

Number 6

December 22, 1999

Advisory Aspects



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ASSESSMENT SERVICES BRANCH

MESSAGE FROM STEVE WHITE

Seasons greetings to readers of Advisory Aspects!

As most of you know, I have only been with the Assessment Services Branch of Alberta Municipal Affairs since April of this year. However, as we approach the year 2000, I am encouraged by the continuing commitment and dedication of the Assessment Services staff in providing property assessment and taxation programs and services to the citizens of Alberta. This is not always an easy task.

I would like to take this opportunity to thank all of those individuals who have contributed to the production of this newsletter over the years: researchers, writers, administrative support staff, and editors. A special thanks goes to Ruth Cassady, who has been a key resource for getting the newsletter out over the last six years. Also, Darryl Menzak, has made ongoing contributions in coordinating legislative submissions and issues papers as required.

In 1992, when Advisory Aspects first came into being, it was a one-page document providing rate-related information to assessors. Over the years, the scope of this newsletter has evolved to include summaries of Municipal Government Board decisions; updates on departmental initiatives; and procedural information to help assessors in doing their work.

In the coming year, we will be focusing our efforts on optimizing branch communications strategies. This will include modifying the focus of the Advisory Aspects newsletter and considering suggestions for improvement that have been made by readers and department staff in recent months. One suggestion that is already in the works involves making the newsletter available on the internet. We hope to be ready for this by the next issue of Advisory Aspects in early 2000.

We always look forward to any feedback provided by our readers. Please let us know what you like or dislike about future issue(s) of Advisory Aspects. Also, any suggestions for articles that you would like to see would be appreciated.

In closing, on behalf of the Assessment Services Branch and department staff, I wish you the season's best, and may the year ahead be filled with happiness and prosperity!

ASSESSMENT STANDARDS

BASE COST MODIFIERS AND COST INDICES

Below are the 1999 Base Cost Modifiers that factor the 1984 Manual cost to July 1, 1999, and Cost Indices that factor current costs to the 1983 base cost. Comparable data for the preceding years is included.

IMPROVEMENTS 1984 MANUAL

	Residences	Commercial Institutional	Steel	Warehouses Workshops
1995	1.42	1.32	1.31	1.33
1996	1.43	1.34	1.33	1.35
1997	1.45	1.36	1.34	1.36
1998	1.50	1.42	1.42	1.43
1999	1.57	1.45	1.47	1.47

1.190.050 COST INDICES 1984 MANUAL

	RESIDENTIAL		COMMERCIAL				INSTITUTIONAL & INDUSTRIAL			
	Frame	Masonry Veneer	Masonry Wood	Masonry Concrete	Masonry Steel	Frame	Steel	Masonry Wood (A)	Masonry Concrete (A)	Masonry Steel (A)
1993	.773	.771	.808	.791	.799	.769	.802	.780	.797	.795
1994	.746	.748	.792	.778	.786	.754	.785	.764	.782	.776
1995	.742	.741	.782	.764	.767	.743	.767	.750	.763	.757
1996	.735	.736	.770	.754	.761	.732	.757	.740	.755	.748
1997	.695	.697	.754	.738	.745	.717	.737	.725	.741	.734
1998	.666	.668	.726	.709	.714	.689	.704	.695	.712	.703
1999	.637	.642	.701	.687	.690	.666	.681	.670	.693	.680

** The factors for the 1994 Alberta Residential Assessment Manual are available from the Queen's Printer.

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11510 Kingsway Avenue
Edmonton, Alberta T5G 2Y5
Phone: (780) 427-4952 Fax: (780) 452-0668

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455 - 6th Street, S.W.
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FARM PROPERTY ASSESSMENT REVIEW

GOVERNMENT OF ALBERTA NEWS RELEASE

For immediate release
Edmonton, November 16, 1999

"Any change to the farm property assessment and taxation system must take into account the impact on the viability of the total agriculture industry in the province." - Municipal Affairs Minister Walter Paszkowski

Viability paramount: further study of farm assessment options needed

The MLA Farm Property Assessment Review Committee is commissioning a study to determine the economic impact of changes being considered on how farm property and operations are assessed and taxed.

Municipal Affairs Minister Walter Paszkowski announced the study during his address to delegates at the Alberta Association of Municipal Districts and Counties (AAMD&C) convention being held in Edmonton.

The impact study will investigate the potential effects of a number of options emanating from the public consultations held in the Fall of 1998. These options include removing the residential exemption, introducing a business tax on farming operations, allowing municipalities to establish sub-classes of farmland with different tax rates and assessing intensive agricultural operations using a "footprint" concept.

"The footprint concept evolved from the public consultation done last fall and was refined through meetings held during the summer with representatives from Alberta's agricultural producer organizations and municipal associations," said Municipal Affairs Minister Walter Paszkowski.

The footprint concept sets aside five acres as a base site. In a typical farming operation this is where the farm buildings are located. Farm buildings are currently exempt from assessment.

The base site would now be assessed at a flat rate of \$7,500. In cases where a portion of the base site is used for livestock or as enclosed growing areas, that portion would be assessed based on its productive value using standardized assessment rates for various types of operations. The remainder of the base site would be assessed at \$1,500 per acre.

"To get a complete picture of what would happen if one or all of these options were put into place we will be working with nine municipalities in various parts of the province," said Paszkowski. "A cross-section of farming operations within these municipalities will be studied to see what impact this would have on individual farming operations. The same information will be used to determine the effect on the municipality as a whole."

Strathcona, Lethbridge, Stettler, Ponoka, Grande Prairie, Barrhead and St. Paul counties along with the MD of Rockyview and Birch Hills will participate in the study. The study will use existing assessment information, along with information gathered from farmers directly.

Results from the study should be known by the Fall of 2000.

Contact:

Dwight Dibben - Minister's Office, Alberta Municipal Affairs (780) 427-3744
Larry Collins - Assessment Standards, Alberta Municipal Affairs (780) 422-1377
Marjorie Morris - Communications, Alberta Municipal Affairs (780) 427-8862

BACKGROUNDER

MLA FARM PROPERTY ASSESSMENT REVIEW COMMITTEE

- The MLA Farm Property Assessment Review Committee was established in June 1997 to review a number of farm property assessment and taxation issues.
- The committee, which includes committee chair Olds-Didsbury-Three Hills MLA Richard Marz, Clover Bar-Fort Saskatchewan MLA Rob Lougheed and Little Bow MLA Barry McFarland
- In the fall of 1998, the MLA committee distributed 10,000 copies of its discussion paper and held public meetings in 11 communities throughout the province. About 1,200 Albertans attended the meetings. Fifteen organizations made presentations and 35 municipalities made verbal and/or written submissions at those meetings. A total of 382 written responses were received.
- Over the summer, the MLA Committee met with 20 stakeholders representing the principal agricultural enterprises and municipal associations to discuss impact testing and specifics of the footprint concept.

- The MLA committee is proceeding with the next steps as outlined in the "Farm Consultation Report" that was released to the public in May 1999. Two initiatives are in progress:

New definition for farming operations which includes woodlots. The new definition is included in the proposed assessment and taxation regulation released for public consultation in September 1999.

Terms of reference are being developed for an impact study to assess the effect of different options, including the removal of the residential exemption; introducing a business tax on farming operations; allowing municipalities to introduce sub-classes of farmland and different tax rates for different classes; and assessing intensive operations based on a "footprint" concept. The "footprint" concept is based on production value, not market value, and recognizes the value contribution of livestock facilities and enclosed growing areas.

EDUCATION TAX

As a result of the government's decision to take over responsibility for education funding in 1994, a majority of municipalities have benefited from lower education tax rates. However, some municipalities have had significant increases in education property taxes because of market value increases, economic growth, and/or the impact of moving to a provincial uniform education tax rate.

The MLA Committee on Education Property Tax was established to review the way education taxes are collected, existing policy and structures, and make recommendations to improve the current education property tax system. The government approved a preliminary report which outlines recommendations for the 2000 tax year, or until a long-term recommendation is made. Copies of the Interim Report, a news release, and consultation document regarding the establishment of the Equalized Assessments Variation Regulation was sent to municipalities and stakeholders along with their preliminary 2000 equalized assessments.

In its review, the committee determined that rapid growth areas and the national parks require immediate attention. If no adjustments were made for the 2000 tax year, residential education requisitions could have increased by up to 50% in some areas. Cabinet approved the following **interim measures** be put in place until longer term solutions are developed:

- Retain education property tax rates at 1999 levels.
- Average growth in equalized assessment over a period of two years, **combined with** a 5% cap on growth on residential equalized assessment, **and** 10% on growth of non-residential equalized assessment.

The MLA committee also recommends the following **longer term measures**:

- The committee develop long-term recommendations for implementation, and
- The committee proceed with stakeholder consultation.

Averaging the equalized assessment to determine a municipal education requisition helps to smooth the effects of rapid growth in market value assessment and rapid changes in market value assessment by spreading them over a longer period of time. An advantage of the averaging is that it treats all municipalities on a similar basis over time.

The MLA Committee believes that the two-year average approach does not provide adequate relief to municipalities experiencing extreme growth in equalized assessment. The committee recommended that the 5% on the averaged residential equalized assessment growth be maintained and that a 10% be placed on the averaged non-residential equalized assessment. The recommendation to cap the averaged non-residential equalized assessment is a result of increasing complaints from the business community.

Cabinet agreed that a new regulation is required to equalize assessments for school requisitioning purposes. Consultations with stakeholders on the Equalized Assessment Variance Regulation are underway.

According to the Business Plan, ministry staff are participating with the MLA committee and are now preparing the processes necessary to implement the committee's recommendations for the 2000 tax year.

To address the longer term issues, the committee will prepare a discussion paper that will provide a summary of background information on education property taxes, issues and long-term options for the future. The discussion paper will provide the basis for consultations on longer-term solutions. The timing of the consultations will be determined at a later date. Changes, if any, could be implemented in the 2002 tax year.

The committee will also conduct a further review to address the implications of establishing a special tax rate for national parks communities. This analysis will be considered in context with other long-term solutions for all other municipalities.

It is estimated that the education property tax revenue requirement for the 2000 tax year will amount to about \$1.374 billion. Information to date indicates that implementing the committee's recommendation of a two-year averaging, combined with capping, will meet the estimated education property tax revenue requirement.

