**Dezman Cowan Property Appraisal Ltd. on behalf of 645632 Alberta Ltd./Pins & Cues****and****City of Edmonton**

This was a business assessment appeal. Pins & Cues is a recreation centre located in Westmount Mall. It contains a 24-lane, 10-pin bowling alley, 18 billiard tables, areas for playing darts, pin-bowl, and video games as well as a children's play area, three children's party rooms, a pro shop, a snack bar and a banquet area. The issues of the appeal:

1. Is the business assessed fairly and equitably?
2. Does the gross rental rate bear a fair relationship to market rental rates?

The appellant stated that the business is well located and within a mature residential neighbourhood. It is near industrial areas to the north and west. The appellant mentioned some problems with the property and compared the business assessment with other tenants in the mall and other similar recreation facilities.

The appeal was denied.

MGB 022/99
Rafter EII Enterprises Ltd.
and
Town of Cardston

The property under appeal was a 31-unit motel with attached residence known as the Trails End Motel. The motel was built in 1975 and recently renovated. The appeal related only to the motel portion. The issue of the appeal was whether the opening of a new motel in Cardston affect this property's market value and should this be reflected in the assessment?

Until 1997, the only other motel in Cardston was the Flamingo Motel, located several blocks away. In 1997, a new Super 8 motel opened across the street. The new motel added 40 rooms to the Cardston market, a 58% increase. The Trails End Motel experienced a 30% reduction in its gross income in the last six months of 1997. The owners were unable to reduce their expenses by an equivalent amount and did not generate a profit for that period. The appellant stated that motel sale prices are governed by the amount of income produced and since the subject's net income has been reduced, so has its market value. The assessment should reflect its current market value.

The appeal of the land assessment was denied. The appeal on the improvement was allowed. The Board is of the opinion that the new motel has reduced income that has affected the market value of the subject property.

MGB 023/99
Property Tax Appeal Services on behalf of Royal Glenora Club
and
City of Edmonton

The property under appeal consists of nine buildings occupying 27.21 acres of land in the North Saskatchewan River Valley. The Royal Glenora Club is privately operated and features a dining room, lounge and meeting facilities. Its recreational components include tennis courts, bowling lanes, an ice arena, racquet ball and squash courts, weight training equipment and an outdoor swimming pool. Initial construction started in the late 1950's with expansions and upgrades since. The issues of the appeal:

1. Is the assessment fair and equitable in comparison with similar properties?
2. Has enough obsolescence been applied to the assessment?

The appellant stated that there are several problems with the property. The buildings are in varying stages of deterioration. A report was presented as evidence that included the cost to repair the facilities. The appellant made comparisons with the assessments of other clubs.

The appeal on the land assessment was denied. The appeal on the improvement was allowed in part.

MGB 024/99**Rickard Realty Advisors Inc. on behalf of Gilbralt Capital Corporation
and
City of Edmonton**

The property under appeal is known as the Saxony Commercial Centre. The property consists of a hotel, lounge, food and beverage facilities, a bingo hall and retail strip area. The issues of the appeal were:

1. What is the appropriate method to value a hotel?
2. Is the income generated from video lottery terminals (VLT's) income from real estate or personal property?
3. What is an appropriate capitalization rate for the property?

The appellant's representative considered three methods when valuing this property: the comparative sales, cost, and income approaches. There was a wide range of values for hotel sales between 1995 and 1996 and they could not be considered as good comparables. With the cost approach method, as properties age, it is difficult to determine obsolescence. The appellant stated that the income approach is the most acceptable method for valuing this property. Financial statements for 1995, 1996, and 1997 were provided, and the appellant added that if the VLT revenue is not included, the property is losing money. It was the appellant's position that the Board should only consider the subject property because comparisons to other hotels is difficult and their assessments may be wrong if VLT revenue is included in their income statements.

The appeal on the land assessment was denied. The appeal on the improvement assessment was allowed. The Board considered the assessment of the Beverly Crest Hotel and concluded that it was the closest comparable. The assessment was adjusted so that both properties were assessed the same.

MGB 025/99**Derbyshire Consultants (Western Canada) Ltd. on behalf of Marathon Realty Co. Ltd./The
T. Eaton Co. Ltd.
and
City of Calgary**

The property under appeal is known as the Northland Village Mall. It is located in northwest Calgary and is one of eight regional shopping centres in Calgary. There are about 128 stores with Eaton's and Walmart as anchor tenants. Derbyshire Consultants (Western Canada) Ltd. is appealing the land assessment. The City of Calgary is appealing the ARB's decision to reduce the improvement assessment. The 1994, 1995 and 1996 assessments were established by MGB 130/97. The issue of this appeal was whether this shopping centre was assessed fairly in comparison with others in Calgary.

In appealing the land assessment, Derbyshire Consultants stated that the land was assessed at a base rate of \$12.00 per square foot. It was the appellant's position that it should be set at \$10.00 per square foot, consistent with MGB 130/97. Land assessments of other Calgary malls and land in the area were presented as evidence. The owner of the mall referred to easements, shape and access, and argued that the city did not recognize the unusual configuration, poor access and exposure.

In appealing the ARB decision, the City presented sales of regional, community and neighbourhood shopping malls in Calgary and some other jurisdictions across Canada. In examining the sale prices, the assessment established by the ARB is well below even the lowest

sale price per foot of other malls. The city also presented a table summarizing the assessments of eight regional shopping centres.

The Board denied the appeal of the land assessment, and allowed the City's appeal of the improvement assessment. The Board reviewed the assessments for each of the eight regional shopping centres and found that the assessments were not equitable with the property under appeal. The assessment was restored to its value before the ARB decision.

Larry Collins, Acting Executive Director
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