

COUNTY OF GRANDE PRAIRIE COMPOSITE
ASSESSMENT REVIEW BOARD DECISION
WITH REASONS

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

Brad Lynk
As represented by
John Lynk
COMPLAINANT

and

The County of Grande Prairie, RESPONDENT

before:

J. Acker, PRESIDING OFFICER
B. Dixon, MEMBER
A. Martin, MEMBER

This is a complaint to the County of Grande Prairie Composite Assessment Review Board in respect of a property assessment prepared by the Assessor of The County of Grande Prairie and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER:	471800
LOCATION ADDRESS:	72062 Township Rd. 722
HEARING NUMBER:	0133-1
ASSESSMENT:	\$900,500

This complaint was heard on 22nd day of November, 2011 at the County of Grande Prairie offices located at 10001 84 Avenue, Clairmont, Alberta.

Appeared on behalf of the Complainant:

- Brad Lynk
- John Lynk

Appeared on behalf of the Respondent:

- Karen Nunweiler
- Chris Gardner

Property Description:

The subject is a 13.0 acre parcel zoned Country Residential parcel upon which are situated a single family 2 storey 2,409 sq. ft. residence, a 728 sq. ft. attached garage and a 4,067 sq. ft. metal clad warehouse. The parcel is irregularly shaped with a panhandle providing vehicular access to the residence and to the warehouse. The warehouse can be accessed directly from the private roadway without encroaching on the residential development or its surrounding grounds.

Issues:

1. The warehouse component of the assessment is incorrectly classified for assessment purposes as Commercial M.V.

Complainant's Requested Value: 100% residential assessment value

Complainant's Position:

The Complainant provided the Board with testimony and photographic evidence supporting his assertion that the subject property has, since March 25, 2011, served as the principal residence of Brad and Kelly Lynk. While Mr. Lynk does operate Brad Lynk Picker Service as a sole proprietor, his business activities are conducted off-site of the subject property. He testified that he does bring his tractor-trailer units home to wash them, and park them out of the elements in his warehouse structure.

Mr. Lynk testified that he also rents space to another lease operator to park his vehicle in the warehouse.

As a lease operator, Mr. Lynk has a single customer for his services and there is no commercial activity occurring on his property.

Respondent's Position:

The Respondent provided detailed information and photographs of the subject and testified that the assessment was rendered pursuant to the requirements of the Municipal Government Act

(MGA) and its regulations.

Specifically, the assessor noted MGA s289(2) which states:

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.*

The respondent argued that the Act provides no latitude for an assessor to recognize a change in use occurring after December 31 – even if the subject changed owners and uses in the ensuing year. Accordingly, the assessment was conducted according to the requirements set out in the Municipal Government Act.

Board's Decision in Respect of Each Matter or Issue:

1. The subject property is correctly assessed as of its condition date of December 31, 2010

Reasons for the Decision

Property assessment in the province of Alberta is conducted by each municipality in conformance with the requirements and standards as set out in legislation (Municipal Government Act), and its regulations.

The MGA sets out the methodology and the requirements to be met by each assessor in performing his duties. Specific dates and approaches to the assessment valuation are set out in legislation and regulation, and the Assessor has no discretion to modify or relax any of those requirements.

In this appeal, the Board has sympathy for the Complainant insofar as he acquired the property after the legislated condition date for the assessment and early in the ensuing taxation year. Legislation required the assessor to value the property for assessment purposes as of the December 31, 2010 condition date that established the basis for the taxation due for 2011.

The assessment process is an annual process. The assessor must fulfil the requirements as set out in legislation and regulation for each assessment cycle. Accordingly, the subject property will attract future assessments on the basis of actual property use in any given year.

The assessment is confirmed at \$ 900,500. No costs to either party.

DATED AT THE HAMLET OF CLAIRMONT THIS 25th DAY OF NOVEMBER 2011.



J.P. Acker
Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C2	Complainant Disclosure
2. R1	Respondent Disclosure

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

- (a) the Complainant;*
- (b) an assessed person, other than the Complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- (a) the assessment review board, and any other persons as the judge directs.*

For MGB Administrative Use Only

Decision No. XXXX-2011-P Roll No. 471800				
Subject	IYM.	Issue	Detail	Issue
CARB	Residential	Mixed Use	Incorrect Classification	