December, 1999
Lynda Downey, 422-8313
Assessment Services

ASSESSMENT REVIEW BOARD TRAINING

Alberta Municipal Affairs has developed a training program for Assessment Review Board members and clerks. The program may also be of interest to council members and administrators. Separate workshops are being designed specifically for assessors and will be offered at a later date.

In addition to the training program, a manual and guidebook have been developed to help those involved with assessment review boards. This material explains the basic process of property assessment and the role of the review board; how a hearing should be conducted in order to reach appropriate decisions; and how to ensure that those appearing before the board are treated in a fair and just manner.

The one-day workshops are being held throughout the province at no cost to the participants. They run from 9:00 a.m. to 3:30 p.m. Lunch and beverages will be provided free of charge. For those unable to attend, materials provided at the workshop are available from the Queen's Printer for \$25.00 per set. A number of workshops have already been held. The workshops to be held in 2000 are listed below.

Location	Date	Address
St. Paul	January 12	Recreation Centre 4802-53 Street
Wainwright	January 13	Communiplex 700-2 Avenue
High River	January 20	Highwood Memorial Centre 128-5 Avenue W
Cochrane	January 26	Arena Mezzanine 604-4 Avenue NW
Drayton Valley	January 31	Westwind Motor Inn 4225-50 Street
Valleyview	February 9	Memorial Hall 4806-50 Street

The department also intends to provide a similar workshop for assessors. Edmonton, Red Deer and Lethbridge have been tentatively named as possible locations for the workshops. A total of 25 participants would be necessary to justify the presentation of a workshop session. There would be no fee to attend and the materials will be provided at no charge to the participants.

Please contact Gerry McGee if you are interested or require further information.

To Register for a Training Session

Please contact Gerry McGee at the Assessment Services Branch of Alberta Municipal Affairs with the number of attendees from your municipality. Gerry can be reached by e-mail at gerry.mcgee@ma.gov.ab.ca, by fax at (780) 422-3110, or telephone at (780) 422-8392. If you have further questions regarding the workshops, please contact Darryl Menzak or Karen Wronko at (780) 422-1377.

FREEDOM OF INFORMATION & PROTECTION OF PRIVACY ACT

A number of questions regarding the Freedom of Information & Protection of Privacy Act (FOIP) have come up at the Assessment Review Board training workshops. Below are some frequently asked questions about FOIP and how it relates to assessment records. For more information, see the FOIP web site at:

www.gov.ab.ca/foip

1. **Can municipalities still collect the personal information they need for the property assessment roll?**
 - a) Yes. Under section 32(a) of the *FOIP Act*, a municipality can collect personal information that other legislation authorizes it to collect.
 - b) The *Municipal Government Act (MGA)* sets out what information must be collected for assessment purposes. Section 303 of the *MGA* sets out specific information that must be included in the assessment roll.

2. **Should municipalities still make the assessment roll available for inspection?**
 - a) Yes. The *MGA*, section 307, allows individuals to "inspect the assessment roll during regular business hours on payment of the fee set by the council."

- b) One suggestion is to maintain the complete version of the assessment roll, including owners' names, addresses and phone numbers, in the municipal office. This copy would be available for inspection during office hours. Another version of the roll, containing the property information but not the personal information, could be made more widely available.
3. **Can municipalities use the personal information on the assessment roll for other purposes related to the operation of the municipality?**
- a) Yes. Under section 37(a) of the FOIP Act, a municipality may use personal information for the purpose for which the information was collected.
- b) The name and mailing address of the property owner was collected for the purposes of operating the municipality, including compiling the assessment roll. This information can be used for other purposes related to the operation of the municipality, such as providing services and utilities.
- c) When the personal information is collected, notice should be given to residents of how their personal information may be used, as required by section 33(2) of the FOIP Act.
4. **Can municipalities sell the personal information on the assessment roll to external groups or companies, such as marketers?**
- a) Names of assessed individuals should not be released without their consent. This would not be covered by the notice provided when the information was collected, and is not the purpose for which the information was collected.
- b) If the name of the assessed individual was removed, the remaining information would not be personal information under section 1(1)(n) of the FOIP Act. The property information remaining could be sold to external groups or companies. To further ensure that only the property information is disclosed, a municipality may also wish to remove the mailing address of the assessed individual before selling information on the assessment roll.
5. **If a municipality is asked to provide the address or legal description of property owned or leased by an individual and that information is part of the assessment roll, can the address of the individual be disclosed?**
- a) When only the name of the individual is provided, the disclosure of an address or legal description by the municipality would be an unreasonable invasion of privacy. The roll was prepared for property tax assessment and for other operational purposes of the municipality, such as providing utilities and ambulance and fire services. It was not prepared to answer general inquiries.
- b) Note that an individual could ask to inspect the assessment roll, and in doing so may be able to identify the individual's mailing addresses and legal description of property. The MGA requires that municipalities provide access to the assessment roll during office hours on the payment of a fee. Being allowed to inspect the roll does not mean that the individual can be provided a copy of the roll, either a paper or electronic version.
6. **What information can a municipality release on a tax certificate?**
- a) Section 350 of the MGA authorizes the release of tax arrears information. It says that on request a municipality can release the amount of taxes imposed and the amount of taxes owing in the current year, and the total amount of tax arrears.
- b) The MGA is silent on whether the name of the property owner is to be released. Any disclosure of personal information under FOIP should be limited to "the extent necessary to enable the public body to carry out the purposes....in a reasonable manner (section 38(2)). Normally the name of the property owner would not need to be disclosed.

ASSESSMENT VALUATION STEERING COMMITTEE

The Assessment Valuation Steering Committee (AVSC) was established in 1997 in response to concerns about market value based assessments. The AVSC consists of representatives from Alberta Municipal Affairs and the Alberta Assessors' Association.

The AVSC has been working to address various valuation and administrative issues affecting assessors and their clients throughout the province. To date, 15 guides have been produced, including:

- Introduction
- Valuation Guide - Introduction and Glossary
- Apartment/Multi-Residential
- Hotel/Motel
- Strip Commercial Properties
- Gas Stations
- Golf Courses
- Special Purpose Properties
- Administration - Building a Defensible Assessment Roll
- Valuation Parameters
- Manufactured Home Communities
- Shopping Centres
- Warehouses
- Office Buildings
- Grain Elevators

There are six guides in various stages of the production process. They are:

1. Jurisprudence
2. Recreational Use Properties
3. Golf Course Parameters
4. Grain Elevator Obsolescence (addendum to Grain Elevator Guide)
5. Train the Trainer
6. Depreciation and Obsolescence

At the September 14 meeting of the AVSC, it was decided to form a committee from the AVSC and Alberta Assessors' Association to prepare a training plan that will meet the needs of assessors now and in the future. A meeting was held October 15, where a number of alternative ideas for course delivery were developed, such as video conferencing, offering courses via the web, and holding coursing at sites other than Edmonton or Calgary.

The next meeting of the AVSC will be held in January 2000.

We want more ideas for modules. If you have any thoughts or suggestions, contact Karen Wronko at (780) 422-8420 or e-mail at karen.wronko@ma.gov.ab.ca.

LINEAR ASSESSMENT

EXTENSION OF TIME

Ministerial Order L:228/99 applies to linear property described in Section 284 (1) (k) of the Municipal Government Act. The date by which an operator of linear property must provide a report to the assessor designated by the Minister is extended to February 15, 2000.

To enable the municipality to record information on the assessment roll in accordance with Section 308 (2.1) of the MGA, the date for preparation of the assessment roll pursuant to Section 302 of the MGA for linear property described in Section 284 (1) (k) only, is extended to April 1, 2000 for all municipalities.

ASSESSMENT AUDIT & EQUALIZATION

2000 EQUALIZED ASSESSMENT REPORT

The 2000 equalized assessments were mailed to municipalities on November 1. A copy of the 2000 Equalized Assessment Report is included with this issue of Advisory Aspects.

MUNICIPAL GOVERNMENT BOARD DECISIONS

Summaries of Municipal Government Board decisions will not be included in future issues. Instead, Board Orders will be listed showing the appellant, respondent, and the general issue of the appeal.

Readers are encouraged to look up Board Orders on the Internet. The search engine can be accessed through the Municipal Affairs home page at:

www.gov.ab.ca/ma

Scroll down the Municipal Affairs home page until you find the Municipal Government Board heading, click on that and then scroll down until you find Board Order Search.

You can search by subject matter, board number, or by the parties involved in the appeal. Enter only the information that you know, the rest can be left blank.

You can also use the "word" search feature for finding Board Orders. This allows you to search for specific orders by typing a word or a series of words. For example, to search for all Board Orders that relate to golf courses, type in the words "golf course" and all Board Orders with those words will appear. If you click on the blue Board Order, the full Board Order will appear.

MGB 049/99**Erich Schluter****and****M.D. of Rocky View No. 44**

Under the authority of the Evidentiary Matters Regulation 121/97, this appeal was referred back to the Assessment Review Board.

MGB 120/99**Edwin Carswell****and****County of Red Deer No. 23**

See also MGB 030/97, MGB 220/98, and MGB 076/99.

The subject of this appeal consisted of an 11.32 acre parcel of land occupied by two homes, a building housing antique cars and a building used to operate a used auto parts business. The issues of the appeal were:

1. Was the assessment fair and equitable in comparison with similar properties?
2. Was access and visibility from highway 2 recognized in the assessed value?

The appellant argued that the assessor did not consider the true characteristics of the property in relationship to other properties in the area. He referred to several aspects of the property in defense of this position.

The appeal was denied.

MGB 121/99**AEC Valuations (Western) Inc. on behalf of Alberta Wheat Pool
and
Village of Mannville**

See also MGB 81/98, MGB 089/99, and MGB 114/99.

This was an appeal of a 1998 Assessment Review Board decision. The properties under appeal were the Alberta Wheat Pool grain elevators and their ancillary buildings within Mannville. The elevators were operational in the 1997 assessment year and were demolished in March 1998. The issue of the appeal was whether the assessment reflected the full measure of economic obsolescence.

The appellant submitted evidence in support of their request to have the improvements reduced to salvage value.

The appeal was denied.

