

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

BETWEEN:

Robert LaValley - Complainant

- a n d -

City of Grande Prairie - Respondent

BEFORE:

Members:

J.P. Acker, Presiding Officer

B. Dixon, Public Member

J. Munroe, Public Member

A hearing was held on October 3, 2011 at the Grande Prairie Museum 10329 – 101 Avenue – Multi-Use Room, in the City of Grande Prairie in the Province of Alberta to consider a complaint about the assessment of the following property tax roll number:

Roll Number:	872312
Civic Address:	18 Knowledge Way
2011 Assessment:	\$ 149,700

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The Grounds of Appeal:

The assessment notice identifying the above facts was mailed March 1, 2011. The Complainant, Robert LaValley, filed a complaint against the assessment April 18, 2011. At issue is whether or not the premises leased by the Complainant should be exempt from taxation insofar as these premises form part of the lands and improvements encompassed by the Community Knowledge Campus. Specifically, LaValley Physical Therapy Services Ltd. sub-leases +/- 1500 square feet of space from the Grande Prairie Gymnastics Society (Gymniks), which, as a not-for-profit society, is exempt from taxation under the Community Organization Property Tax Exemption Regulation (COPTER).

The Complainant believes that this exemption includes the entire property including those spaces occupied by LaValley Physical Therapy Services Ltd.

Property Description:

The subject property is second floor office space in the Gymniks building, located on the Community Knowledge Campus at 18 Knowledge Way in the City of Grande Prairie. LaValley Physical Therapy Services Ltd. holds this property under a sub lease from the Grande Prairie Gymnastics Society (Gymniks) as provided for under the master lease between the City of Grande Prairie (property owner) and the Society. The Society, under the terms of the master lease, sought and received approval from the City of Grande Prairie to enter into a sub-lease agreement with the Complainant.

PART B: PROCEDURAL OR JURISDICTIONAL MATTERS

The Grande Prairie Composite Assessment Review Board derives its authority to hear and decide appeals under Part 11 of the Municipal Government Act of Alberta. There were no procedural issues raised by the parties to this appeal.

PART C: PARTY POSITIONS

The Complainant testified that he had no knowledge of his exposure to assessment and taxation as an additional cost to his lease. His testimony, supported by the Board's review of the master lease between the Society and the City and a review of the sub-lease agreement between LaValley Physical Therapy Services Ltd. and the Society indicated no exposure or cost for property tax on the subject premises.

He pointed to paragraph 4.1 (a) of the master lease, which states:

“Upon completion of construction of the Facility, the Facility shall become the property of the City and throughout the term [of the lease] the City shall be responsible for and shall pay the following:

- (a) all municipal property taxes or school taxes levied in connection with the Lands and Facility whatsoever, including local improvement levies or other special levies for utilities and services and garbage and waste collection;*

Accordingly, the Complainant indicated that he believed that the City of Grande Prairie accepted full liability for all taxes and has occupied the property since May 1st, 2006 without ever having received an assessment or tax notice.

The Respondent indicated that a 2010 review of occupancy of all City-owned properties revealed that LaValley Physical Therapy Services Ltd. had occupied second floor space in the Gymniks building since May 2006. Notwithstanding that the City lease with Gymniks is exempt from taxation under the provisions of COPTER, the MGA s304(1)(c) requires assessment and recording of that property on the assessment roll of the municipality and notice to the *'holder of the lease, license or permit, or in the case of a parcel of land or a parcel of land and the improvements to it, the person who occupies the land with the consent of that holder'*

Since LaValley Physical Therapy Services Ltd. occupies the subject premises, the Act requires an assessment to be prepared and sent to the occupier of the premises.

FINDINGS:

1. LaValley Physical Therapy Services Ltd. is the occupant of the assessed premises and holds the property under a sub-lease agreed to by the property owner, the City of Grande Prairie.
2. LaValley Physical Therapy Services Ltd. is not exempt from taxation under the provisions of the Community Organization Property Tax Exemption Regulation.
3. LaValley Physical Therapy Services Ltd. is the assessed person as required by s(304) of the Municipal Government Act

DECISION: The assessment is confirmed at \$ 149,700.

REASONS:

The Board was sympathetic with the argument and testimony offered by the Complainant in his appeal against an assessment that he believed was included in the lease payment made to his landlord, the Grande Prairie Gymnastic Society. This belief was, no doubt, supported by the lack of any assessment notices from May, 2006 until the current assessment year.


The Composite Assessment Review Board's jurisdiction, however, is limited by legislation and regulation.

The Municipal Government Act and its Regulations require that every owner or occupier of lands and improvements must be assessed annually and this assessment entered into the tax roll of the municipality unless specifically exempted from assessment under s298 of the MGA or from taxation under the provisions of sections 361 and 362 of the MGA.

The Board reviewed the relevant legislation and found no basis for exemption for LaValley Physical Therapy Services Ltd. as a for-profit business. Accordingly, the assessment is confirmed at \$ 149,700.

It is so ordered.

Dated at the City of Grande Prairie this 3rd day of October, 2011.



J. P. Acker, Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

- 1A Evidence Submission of both parties to this appeal compiled by the Clerk of the CARB

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	Low Rise	Exemption	Municipal Control (No revenue)