



## ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL  
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### NOTICE OF DECISION NO. 0098 503/10

Colliers International Realty Advisors  
3555 10180 101 Street  
Edmonton AB T5J 3S4

The City of Edmonton  
Assessment and Taxation Branch  
600 Chancery Hall  
3 Sir Winston Churchill Square  
Edmonton AB T5J 2C3

This is a decision of the Composite Assessment Review Board from a hearing held on November 8, 2010 respecting a complaint for:

Roll Number 10066975	Municipal Address 18404 104 Avenue NW	Legal Description Plan: 0626825 Block: 1 Lot: 9
Assessed Value \$10,648,500	Assessment Type Annual – New	Assessment Notice For: 2010

#### **Before:**

Jack Schmidt, Presiding Officer  
Francis Ng, Board Member  
Brian Carbol, Board Member

#### **Board Officer:**

Segun Kaffo

#### **Persons Appearing: Complainant**

Christopher Hartley  
David Porteous

#### **Persons Appearing: Respondent**

Gordon Petronik, Assessor  
Jerry Sumka, Assessor

### **PROCEDURAL MATTERS**

Upon questioning by the Presiding Officer, the parties indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to the file.

## **PRELIMINARY MATTERS**

The parties agreed that Roll # 10066973 would be considered as the master file and all evidence, submissions and argument would be carried forward to Roll # 10066975 to the extent that matters were relevant to this file.

## **BACKGROUND**

The subject property is a vacant piece of land located at 18404 104 Avenue Street in the Sunwapta Industrial Park. The property is zoned as IM (Medium Industrial District) and consists of 21.953 acres. The subject property is a fully serviced site including water, sewer, power and gas.

## **ISSUES**

- Was the subject parcel of land used for farming operations as of December 31, 2009?
- What valuation standard should be applied to the subject parcel of land?

## **LEGISLATION**

***The Municipal Government Act, R.S.A. 2000, c. M-26;***

***s.467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.***

***s.467(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration***

- a) the valuation and other standards set out in the regulations,*
- b) the procedures set out in the regulations, and*
- c) the assessments of similar property or businesses in the same municipality.*

***s.289(2) Each assessment must reflect***

- (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and*
- (b) the valuation and other standards set out in the regulations for that property.*

### ***Matters Relating to Assessment and Taxation Regulation (220/2004)***

***s.1(i) “farming operations” means the raising, production and sale of agricultural products and includes***

- (i) horticulture, aviculture, apiculture and aquaculture,*
- (ii) the production of horses, cattle, bison, sheep, swine, goats, fur-bearing animals raised in captivity,*  
*domestic cervids within the meaning of the Livestock Industry Diversification Act, and domestic camelids,*  
*and*
- (iii) the planting, growing and sale of sod;*

*s.2 An assessment of property based on market value*

*(a) must be prepared using mass appraisal,*

*(b) must be an estimate of the value of the fee simple estate in the property, and*

*(c) must reflect typical market*

*s.4(1) The valuation standard for a parcel of land is*

*(a) market value, or*

*(b) if the parcel is used for farming operations, agricultural use value.*

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

*(3) Despite subsection (1)(b), the valuation standard for the following property is market value:*

*(d) an area of 3 acres that*

*(i) is located within a parcel of land, and*

*(ii) can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;*

## **POSITION OF THE COMPLAINANT**

The Complainant attended the hearing and presented evidence (C-1 and C-2) and argument for the Board's review and consideration.

The position of the Complainant is that the subject property is farmland and should be assessed as such.

The Complainant provided photographic evidence (C-1, pages 3 - 5) and (C-2, pages 2 - 7) to illustrate that the subject property was being farmed as of September 25, 2009 (C-1, pages 21 - 22).

The Complainant provided a lease agreement dated September 25, 2009 (C-1, pages 26 - 27) in support of the contention that the subject property is being used as farmland.

The Complainant requested that a market value of \$485,000 should be applied to the first three acres of the subject parcel, and that the remaining 18.953 acres be assessed at regulated farmland values.

The Complainant requested that the assessment should be reduced to \$1,461,212.

## **POSITION OF THE RESPONDENT**

The Respondent attended the hearing and presented evidence (R-1) and argument for the Board's review and consideration.

The position of the Respondent is that the subject property should not be assessed at an agricultural use value, since it did not qualify as farming operations within the meaning provided by the applicable regulation.

In particular, the Respondent submitted that to qualify for farming operations the subject parcel required the raising, production and sale of agricultural products, which did not happen in this case.

The Respondent requested that the assessment should be confirmed at \$10,648,500.

### **FINDINGS**

The subject parcel of land was not used for farming operations as at December 31, 2009. The valuation standard that should be applied to the total subject parcel is market value.

### **DECISION**

The decision of the Board is to confirm the assessment at \$10,648,500.

### **REASONS FOR THE DECISION**

While there was a lease signed in September 2009, and there was some cultivation undertaken in the fall of 2009, there was no evidence to show that there was production or sale of products in the assessment year.

The Board is satisfied that the tillage of the subject parcel in preparation of crop production for the following year does not constitute farming operations for the year of assessment.

Accordingly, the Board accepts the Respondents proposed reduction and reduces the assessment to \$10,648,500.

### **DISSENTING OPINION AND REASONS**

There was no dissenting opinion.

Dated this 8<sup>th</sup> day of November 2010, at the City of Edmonton, in the Province of Alberta.

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Presiding Officer

*This Decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, R.S.A. 2000, c.M-26.*