MGB 122/99**Mr. & Mrs. H.M. Kiyooka
and
M.D. of Rocky View No. 44**

The subject of this appeal was the land assessment of an acreage located west of Calgary. The issues of the appeal were:

1. Was the land assessment fair and equitable in comparison with other acreages in the area?
2. Did the existence of a slough reduce the value of the land?
3. What effect did the view have on the market value of land?

There is a slough area of about 3 acres of the property. The appellant stated that this area is of little value. In addition, the lack of a view is another negative factor affecting the assessed value of the property. The appellant also presented the assessments of similar properties.

The appeal was allowed. The Board agreed with the appellant that the view from the property is not as good as that from nearby properties, and that the slough created a loss in value. The Board granted a reduction of 5%.

MGB 123/99**Kelley Corey
and
Town of Coaldale**

The property under appeal is located in the Garden Grove subdivision of Coaldale, and contains a three bedroom home constructed in 1997. The issues of the appeal were:

1. Was the property assessed correctly?
2. Was the assessment fair and equitable in comparison with similar properties?
3. Did minor upgrades impact market value?

The appellant presented the assessed values of seven comparable properties and argued that they are being taxed at a lesser rate per foot but contain more features or amenities.

The appeal was denied.

MGB 124/99

**Newell Group on behalf of Priddis Green Golf and Country Club, Upper Lakes Group Inc.,
and Cottonwood Golf and Country Club
and
M.D. of Foothills No. 31**

See also MGB 219/98.

The subject of this appeal were three golf courses. All had similar grounds for complaint, and all parties agreed to a combined hearing. Priddis Greens Golf and Country Club is a private course consisting of 27 holes on a 310.7 acre site. Upper Lakes, is a public facility with 27 holes on a 239.38 acre site. Cottonwood Golf and Country Club is a semi-private course with 18 holes on a 166.07 acre site.

The appellants argued that to assess the greens, fairways and tee-boxes as improvements is wrong and contravenes the definition of improvements as defined in the Act. As a comparison, the appellant stated that to assess these things would be similar to assessing the grain crops on the neighbouring field as improvements. Both the farmer and the golf course builder work the land; they both remove or plant trees, move earth as required, or pick rocks as necessary. Left unattended, golf courses and hay fields are nothing more than pasture lands. The second issue was that of depreciation. The seasonal use of a golf course should qualify it for additional depreciation. An outdoor swimming pool receives a seasonal adjustment of 66% because it can only be used 33% of the year. The appellant concluded that there should be an adjustment of 42%.

The appeal was denied. The Board concluded that improvements to a golf course are done at significant cost, and as such, the tee-boxes, greens and fairways must be included as improvements on a golf course. To exclude them from the assessment roll would set an assessment below market value. In addition, the Board found that the assessor recognized the seasonal use in the assessment and there was no compelling evidence to justify awarding additional depreciation.

**MGB 125/99
Newell Group, for Second Properties Limited
and
City of Calgary**

See also MGB 125/98 and MGB 193/98.

This was an appeal of a 1997 Assessment Review Board decision. The property under appeal was a 28 storey office tower located in downtown Calgary. It was built in 1982. The issues:

1. Did the classification of the property have a relationship to market value?
2. Was the assessment fair and equitable in relation to similar properties?

The building was classified as an A- building. The appellant argued that because of its location, it should be classed as a B+ building. The location affected economic performance and the market value of the building. The appellant presented sales comparisons and an assessment calculated using the income approach. The sale of the building in 1995 was presented as an indicator of its value.

The land assessment was confirmed. The Board allowed the appeal on the improvement assessment.

MGB 126/99
Antoinette Paunovic
and
City of Lethbridge

The property under appeal was a 1-1/2 storey home built near the turn of the century. The home is in need of upgrading and maintenance. The issues of the appeal were:

1. Did the assessment take all factors of depreciation into consideration?
2. Was the assessment based on correct size of the improvement?

The appellant stated that the home is in poor condition and suffers from lack of maintenance. There is no real bathroom, the bedrooms are small with sloped ceilings and small closets. The cellar is dirt-walled and because of water accumulation one wall collapsed, that wall was repaired, but a second is now in danger of collapse. Three sales comparables were presented.

The appeal was denied. The Board found the property to be larger than the comparable lots and is appropriately assessed. The improvement suffers from a number of problems, but when compared with similar properties, is valued less on a per square foot basis.

MGB 127/99
David and Carol Lyons
and
Wheatland County

See also MGB 295/98.

The property being appealed consisted of two parcels of land located in an abandoned railway right-of-way. The issues of the appeal were:

1. Should the property be assessed as farmland?
2. Was the assessment fair and equitable when compared with similar property?

The appellant stated that the land should be classed as farm land. He argued that his neighbour's bees "forage" on his clover, and this is no different than any other "grazing". In addition, similar properties are not used for farming, but are assessed as farm lands.

The appeal was allowed. The Board found that although the appellant's lands were not used for farming, other properties in the railway right-of-way have been assessed as farm lands, whether used for farming or not. Other evidence showed that parcels similar in size and condition to the property being appealed were assessed much lower.

MGB 128/99
MacLeod Dixon on behalf of Canadian Energy Research Institute
and
City of Calgary

See also MGB 301/98.

The property under appeal is owned by the Province. The property houses the Ian McKinnon Memorial Library, offices, laboratories, and conference rooms. Before 1997, the property was exempt from taxation and the Province paid a grant-in-lieu of taxes for a portion of the building. The issues of the appeal were:

Jurisdiction

1. Did the Board have jurisdiction to consider the issues?
2. What effect did section 523 have in consideration of the appellant's request that the Board not rehear all of the evidence?
3. Did the Evidentiary Matters Regulation restrict the role of the Board to an appellate tribunal, and restrain them from hearing the evidence again?

4. Was the Board restricted to deciding only errors of fact and law arising out the proceedings and decision of the ARB?

Merit/Exemption

1. Did the appellant meet the qualifications for an exemption under section 362(1)(n)(iii) of the MGA?
2. Did the property held by the respondent meet the additional qualifications under AR 125/95?
3. Did the ARB err in law when it applied definitions to the terms "general public", "educational", and "charitable and benevolent", or when it refused to receive additional evidence from the appellant?

Regarding the entitlement to a tax exemption, the appellant stated that the ARB found that the appellant's activities benefited only the energy and related segment of the general public and this did not constitute a benefit to the general public within the meaning of section 362(1)(n)(iii) of the MGA. Also, the ARB determined that the appellant's research activities did not constitute a part of its educational activities. The appellant stated that the property is used for a charitable or benevolent purpose for the benefit of the general public. The property is owned by the province and held by a non-profit organization, and meets the necessary qualifications of AR 125/95.

The Board determined that it has jurisdiction to consider the evidence and issues in accordance with the provisions of the Act and AR 121/97. The Board found that the property qualifies for a tax exemption under section 362(1)(n)(iii) of the Act.

MGB 129/99**Talisman Energy Inc.****and****The Crown in the Right of the Province of Alberta as represented by the Minister of Municipal Affairs**

The subject of this appeal was a gas conveyance pipeline located in Yellowhead County. The pipeline is used to transport sour gas to an interconnect line to the Edson Gas Plant. The issue of the appeal was whether the Board has the authority to allow for a loss in value in addition to the 25% fixed and immediate depreciation granted to all pipeline, and if so, was there a loss in value greater than 25%.

The complainant stated that in 1995, the Edson gas plant was operating at 35-40% of design capacity. To extend the life of the plant, a strategy of competing for new gas was developed. The plan was to bring the gas from a greater distance and the economics to the producer would have to be favourable. The pipeline had to be re-commissioned as a gas line and connected to the Edson gas plant. Although the pipeline is a 12" diameter line, 6" pipe would be sufficient to move the gas to Edson. Therefore, the line should be assessed at the 6" rate. The complainant also stated that the cost of moving the gas to the Edson plant is more than moving it to a nearer plant, and from an economic point of view, the pipeline should be assessed at the 4" rate.

The appeal was denied.

MGB 131/99**George and Doris Magnus****and****M.D. of Rocky View No. 44**

The property under appeal was a 20 acre parcel located west of Calgary. The land was assessed on the basis of a three acre market site with the remaining land assessed as farmland. The surrounding area consists of a mixture of sites developed in a similar manner or as subdivisions with lots under five acres. The residence was constructed in 1964. The issues were:

1. Should larger parcels be grouped with small acreages to develop market values?
2. Was the application of a view/location factor applied correctly?
3. Was the improvement over-valued?

The appeal was denied.

MGB 132/99
Donald Morrison
and
M.D. of Rocky View No. 44

See also MGB 180/96, MGB 181/96, and MGB 21/98.

The property under appeal was a 20.01 acre parcel located west of Calgary. The land was assessed on the basis of a three acre market site with the remaining land assessed as farmland. The surrounding area consists of a mixture of sites developed in a similar manner or as subdivisions with lots under five acres. The issues were:

1. Should large parcels be valued based on the same factors applied to small parcels?
2. Was the application of a 10% factor for view justified?

The M.D. of Rocky View uses two formulas to determine the market value of land components in the area, one formula for parcels over five acres and one for five acres or less. The appellant argued that the formulas used to value his land were not fair and equitable. Regarding the view, the appellant provided a topographic map which showed that only half the site had a view. He stated that the application of the surcharge for a view was unwarranted.

The appeal was allowed. The Board determined that only a portion of the site has the elevation to provide a view, and reduced the assessment by removing the 10% view factor.

MGB 133/99
Property Tax Appeal Services on behalf of Edmonton Exchange and Refinery Services Ltd.
and
City Edmonton

The property under appeal was a heavy industrial manufacturing plant in southeast Edmonton. The appellant manufactures heavy duty petrochemical and industrial components. The facility began with a metal warehouse built in 1980. Two additional warehouses were added in 1989 and 1997. A separate office building was added in 1991. The issues of the appeal were:

1. Is there abnormal depreciation to this site?
2. Are the warehouse buildings properly classified?
3. Do market rents support the assessed value?

The appellants argued that functional obsolescence is warranted because of the condition of the improvements. They believed that the City erred in classifying the office building as an office/warehouse. It should be classed as a B-warehouse, and receive extra depreciation for economic obsolescence. The appellant also argued that the assessment is too high relative to market conditions. Based on two income and expense statements that were presented, the appellant stated that the assessed value of the subject should be less.

The Board denied the appeal on the land assessment and allowed the appeal on the improvement.

MGB 134/99
Cypress County
and
G.R.F. Management Ltd.

See also MGB 102/99, MGB 165/99, and 193/99.

The properties under appeal are located in Cypress Hills Provincial Park. The respondents operate most of the premises through an agreement with the province. The first property under appeal is used by G.R.F. as an office. The second property is a boat and bike rental concession, and the third a miniature golf concession. The office and boat and bike rental

buildings are owned by the province; the miniature golf concession is owned by G.R.F. The issue of the appeal was whether the properties are held under a lease, license or permit from the Province of Alberta and liable to assessment.

The assessor for Cypress County noted that MGB 204/98 decided that operators of provincial campgrounds were not holders of a lease, license or permit and are not assessable pursuant to section 298(1)(k) of the Act. The County considered this decision and did not appeal that decision, however, there are differences in the agreements for these three properties. G.R.F. is the sole occupant of these sites making them the holders of the property with many of the same privileges associated with a lease agreement. These areas are not held by the Crown and not exempt from assessment.

The Board upheld the ARB decision on the land assessment. Regarding the office and boat and bike concession buildings, the province retained the right for its representatives to have unimpeded access to the buildings. Consequently, the agreements dealing with these two properties are considered to be operating agreements, not leases, licenses or permits. Concerning the golf concession, the Board decided that G.R.F. owns the building and is taxable.

MGB 136/99
City of Edmonton
and
Minister of Municipal Affairs

This appeal concerned the City of Edmonton's 1999 equalized assessment. This Board Order set out procedures for the exchange of information and dates for jurisdictional and merit hearings.

MGB 137/99
Tizirsands Property Tax Consultants (Property Owners: Mackenzie & Miranda Kwan)
and
City of Calgary

This was an appeal of a 1997 ARB decision. This issues of this appeal were:

- 1.0 Only one assessment was made by the assessor and entered on the assessment roll. The appellant argued that the ARB exceeded its jurisdiction when it separated the assessment into land and improvement components.
- 2.0 Do the Witral or Bensler decisions apply to this appeal?
- 3.0 What is the correct market value of the property?
- 4.0 The status of the City of Calgary.
 - 4.1 Whether the City has property status as a party to this appeal.
 - 4.2 Whether a solicitor for the City of Calgary Law Department has authority to appeal on behalf of the City of Calgary.
 - 4.3 Does the Board have jurisdiction to hear this appeal on its merits?

The Board denied the appeal on the land assessment. The appeal on the improvement assessment was allowed.

MGB 138/99
Tizirsands Property Tax Consultants (Property Owners: Jan & Daniele Sovak)
and
City of Calgary

See also MGB 169/98, MGB 297/98, MGB 037/99, and 187/99.

This was an appeal of a 1997 ARB decision. This issues of this appeal were:

- 1.0 Only one assessment was made by the Assessor and entered on the assessment roll. The appellant argued that the ARB exceeded its jurisdiction when it separated the assessment into land and improvement components.

- 2.0 Do the Witral or Bensler decisions apply to this appeal?
- 3.0 What is the correct market value of the property?
- 4.0 The status of the City of Calgary.
 - 4.1 Whether the City has property status as a party to this appeal.
 - 4.2 Whether a solicitor for the City of Calgary Law Department has authority to appeal on behalf of the City of Calgary.
 - 4.3 Does the Board have jurisdiction to hear this appeal on its merits?

The Board denied the appeal on the land assessment. The appeal on the improvement assessment was allowed.

MGB 139/99**Lougheed and Company Inc. on behalf of Mount Royal Properties
and
City of Calgary**

The subject of this appeal was a five storey office building with retail space below grade. The building has an atrium that opens the below grade retail area to the main and second floor. The value of the land was not in dispute. The issue was whether including the below grade retail area in the improvement assessment was fair and equitable.

The appeal was denied. The Board was convinced that the below grade retail area contributed to the value of the property.

MGB 140/99**Newell Group on behalf of Henderson Lake Golf Club
and
City of Lethbridge**

The subject of this appeal was the Henderson Lake Golf Club. The Club operates under a lease agreement with the City of Lethbridge. The issue of the appeal was whether the property is exempt from taxation under the Act and AR 289/97.

The appellant stated that the Club qualifies for exemption under sections 362(n) and 370(c) of the MGA, and effective January 1, 1998, Regulation 289/97, section 14(a). The Club is a non-profit organization used by the general public for sports and recreation. Under the lease agreement, it meets the requirements of AR 289/97. The Club is open to the public, and membership is available to all. There is no requirement to become a member.

The appeal to exempt the Henderson Lake Golf Club was denied. The Club promotes golf in the community, but there was no evidence that those who are unable to pay the green fees have access to the facilities. The fee schedule is not based on minor entrance or services fees and is restrictive.

MGB 141/99**Newell Group on behalf of Brookfield Management Services Western Ltd.
and
City of Lethbridge**

The subject of this appeal was the College Value Mall. The mall is a single storey shopping centre consisting of 19.88 acres. Both parties agreed that market value was best calculated using the income capitalization approach. The issue of the appeal was the amount of effective gross income and effective net expenses to be used to establish the net operating income.

The appeal was allowed in part.

MGB 142/99**Bridge Valley Golf Ltd., represented by MacLachlan McNab Hembroff
and**

City of Lethbridge

The Bridge Valley Golf Course is a nine-hole golf course and driving range. The course consists of a total of 54.75 acres. It was developed in 1962 and opened in 1963. The course was constructed with very little tree removal and minimal landscaping. There are no sand traps, water hazards, or elevated tee boxes. The issues of the appeal were:

1. Does the land assessment reflect market value?
2. Are site developments such as tees, fairways, greens, water hazards, bunkers, etc., assessable under the Act and if so included as improvements?
3. Does the assessment on the site developments recognize the course's minimal development, its location in a northern climate, and the impact of flooding?

The appellant argued that the land assessment is too high, the site development is not an improvement as defined in the Act and even if the developments are found to be improvements, insufficient depreciation has been applied.

The Board allowed the appeal on the land assessment. The appeal on the improvement assessment was denied.

MGB 143/99**Lethbridge Country Club, represented by MacLachlan McNab Hembroff
and
City of Lethbridge**

The Lethbridge Golf and Country Club was incorporated on March 25, 1913. Originally a nine-hole course, in 1983, it was expanded to 18 holes. The property consists of bottomlands, some of which are subject to flooding, and coulees. The Club owns a total of 203.14 acres of land. The improvement assessments on a maintenance shed, house trailer, and clubhouse were not in dispute. The issues of the appeal were:

1. Does the land assessment reflect market value?
2. Are site developments such as tees, fairways, greens, water hazards, bunkers, etc., assessable under the Act and if so included as improvements?
3. Does the assessment on the site developments recognize the effects of periodic flooding, the difficulty experienced in maintaining the course, and its location in a northern climate?

The appellant argued that the land assessment is too high and site developments are not improvements as defined in the Act. If the site developments are improvements, insufficient depreciation has been applied to recognize the difficulty in maintaining the course.

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

MGB 145/99**Peter and Shirley Van Leeuwen
and
Municipal District of Foothills No. 31**

This was an application for a review of an MGB decision. The Board heard the appeal on February 16. At the end of the hearing, the Board issued an oral decision. The appellant was not in attendance. The reasons for an application for review were:

1. Did the appellant receive proper notice of the hearing?
2. Are there circumstances to support a request for a rehearing?

The appellants stated that they knew the hearing was to be held on February 16, but understood the time to be 7:45 p.m., not 10:00 a.m. They claimed that received no notice of the hearing. They called the MGB office to ask when the hearing was scheduled but did not ask what time it would be. They assumed it was in the evening.

The application for a rehearing was denied.

MGB 149/99

**The Calgary Croatian Retirement Recreational Sports Society
and
Municipal District of Rocky View No. 44**

The subject of this appeal was two parcels of land. Before 1998, the land was assessed as farmland. For the 1998 assessment year, the assessment was based on market value and the parcels were re-classed as vacant residential and occupied residential. The issues of the appeal were:

1. Does the property qualify for an exemption under section 362(1)(n) of the Act and AR 289/97?
2. Is the property fairly, equitably and correctly assessed?
3. Is the classification of the property correct?

The appellant stated that the property was acquired for sports, cultural, social and recreational events involving people of all ages. Most of the members are of Croatian origin, but membership is not restricted by cultural or ethnic background. There are no fees associated with membership. Non-members may attend a function when accompanied by a member, and other groups are allowed to use the property. The appellant argued that the property was improperly classified.

The request for a tax exemption was denied and the land assessment was confirmed.

**MGB 150/99
Canadian Valuation Group Ltd. on behalf of Imperial Oil Limited
and
City of Edmonton**

The subject of this appeal was property owned by Imperial Oil and leased to Springwood Developments. The improvement is a commercial retail strip mall operated as Braemar Square Shopping Centre. Imperial Oil operated a gas station on the property until 1993. The fuel tanks were removed in 1996. The issues of the appeal were:

1. What effect does contamination have on the value of the property?
2. Does the postponement of a hearing warrant the awarding of costs?

The appellant submitted that the assessment does not recognize contamination on the property. The appellant submitted an Environmental Remediation Costs Study.

The City stated that the appellant had not provided adequate information on the contamination. Reference was made to an environmental study but the appellant had not provided a copy of the report.

Concerning costs, the City stated that at the ARB hearing in September 1998, the appellant requested a postponement so that they could obtain a copy of the engineering report from Imperial Oil. The first MGB hearing was postponed for the same reason.

The Board denied the appeal. The City was awarded costs.

**MGB 151/99
City of Calgary
and
Newell Group on behalf of Merritt Properties Ltd.**

This is a request by the City of Calgary for a rehearing of an MGB decision.

The Board conducted an appeal hearing on November 30, 1998. The City claimed that the Board did not have jurisdiction to hear this appeal because neither the owner or their agent were present at the ARB hearing. The Board gave both parties the opportunity to present their positions and at the conclusion, decided that it did have jurisdiction. At this hearing, the City agreed to an oral decision, but in subsequent letters to the Board requested a written decision and then asked the Board to rehear the matter of jurisdiction.

The appellant stated that because the respondent did not appear at the ARB hearing, there was no hearing. The City presented a number of Board decisions that conflict with the decision made on November 30.

The respondent stated that the City presented its argument and submissions at the November 30 hearing, and the reasons for the rehearing were identical.

The request for a rehearing was denied.

MGB 153/99

Newell Group for Canada Safeway Limited

and

City of Lethbridge

See also 93/95 and MGB 163/96.

The property being appealed was the Lucerne Food Processing Plant. Original construction dates back to 1941, with renovations and additions completed since then. The issues of the appeal were:

1. Should the freezer/cooler be defined as machinery & equipment?
2. Has depreciation been recognized in the assessment?
3. Is the assessment fair and equitable?

The appellant argued that the freezer/cooler should be assessed as machinery and equipment, not improvements. To hold harvested vegetables, massive freezers/coolers were constructed. The vegetables are brought to the facility and frozen. The bulk vegetables are stored in the freezers and packaged when required. The appellant referred to many problems associated with the age and condition of the building and concluded that depreciation from all causes had not been recognized in the assessment.

The appeal was denied.

MGB 154/99

Prince Royal Inn/Glen Eden Realty and Development Ltd.

and

City of Calgary

Rescinds Board Order MGB 9/98.

MGB 155/99

Paralee Property Tax Consultants on behalf of Nilsson Livestock Ltd.

and

City of Calgary

Rescinds Board Order MGB 282/98.

MGB 156/99

Property Tax Appeal Services on behalf of Stacon Developments Ltd.

and

City of Calgary

Rescinds Board Order MGB 211/98.

MGB 157/99**Kenneth J. Rusnak, Blue Hill Capital Corporation, Legacy Investments Ltd., Nexus Management Services Ltd.****and****City of Edmonton***See also MGB 164/97.*

This was a business tax appeal.

The appellant argued that the business tax assessment should be apportioned among the various parties and they should be assessed individually.

The appeal was denied.

MGB 159/99**City of Lethbridge****and****Macleod Dixon Barristers & Solicitors on behalf of Derbyshire Consultants (Western Canada) and Oxford Properties Group Inc.**

This was an application for review of an MGB decision. At the start of the hearing in March, both parties informed the Board that an agreement had been reached on all issues except the capitalization rate. They agreed on the value of the net operating income. In reducing the assessed value of the improvements, the Board indicated that adjustments had been made to the net operating income. The issue was that the parties were not given the opportunity to provide evidence on an issue they had both agreed to, but was not accepted by the Board.

The appellant believed the Board changed the net operating income without evidence or argument from the parties, and in rejecting the evidence presented, the Board made a decision based on its own opinion and expertise.

The request for a rehearing was approved, and the decision of the Board was rescinded.

MGB 160/99**Town of Canmore****and****Lougheed and Company Inc. on behalf of Stone Creek Properties Inc.***See also MGB 038/99.*

This was a request for a rehearing of an MGB decision. The property consists of 22 parcels of land, 16 of which were residential and six were designated for golf course development. The assessment was reduced because the golf course was incomplete as of December 31, 1996. The Board adjusted the assessment for all the 22 parcels under appeal. The issue was whether there were errors of fact relating to the parcels and their use that affected the Board's decision.

The applicant stated that the 22 parcels of land under appeal consisted of 6 parcels for the golf course and 16 multi-residential, single residential or bare land residential condominium. The applicant did not object to the MGB's adjustment of the golf course. At the hearing, it was assumed that all roll numbers related to the golf course. Because the residential lands were not subject to the arguments relating to the golf course, the applicant requested a rehearing for the residential parcels.

The Board granted a rehearing for the 16 residential properties.

MGB 161/99**Lougheed & company Inc. on behalf of Canada Mortgage and Housing Corporation
and
City of Calgary**

See also MGB 147/97, MGB 148/97, and MGB 55/98.

This was a request for a rehearing of an MGB decision. The original hearing was an appeal of the 1994 Court of Revision and 1995 Assessment Review Board. The issues were:

1. Should the appellant's request be rejected because it was submitted after the 30 day period required by the Board?
2. Did the Board not provide the appellant with the information required to present their case?

The Board held preliminary hearings on several appeals related to the problems with post-tensioning. The appeal was heard in October, 1997. The Board received a request for review from the appellant 114 days after the date of the decision.

The rehearing request was denied.

MGB 162/99**Microcell Connexions Inc.
and
The Crown in the Right of the Province of Alberta as represented by the Minister of
Municipal Affairs**

This appeal concerns 1998 linear property assessments. The issues of the appeal were the assessment of software and the depreciation method applied to the assessment.

At this hearing, the representative for Microcell requested additional time to prepare for this appeal. The representative for Alberta Municipal Affairs indicated that Board Order MGB 99/99 dealt with the assessment of similar software. That decision has been submitted to the Court of Queen's Bench for judicial review. A decision from the Court is expected later in the year.

The Board set out procedures to be followed in submitting information on this appeal and scheduled further hearings.

MGB 163/99**Canadian Valuation Group Ltd. for Fantasyland Hotel
and
City of Edmonton**

This was business assessment appeal. The issues of the appeal were:

1. Is the assessment fair and equitable when compared to other hotels?
2. Can the business assessment, calculated on a percentage of the previous year's improvement assessment be altered on complaint or appeal?

The appeal was denied.

MGB 164/99**Telus Corporation on behalf of Telus Communications Inc. and Telus Communications
(Edmonton) Inc.
and
The Crown in the Right of the Province of Alberta as represented by the Minister of
Municipal Affairs**

This Board Order set out revised linear assessments in accordance with MGB 099/99.

MGB 165/99
Pritchard, Lerner & Co. on behalf of Cypress Ski Hill Ltd.
and
Cypress County

See also MGB 102/99, MGB 134/99, and 193/99.

The subject of this appeal was the Cypress Hills Ski area. The area contains various facilities and equipment relating to downhill skiing. In 1987, the Province privatized the maintenance and supervision of certain areas within provincial parks. The issues of the appeal were:

1. Is the property a provincial park held by the Crown and not liable to assessment?
2. Is the property held under a lease, license or permit from the Crown and thus liable to assessment under 304(1)(c) of the Act?
3. If the property does not fall under section 304(1)(c), are the improvements liable to assessment pursuant to section 304(1)(h) of the Act?

The appellant stated that they have limited use of the property. The operation runs from December 1 to March 15. No other industry is possible for the rest of the year. The Minister determines who has access to the premises.

The respondent argued that the terms outlined in the lease agreement transfers normal rights that come with real estate ownership. The lease contains conditions regarding sub-leasing, various uses, or modifications to the structure. These conditions require the consent of the owner, but the operator has unlimited use of the facility and total decision making power to run the operation.

The appeal was allowed, and under section 298(1)(k) of the Act, no assessment is to be prepared. The Board found that the Crown retains major, if not total control over access to and use of the property.

MGB 167/99
Shim Enterprises Ltd.
and
M.D. of Rocky View No. 44

The property under appeal consists of 158.3 acres, with 155.3 acres assessed as farmland. There is a building on the remaining 3 acres that the assessor concluded was a residence, and assessed it at market value. The issue of the appeal was whether the building is a residence or not.

The appellant stated that the structure is about 20 years old and used only as a shelter. It has never been occupied and does not have any of the facilities necessary for a residence. The appellant requested that the Board remove the "residential occupied" classification and assess the three acres as farm land.

The respondent argued that the building falls under the definition of a structure. The respondent referred to AR 365/94 section 3(c) which states "an area of 3 acres within a larger parcel of land where any part of the larger parcel is used but not necessarily occupied for residential purposes".

The appeal was allowed.

MGB 168/99
Amending Board Order

Amends Board Order MGB 234/98.

MGB 171/99

**Lucas Bowker and White on behalf of BTL Wood Enterprises Ltd.
and
M.D. of East Peace No. 131**

The property under appeal was a portable camp that provides workers with accommodation while harvesting timber. The logging is done on Crown lands under a Forest Management Agreement with Daishowa-Marubeni International Ltd. The appellant is employed by Daishowa. The issue of the appeal was whether the camp is exempt from assessment under section 298(1)(n) of the Act. If found to be assessable, should it be assessed pursuant to section 304(1)(k)?

The appellant stated that under section 298(1)(n), no assessment is to be prepared under a timber disposition under the Forests Act. The forest management agreement enables the company to enter and occupy the area, as well as construct, operate and maintain roads, and any other installations necessary to its logging operation. The homes are installations necessary and incidental to the operations, and therefore not assessable. The appellant also argued that if the property is assessable, it must be pro-rated to recognize that the units are not in the M.D. for an entire year. In addition, under section 304(1)(k), a bylaw must be passed before manufactured homes can be assessed. There is no bylaw, so there is no authority to assess the trailers.

The appeal was denied.

MGB 172/99

**Wayne Keiver
and
Mountain View County**

The properties under appeal are three parcels of land, each measuring 160 acres, and each with a residential improvement. The land value of the three acre sites is the issue of the appeal.

The appellant argued that the mass appraisal techniques used to prepare the assessments did not produce a correct market value for the three acre sites. Sales comparables were presented in defense of this position.

The appeal was allowed in part.

MGB 173/99

**Derald A. Harris
and
Summer Village of Gull Lake**

See also MGB 186/97 and MGB 303/98.

The Summer Village is east of Lacombe, adjacent to Gull Lake Provincial Park. The property under appeal was a lake front lot. Lake front lots are located along Premier Avenue, Lakeview Avenue, and Oliver Avenue. They are assessed on a front foot basis, others on a square foot basis. The issues of this appeal were:

1. Is the assessed value of lake front lots on Premier Avenue, Lakeview Avenue and Oliver Avenue fair and equitable?
2. Is the assessment of lake front lots calculated on a front foot basis fair and equitable in comparison to assessments of non-lake front lots calculated on a per square foot basis?

The appeal was denied.

MGB 174/99
Newell Group for Brookfield Homes Ltd.
and
City of Calgary

This was an appeal of a 1997 Assessment Review Board decision. MGB 125/98 and MGB 193/98 also apply to this appeal. The property is known as Atrium 1, an eight storey office building with two levels of underground parking, built in 1978. The issues of the appeal were:

1. Is the classification of the property correct?
2. Is the assessment fair and equitable?

The appeal was denied.

MGB 175/99
Newell Group for Brookfield Homes Ltd.
and
City of Calgary

See also MGB 125/98 and MGB 193/98.

This was an appeal of a 1997 Assessment Review Board decision. The property is known as Dominion Centre, an 11 storey office building built in 1979. The issues of the appeal were:

1. Is the classification of the property correct?
2. Is the assessment fair and equitable?

The appeal on the land assessment was denied. The appeal regarding the improvement assessment was allowed.

MGB 176/99
Newell Group for Royal Trust Corporation of Canada
and
City of Calgary

See also MGB 125/98 and MGB 193/98.

This was an appeal of a 1997 Assessment Review Board decision. The property is known as Place 800. It is a 17 storey office building built in 1972. The issues of the appeal were:

1. Is the classification of the property correct?
2. Is the assessment fair and equitable?

The appeal was denied.

MGB 177/99
Newell Group for 510 Fifth Street Properties
and
City of Calgary

See also MGB 125/98 and MGB 193/98.

This was an appeal of a 1997 Assessment Review Board decision. The property is known as Five Ten Fifth Building. It is an 18 storey office building built in 1981. The issues of the appeal were:

1. Is the classification of the property correct?
2. Is the assessment fair and equitable?

The appeal on the land assessment was denied. The Board regarding the improvement assessment was allowed.

MGB 178/99

**Newell Group for Gentra Western Properties Inc.
and
City of Calgary**

See also MGB 125/98 and MGB 193/98.

This is an appeal of a 1997 Assessment Review Board decision. The property is known as First Alberta Place. It is an 24 storey office building built in 1981. The issues of the appeal were:

1. Is the classification of the property correct?
2. Is the assessment fair and equitable?

The appeal on the land assessment was denied. The appeal regarding the improvement assessment was allowed.

**MGB 179/99
Newell Group for Dome Britannia Properties Inc.
and
City of Calgary**

See also MGB 125/98 and MGB 193/98.

This was an appeal of the 1996 and 1997 Assessment Review Board decision. The property is known as Ford Tower. It is a 20 storey office building built in 1976. The issues of the appeal were:

1. Is the classification of the property correct?
2. Is the assessment fair and equitable?

The appeal was denied.

**MGB 180/99
Glen Campbell on behalf of Paradise Canyon Land Corp., Paradise Canyon Golf Resort,
396976 Alberta Ltd., 496156 Alberta Ltd.
and
City of Lethbridge**

Paradise Canyon Golf and Country Club is part of a large residential/recreation project. In 1998, the appellant bought the golf club and 81 residential lots and other lands from the receiver. The 81 residential lots, the club house and the maintenance buildings were not under appeal. The issue was whether the golf course assessment should be based on the sale price less the assessed values of the other components of the total project.

The appeal was denied.

**MGB 182/99
Amending Board Order**

Amends Board Order MGB 160/99.

**MGB 184/99
Bryce Kipp Nelson Ltd. on behalf of Mayel Development Inc.
and
City of Calgary**

Rescinds Board Order MGB 141/98.

**MGB 186/99
Paralee Property Tax Consultants on behalf of Gretu Holdings Ltd.**

**and
City of Edmonton**

See also MGB 011/99.

The property under appeal was a two storey office building. Portions of the building are leased to two non-profit organizations, the Edmonton Musical Theatre Society (EMTS), and the Canadian Mental Health Association (CMHA). EMTS is an independent, musical theatre performance training organization providing musical theatre arts instruction to both adults and children. CMHA promotes mental health by providing information and assistance services. The issues of the appeal were:

(a) CMHA

1. Is the portion of the building leased to CMHA exempt?
2. Does regulation 281/98 have jurisdiction for the 1998 taxation year?

(b) EMTS

1. Is the activity of EMTS community games, sports, athletics or recreation for the benefit of the general public?
2. Does EMTS restrict public participation?
3. Are the fees charged by EMTS a form of restriction to the general public?
4. Is an application to a municipality under AR 289/97 mandatory to receive a property tax exemption?

Concerning CMHA, the appellant argued that property leased by the organization meets all the conditions specified under section 362(1)(n)(iii) of the Act and AR 289/97 and should receive a tax exemption. The appellant argued that EMTS meets the conditions for exemption under section 362(1)(n)(ii) of the Act and AR 289/97. EMTS is a non-profit organization, used solely for community recreation, and for the benefit of the general public. Neither organization made an application to the City for a 1998 property tax exemption under AR 289/97.

The appeal was denied. The Board found that CMHA does not meet all the criteria required in 362(1)(n)(iii), and EMTS does not qualify for property tax exemption because the property is not used for community games, sports, athletics or recreation for the benefit of the general public.

MGB 187/99

City of Calgary

and

Tizirsands Property Tax Consultants on behalf of Jan and Daniel Sovak

See also MGB 169/98, MGB 297/98, and MGB 037/99.

This is a request from the City of Calgary for a rehearing of an MGB decision. This appeal began with an appeal of a 1997 Assessment Review Board decision. At the ARB, the improvement assessment was reduced based on a recommendation from the City. The Sovaks appealed this decision to the MGB, and the City filed a cross appeal. The Sovak's representative asked that their appeal and the cross appeal be dealt with separately. At the appeal hearing, the City recommended a reduction to the assessment. When the Board asked whether the cross-appeal would be withdrawn, the City declined and the cross-appeal hearing was scheduled for September 23, 1998. On this date the City informed the Board and the Sovaks that it was withdrawing the cross appeal. The Sovak's representative stated that all the necessary preparations had been made to respond to the cross-appeal. The City had given no notice of its intention to withdraw the appeal. The Sovak's representative asked that costs be awarded. Both parties were asked to provide summaries of their submissions about costs. The issues of this request for a rehearing were:

1. Was there a cost hearing?
2. Did the City believe there would be another hearing regarding the amount of costs?
3. Should the City have been given the opportunity to respond to the Sovak's submission concerning the amount of the costs?

The request for a rehearing was denied.

MGB 188/99
Correcting Board Order

Corrects Board Order MGB 174/99.

MGB 190/99
AltaGas
and
The Crown in the Right of the Province of Alberta as represented by the Minister of
Municipal Affairs

This was a linear property assessment appeal. The issue was whether the appellant was the assessed person of the wells and well sites.

The appellant argued that although AltaGas operates the wells, they are not the well owner. The respondent stated that section 304(1)(i) of the MGA states that the assessed person for linear property is the operator of linear property.

The appeal was denied.

MGB 192/99
Amoco Canada Petroleum Company Ltd.
and
Municipal District of Bonnyville No. 87

See also MGB 153/96, MGB 043/99.

This was an appeal of a decision of the 1996 Assessment Review Board. The properties under appeal were the Amoco Wolf Lake and Primrose facilities located north of the Town of Bonnyville. The Primrose facility, used to generate steam was constructed in 1983. Wolf Lake #1 was constructed in 1985, Wolf Lake #2 in 1990. All three plants were designed as part of the processing of heavy oil. There were 41 roll numbers under appeal. The issues of the appeal were:

Satellite Pads

- Does the municipal assessment result in double taxation because they are already included in the assessment of linear property?

Wolf Lake #1 Plant

- Does the assessment recognize machinery and equipment that is not an integral part of an operational unit?
- Should normal depreciation on machinery and equipment be based on a 15-year or a 20-year age life?

Wolf Lake #2 Plant

- Does the assessment include non-assessable costs?
- Should normal depreciation on machinery and equipment be based on a 15-year or a 20-year age life?

The appeal was denied on the satellite pads, as well as the issue relating to the non-assessable costs at Wolf Lake #2. The Board allowed the portions of the appeal concerning Wolf Lake #1, and the issue regarding the 15-year/20-year age life.

MGB 193/99**585986 Alberta Ltd. operating as Elbow Valley Campgrounds and Kananaskis Camping Inc.
and
Kananaskis Improvement District**

See also MGB 102/99, MGB 134/99, and MGB 165/99.

The appellants entered into agreements with the province to operate and maintain campgrounds and day use areas in Kananaskis Country. The issues of the appeal were:

1. Do the appellants have exclusive use of the improvements?
2. Are the agreements a lease, license or permit?
3. Are the land and improvements exempt from assessment?

Both appellants referred to aspects of the agreements that prevent them from managing the property as if they operated under a lease, license or permit.

The appeal was allowed. The Board determined that the appellants are not holders of a lease, license or permit pursuant to section 304(1)(c); they do not have exclusive use of the improvements under section 304(1)(h); and the campgrounds are located in either a provincial park or recreation area and pursuant to section 298(1)(k), are not assessable.

MGB 194/99**Wilson Laycraft on behalf of Shell Canada Limited
and
Municipal District of East Peace No. 131**

See also MGB 009/99.

This was an appeal of a 1997 Assessment Review Board decision. The Shell Peace River Project is located northeast of Peace River on a large oil sands deposit known as the Bullhead formation. This formation is 550 metres below the surface and has a bitumen deposit about 27 metres thick. The heavy viscosity and depth makes it impossible to use conventional methods to recover the oil. To recover the bitumen, an experimental facility was constructed and opened in 1979. The project uses steam to change the viscosity of the fluid so that it can flow to the surface. Increased reservoir development took place in 1986 and this project is known as the Peace River Expansion Project (PREP). The issues of the appeal were:

1. Are the satellite pads assessable as improvements or linear property?
2. Should there be no assessment prepared for the Peace River water supply system?
3. Does the experimental plant warrant an allowance greater than 25%?
4. Does the asphalt plant warrant an additional depreciation allowance?

The appeal was denied.

MGB 195/99**Royal LePage Property Tax Consulting on behalf of Regency Furniture Corporation
and
City of Calgary**

Rescinds Board Order MGB 42/99.

MGB 196/99**Derbyshire Consultants (Western Canada) Ltd. on behalf of 3428851 Canada Inc.
and
City of Edmonton**

The property under appeal is the Hotel Macdonald, a full service hotel, renovated and fully restored in 1991. The issues of the appeal were:

1. When using the income approach to value, is the net or gross income more appropriate?
 2. The ARB reduced the 1998 Westin Hotel's assessment. Should comparisons be based on the assessment before or after the ARB decision?
- The Board allowed the appeal on the improvement assessment in part.

MGB 197/99
Robert S. Matheson
and
City of Edmonton

The property being appealed was a residence that forms part of a bare land adult condominium complex. The issues of the appeal were:

1. What is the proper method for assessing the property?
2. Is the assessment correct, fair and equitable in comparison with similar properties?
3. Does the assessment reflect market value?

The appeal was denied.

MGB 198/99
Newell Group on behalf of Petromet Resources Limited
and
The Crown in the Right of the Province of Alberta as represented by the Minister of Municipal Affairs

This was an appeal regarding 1998 linear property assessments. In the fall of 1997, a preliminary inventory report of linear property was sent to the complainant for review and confirmation. Based on information in this report, an assessment notice was sent to the complainant on March 11, 1998. The Assessment Services Branch issued an amended notice in May 22. No complaint was filed with the MGB. A second amended notice was issued on November 5. It was identical to the one issued in May. The complainant filed an appeal with the MGB on November 27, 1998.

A hearing to deal with preliminary matters was scheduled for April 30, 1999. On April 23, counsel for the respondent informed the MGB that there were also jurisdictional issues. At the April 30 hearing, jurisdictional arguments were adjourned to May 4. During the May hearing, the complainant advised that they would be seeking costs. The Board set June 10 as the date to hear the merits of the appeal and arguments regarding costs. On June 8, the MGB was advised that the merits of the appeal had been resolved. The purpose of this Board Order is to summarize the issues of the appeal and the decisions made by the Board.

The preliminary issue was whether the amended notice was a valid notice and subject to appeal. The Board determined that it was and that there was a proper complaint before the MGB. With regard to the application for costs, the issue was whether the actions of the Assessment Services Branch were an abuse of the complaint process. The Board awarded costs to the complainant.

MGB 200/99
Newell Group on behalf of UIC PTE Investments Ltd. (the owner of Eau Claire Place II)
and
City of Calgary

See Board Order MGB 203/98.

The subject of this appeal was an office building in downtown Calgary. The appellant filed an appeal of the 1997 assessment to the MGB. The MGB confirmed the 1997 land assessment and reduced the improvement assessment. Before MGB 203/98 was issued, the City of Calgary

adopted the 1997 assessments for the 1998 tax roll. The assessment for this property had not changed from the 1997 tax roll. The issues of the appeal were:

1. What are the obligations of a municipality when an ARB or MGB decision changes a property's assessment?
2. Is the 1998 assessment for this property the amount that was originally on the 1997 assessment roll, or the amount that was the result of the Board's decision?

The Board confirmed the 1997 assessed values as determined by MGB 203/98.

MGB 201/99

The City of Edmonton

and

The Minister of Municipal Affairs

See also MGB 136/99.

This was an appeal of the City of Edmonton's 1999 equalized assessment. Both parties requested an adjournment to allow negotiations and settlement of the appeal. They also asked for an extension of the legislated deadline for determining this appeal. In exchange, the appellant agreed to withdraw all grounds for appeal except one, that the City of Edmonton's 1999 equalized assessment is not fair and equitable in comparison with equalized assessments of other municipalities. The Board granted both requests and recognized eight municipalities as intervenors.

MGB 202/99

Paralee Property Tax Consultants Ltd. on behalf of Boardwalk Equities Inc.

and

City of Edmonton

The subject of this appeal was a high rise condominium complex. At the ARB hearing, the City recommended a reduction to \$4.4 million. The ARB rejected the recommendation and reduced the assessment to \$4.9 million based on the 1998 sale of the property. The issue of the appeal was whether the recommended value is fair and equitable, or does the sale price reflect market value.

The Board was convinced that the recommended assessment by the City does not represent a fair and equitable assessment, and the sale is an indicator of fair actual value.

MGB 203/99

CDC Consulting Services on behalf of Sinbil Investments Inc.

and

City of Edmonton

The subject of this appeal was two vacant lots. From the early 1900's until the 1930's, about 25 acres near the property was used by the City as a garbage dump. The issues of the appeal were whether the property had been adversely affected by either the garbage dump or excessive water seepage from a nearby creek.

When the appellant purchased the property, they intended to build a high rise residential/commercial building. An environmental report indicated that the land will not support that kind of structure. An engineering report was also presented which stated that the existence of two fuel pumps indicate that there was once a service station on the property, however, no tests were done and it is not know if there is any contamination.

The appeal was allowed.

MGB 204/99
Stacy Schmidt
and
City of Edmonton

The Assessment Review Board dismissed this complaint because of late filing. Both parties agreed that the complaint was filed on time and requested that the Board refer the matter back to the ARB.

The request was granted.

MGB 208/99
County of Warner No. 5
and
Lougheed Tomasson Inc. for the owner, Parrish & Heimbecker

See MGB 080/98, MGB 190/98

This was an appeal of a 1995 Assessment Review Board decision. The issues of the appeal were:

1. Was the 1995 ARB Notice of Decision sent to Lougheed Tomasson?
2. Did Lougheed receive the 1995 ARB Notice of Decision?
3. Was Lougheed's appeal of the 1995 ARB decision filed with the Board within the time set out in the Act?
4. Does the Board have jurisdiction to hear the appeal of the 1995 ARB decision?

The Board found that the 1995 ARB Notice of Decision was sent to Lougheed Tomasson on October 17, 1995, and they are deemed to have received it. The appeal to the MGB was received more than 30 days after the Notice of Decision. The Board decided that it did not have jurisdiction to hear the appeal and rescinded MGB 080/98. The appeal was dismissed.

MGB 210/99
Canmore Regency Suites
and
Town of Canmore

The property under appeal was a three storey townhouse containing 40 units constructed in 1995. In 1995, a condominium plan was registered that created separate titles and assessments for each unit. However, the building is operated as a motel. One unit is used as an office and resident manager's suite. The remaining units are owned by 38 individual and corporate investors and are rentable on a short term basis. The issues of the appeal were:

1. How do the assessed values relate to market value?
2. Should the building be assessed as a motel, and that assessment be divided among the property owners?
3. What approach to value should be used?
4. What kind of properties are the appropriate comparables?

The appeal was allowed.

MGB 211/99
Anna Schupak and Jose Mafe
and
City of Edmonton

The subject of this appeal was half of a duplex within a 60-unit complex. The issue of the appeal was whether the assessment fully recognizes abnormal depreciation.

The appellants presented sales and assessment comparables, and presented a number of photographs that illustrated problems with the property.

The appeal was allowed.

MGB 212/99**Wilson Laycraft and Newell Group on behalf of various companies
and****Her Majesty the Queen in Right of the Province of Alberta as represented by The Minister
of Municipal Affairs.**

This appeal concerned 1999 linear assessments. Assessment notices were sent to property owners on March 31, 1999. The total number of complaints received by the Board is in excess of 10,000 roll numbers. In addition to the following issues and decisions, the Board set out procedures to be followed so that the appeals can be heard.

1. The respondent requested a postponement of all complaints affected by section 295(4) be granted until the matter is heard by the Court of Queen's Bench. This request was denied.
2. The complainants requested that some complaints be consolidated. The Board denied this request.
3. Should arguments concerning jurisdiction be heard and ruled upon before any merit evidence and arguments are heard? This request was denied.

MGB 213/99**Newell Group on behalf of 572720 Alberta Ltd.
and
City of Calgary**

See also MGB 125/99 and MGB 077/99.

Under appeal were three separate roll numbers. Two of the properties were built around 1912 and renovated in 1973. They consist of mainly retail space with some office uses on upper floors. The second storey levels of the buildings are connected by an interior access corridor. The third property was constructed around 1910 and consists of two storeys with retail/restaurant uses on the ground floor and offices on the second floor. The issues of the appeal were:

1. Do the age, condition, size, layout, lack of parking and potential heritage designation of the properties make them unique?
2. Is the 1993 sale of the properties the best indicator of market value?
3. Is the assessment correct in comparison with other downtown structures?

The appeal was allowed.

MGB 217/99**Amending Board Order**

Amends Board Order MGB 212/99

MGB 219/99**Samson Management Ltd. - Appellant, as represented by Property Tax Appeal Services
and
Ponoka County**

The property being appealed is adjacent to the Samson Indian Reserve. The Certificate of Title describes the property in two parts, NE 30 and SE 30. Eighty acres in NE 30 are vacant and assessed as farmland. The balance of the parcel, the SE 30 portion, contains a residence and a minimum security prison is leased to the Crown in the Right of Canada.

The prison is known as the Hobbema Correctional Facility or Pe Sakastew Centre. The lease for the property is titled the Hobbema Penitentiary Lease and is between Her Majesty the

Queen in the Right of Canada as tenant and Samson Management Ltd. (SML) as landlord. The was no dispute as to the quantum of assessment. The issues:

Non-assessable property

1. Is the property "surrendered land" within the meaning of the Indian Act?
2. Does SML have the same status as an Indian or an Indian Band on surrendered lands?
3. Are SML and the Crown one entity?
4. Is SML correctly identified as the assessed person?

Value of Fee Simple

5. If SML is liable for taxes, do the improvements add value to the fee simple interest of the property?

Tax Exemptions

6. Are the correctional facility improvements exempt from taxation?
7. Is SML a non-profit organization or a religious body?
8. Are any of the facilities for benevolent purposes for the benefit of the general public?
9. Are any of the facilities used chiefly for divine service, public worship or religious education and if so, are they taxable?

The appeal was denied.

MGB 220/99

Aseniwuche Winewak Nation on behalf of Kamisak Development Enterprise Ltd., Muskeg Seepee Co-op Ltd., Susa Creek Co-op; Joachim Enterprise Limited, Victor Lake Co-op Ltd. and Wanyandie Flats - Appellant

and

Municipal District of Greenview No. 16 - Respondent

and

The Attorney General of Alberta - Intervenor

See also MGB 153/98, MGB 85/99.

The subject of this appeal was property in the Grande Cache area. The appellants are members of the Aseniwuche Winewak Nation (AWN).

The appellants filed a complaint with the ARB which included the argument that the properties were not assessable. The ARB reduced the assessment on several properties, but otherwise denied the complaint. When the appeal proceeded to the MGB, it was returned to the ARB pursuant to Evidentiary Matters Regulation 121/97.

Both the provincial and federal Departments of Justice were notified of the appeal because the AWN intended to argue that the MGA did not apply to the lands because they fall under federal jurisdiction. The issues of the appeal were:

1. Does the Board have jurisdiction to hear the appeal?
2. Are the lands assessable?
 - (a) Under section 91(24) of the *Constitution Act*: is the meaning of "lands reserved for Indians" within the meaning of section 91(24) of the *Constitution Act*?
 - (i) Does the province have jurisdiction to reserve lands for Indians within the meaning of section 91(24) of the *Constitution Act*?
 - (ii) Did the agreements have the effect of reserving lands for Indians within the meaning of section 91(24) of the *Constitution Act*?
 - (iii) Are the members of the Co-ops and enterprises Indians within the meaning of section 91(24) of the *Constitution Act*?
 - (b) Is the definition of Indian Reserve in section 298(1)(t) of the MGA broad enough to include "lands reserved for Indians"?
 - (c) Are the subject lands "property in Indian reserves" within the meaning of section 298(1)(t) of the MGA?
3. If the lands are "lands reserved for Indians" within the meaning of section 91(24) of the *Constitution Act*, do provincial laws of general application apply?

4. If the lands are "lands reserved for Indians" and provincial laws of general application apply, do the lands touch upon the "core of Indianness" such that the lands would be exempt from assessment and taxation?
5. Is the appellant entitled to costs?

The appeal was denied, the lands are assessable and taxable. No costs were awarded.

MGB 221/99**Scandinavian Light Co. Edm. Ltd./Arndt Industries Ltd.****and****City of Edmonton**

The subject of this appeal was the business assessment of a one storey industrial building on 5-1/2 acres of land. The issue of the appeal was whether the gross annual rental value used to calculate the assessment recognized certain problems and deficiencies of the property.

The appeal was allowed.

MGB 222/99**Henry and Barbara Wilman****and****City of Edmonton**

The subject of this appeal was the assessment of a residential home. The property is located close to the Edmonton Golf and Country Club, and the area is considered to be one of Edmonton's prime residential communities. The issue of the appeal was whether the property had been assessed fairly in comparison with other homes in the immediate area and in similar locations.

The appeal was denied.

MGB 225/99**TAAG International, acting on behalf of McCall Lake Plaza Limited****and****City of Calgary**

The property under appeal was the McCall Lake Plaza in northeast Calgary. When constructed in 1981, it consisted of four single storey multi-tenant buildings. In October 1997, a building occupied and used as a service station was demolished. The issues of the appeal were:

Assessment matters

1. Does the removal of the service station reduce the property's value?
2. Is the property correctly assessed and does the income generated support the assessment?

Evidentiary matters

3. Does information in the appellant's documentation constitute new evidence?

Jurisdiction

4. Does the ARB have the jurisdiction to decide a matter returned by the Board pursuant to the Evidentiary Matters Regulation if the 150 day time period?

Cost

6. Should the respondent receive costs?

The appeal was denied, the Board decided that it was not necessary to return the matter to the ARB. Costs were not awarded.

MGB 226/99**Van Reekum Landscape****and****Town of Olds**

The property under appeal was parcel of land next to a residential subdivision. The issues of the appeal were:

1. If all or part of the property is used for farming, what is the agricultural use value?
2. Can agricultural use value be used when the classification of the property has changed by an amendment to the Land Use Bylaw?
3. If not used for farming, what is the market value of the land?

The appellant stated that the land is used for farming. The land is fenced into four parcels. Last year, three of the parcels were leased out as pasture for horses. A three acre portion is used as a tree farm.

The assessor representing the town argued that boarding a few horses or having a few trees on a parcel of land does not constitute farming. In the Land Use Bylaw, this property is divided into 60% residential and 40% urban reserve. Only the urban reserve portion allows farming operations. AR 365/94(2) requires that when agricultural uses are not permitted and where municipal services are available, the land is to be assessed at market value. The assessor requested that except for the urban reserve portion, the assessment be based on market value.

The appeal was allowed in part.

MGB 227/99

**Newell Group on behalf of Merrit Properties Ltd.
and
City of Calgary**

See also MGB 151/99

The subject of this Board Order is a 1997 ARB decision. Merrit Properties had retained Colliers McCauley Nichols (CMN) as their tax agents. CMN filed an appeal with the ARB, but no one representing the appellant appeared at the hearing, and the appeal was dismissed. Unknown to the ARB, Merrit Properties had appointed Newell Group to represent them. Newell Group filed an appeal with the MGB, and a hearing was scheduled for November 1998. At the hearing, the City challenged the jurisdiction of the Board to hear the appeal on the grounds that the ARB had dismissed the complaint. The Board heard argument and concluded that it had jurisdiction and a date was set for a merit hearing. The City requested a re-hearing of the jurisdictional issue, and that if a rehearing was denied, the Board give written reasons for its decision. The request for a rehearing was denied. This Board Order is in response to the request for written reasons.

MGB 229/99

**Canmore Regency Suites
and
Town of Canmore**

See also MGB 210/99.

The subject of this appeal is a three storey building containing 20 two bedroom units and 20 three bedroom units. The property is registered under a condominium plan. Of the 40 units, 39 are rental suites, each with its individual owner/investor. One unit is used as an office and manager's suite and is owned collectively by the other owners. Each owner has the right of occupancy for up to 60 days annually. A 1997 ARB decision set a split between residential and non-residential class allocations to 60 days residential, and 305 days non-residential. The issues of the appeal were:

1. What approach to value produces an accurate estimate of market value?
2. What type of property is the most comparable: hotels/motels or condominiums?
3. What is the most appropriate way to determine the assessment class?

The appellant argued that the property is a motel. Assessments and sales comparables of similar properties were presented.

The Board confirmed the total assessment, but the commercial and residential portions were split 50/50.

**MGB 230/99
Lubos Pesta
and
Municipal District of Rocky View No. 44**

The appellant requested that this appeal be referred back to the ARB. He had written the M.D. and advised them that he would be unable to attend the ARB hearing and requested a postponement. The appellant understood that a postponement would be granted. The assessor did not inform him that the ARB might deny the request. The letter was presented to the ARB but they proceeded with the appeal in the absence of the appellant.

The matter was returned to the ARB.

**MGB 231/99
Archibald and Ann MacLennan
and
Town of Okotoks**

The subject of this appeal was a two storey home with an attached garage and finished basement. The issues of the appeal were:

1. Should the assessed value in 1999 equal the 1998 purchase price?
2. Is the assessment fair and equitable in comparison with similar properties?

The appellant was not present at the hearing. A letter and photographs of the property under appeal and similar properties were presented. The appellant had photographs of the subject and comparable properties.

The appeal was denied.

**MGB 232/99
Stephen Morck
and
County of Red Deer**

See also MGB 167/99.

The property under appeal was a quarter section of farm property. 147.6 acres of the property is used for agricultural purposes and is assessed at productivity value. The assessment also includes a residential structure and three-acre site. The issue of the appeal was whether the improvement is a residence.

The appellant argued that the improvement is not used or intended to be used as a residence. It lacks services such as food preparation and storage facilities, phone, power, water, and bathroom facilities. The building is used for storage and on rare occasions, to stay in overnight. The appellant stated that it is not a residence and therefore, not assessable.

The appeal was denied. Photographs supplied by the assessor convinced the Board that the improvement was used for residential purposes.

MGB 233/99

**Paralee Property Tax Consultants Ltd. on behalf of C W Carry Ltd.
and
City of Edmonton**

This was a business assessment appeal. The subject property is owner occupied and consists of warehouse and office space. The issues of the appeal were:

1. What is the customary operating cost for a premises of this type?
2. What is a typical power and water cost for businesses of a similar type?
3. Does the business assessment represent typical gross annual rental value for similar industrial buildings?

The appeal was denied.

MGB 234/99

**Paralee Property Tax Consultants Ltd. on behalf of Alco Gas and Oil Production Equipment Ltd.
and
City of Edmonton**

This was a business assessment appeal. The subject property is owner occupied and consists of warehouse and office space. The issues of the appeal were:

1. What is the customary operating cost for a premises of this type?
2. What is a typical power and water cost for businesses of a similar type?
3. Does the business assessment represent typical gross annual rental value for similar industrial buildings?

The appeal was denied.

MGB 235/99

**Eugene Luchka
and
City of Edmonton**

The subject of this appeal was a duplex built in 1978. The issues of the appeal were:

1. Does the assessment recognize abnormal depreciation due to problems with the sewer, the lack of repair and condition of the property?
2. Is the property assessed fairly and equitably in comparison with other properties?

The appeal was allowed in part.

MGB 237/99

**Marie Saboe, Linda Saboe, and Bryan Saboe
and
City of Edmonton**

The subject of this appeal was a residential home built in 1990. The issue was whether the property assessed fairly when compared with similar property in the area?

Both parties presented sales and assessment comparables in defense of their positions.

The appeal was allowed.

MGB 238/99

**Newell Group on behalf of 715864 Alberta Ltd.
and
City of Edmonton**

The property under appeal was a three storey office building built in 1980. The issues of the appeal were:

1. What is the typical base rental rate for this type of property?
2. Should parking income be included in estimating market value for assessment purposes?

Both the appellant and respondent presented market value assessments calculated using the income capitalization approach.

The appeal was denied.

MGB 242/99
622600 Alberta Ltd.
and
City of Edmonton

See also MGB 150/97

This was an appeal of decisions by the 1995 and 1996 Assessment Review Boards. The City of Edmonton filed an appeal of MGB 150/97 with the Court of Queen's Bench. The Queen's Bench quashed the MGB decision and returned the matter to the Board. The Board attempted to re-schedule the hearing, but the appellant informed them of their intent to appeal the Queen's Bench decision. They also requested the MGB not take further action until the Court of Appeal heard the matter and issued a decision. The purpose of this hearing was to decide the appropriate action.

The appellant stated that to proceed with the rehearing before a Court of Appeal decision would be a waste of time and expense. The respondent agreed. The Board scheduled the administrative hearing for February 2000.

MGB 243/99
Paul Kadar
and
County of Thorhild No. 7

The subject of this appeal was a vacant parcel of land. The property is swampy and has no usable building site. It is classed as non-farm and has no agricultural use value. The property has a pipeline right-of-way lease. The issues of the appeal were:

1. Does the property have assessment value?
2. Can an assessment be fixed and carried forward in perpetuity?

The appellant stated that the property is a lake bottom, with no building site and no ability to support equipment or vehicles. The appellant agreed that he should pay some property taxes but argued that there had been an agreement with the County that the assessment would be set at \$1,200 in perpetuity.

The appeal was denied.



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