

**KNEEHILL COUNTY  
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-26.1, Section 460(4).

**between:**

***Leonard Litz, Owner - COMPLAINANT***

**and**

***Kneehill County - RESPONDENT***

**before:**

***Board Chair, PRESIDING OFFICER***

***Ken Hoppins, MEMBER***

***Ron Willson, MEMBER***

This is a complaint to Kneehill County Composite Assessment Review Board (CARB) in respect of Property assessment prepared by the Assessor of Kneehill County and entered in the 2010 Assessment Roll as follows:

**ROLL NUMBER: 33262732000**

**LOCATION: NE 27 – 33 - 26 - 4**

**HEARING NUMBER: 0191-003/2010**

**ASSESSMENT: \$422,210**

This complaint was heard on the 13 day of October, 2010 at the Kneehill County Council Chambers, 232 Main Street, Three Hills, Alberta.

Appearing on behalf of the Complainant:

- *Ms. Susan and Leonard Litz – Complainants*

Appeared on behalf of the Respondent:

- *Mr. F. Grills – Assessor, Respondent*

Attending for the ARB: ARB Clerk, Mr. Mike Morton and assisting, Ms. L. Watt

**Procedural and Jurisdictional Matters:**

Local Assessment Review Board (LARB) vs Composite Assessment Review Board (CARB)

The CARB asked the parties to speak to a question as to why the CARB may have jurisdiction in this matter. The Assessor indicated that because a portion of the subject property is being used for recreation purposes, it is his opinion that in accordance with Section 460.1 (1) and (2) of the Municipal Government Act (Act), this complaint would be properly heard before a CARB. The Complainants indicated that they had no legal position in this regard and were prepared to have the CARB hear and decide the matters associated with the complaint. The CARB decided it would accept jurisdiction and proceed.

Notice of Hearing

The Complainant had raised a concern that short notice of the hearing placed pressure on them to disclose their evidence on time. The CARB acknowledged that the notice of the hearing was sent late and should the Complainants need more time to consider the preparation of their disclosure that would be considered by the CARB. On the other hand if the Complainants are ready to proceed, and are willing to abridge the time for notice of the hearing, the CARB would proceed to hear the matter as scheduled. The Complainant agreed to abridge the time for notice and the hearing proceeded.

**Property Description and Background:**

The subject property consists of approximately 150 acres improved with a mobile home, a shop building and other out buildings. The total assessment for the subject has risen from \$330,130 in 2009 to \$422,210 for 2010. The assessment for 2010 has included an area of approximately 3 acres at market value rather than farmland value as it is being used by the family for camping purposes. This change in assessment is the primary matter in dispute; however the Complainants also believe that some of the out buildings are incorrectly assessed as well.

The CARB has carefully considered all of the evidence and arguments advanced by the parties; however this decision will only make reference to the evidence and argument which the Board found to be most significant.

**Issues:**

1. Does the three acre parcel used for camping purposes by the owners and their family attract a non-residential assessment at market value?
2. What is the correct assessed value for the various out buildings included in the 2010 assessment?

**Board's Findings with Respect to the Issues in Dispute:**

1. The 3 acre parcel used for camping purposes by the family should not be assessed as a non-residential parcel at market value but rather it should be include in the assessment as farmland.
2. The old CPR shack/cottage has no appreciable value.
3. The hip-roof shed located in the area used for camping should be valued as a farm building.

**Summary of Party's Positions****Complainant**

The Complainant argued that the area of approximately 3 acres used by the family for camping is very narrow and is bordered on one side by the pond and on the other side by a row of mature trees. This area does not allow sufficient room for the operation of large farm equipment and therefore is not suitable for raising a crop of any sort. The area has no real amenities other than a three sided cattle shed and an old shed used for irrigation purposes for the farm. The family does have a priority to have their children and grandchildren come to the farm where they are free to camp safely. It was argued that the Assessor has added the 3 acre camping area to the 3 acre farm building site and all then is captured at market value. The total area of 6 acres is no different than any other large farm building site where assessments are at market for 3 acres only. The Complainant raised questions about a recent County Bylaw which apparently allows for a new class of Recreational Residential property and whether this may apply in some way.

The Complainant also argued that certain other buildings should not be assessed. The Complainant stated that an old CPR building which has long since not been in use is assessed as a cottage at an amount of \$2,960. This building is not near the other farm buildings as is absolutely of no value except maybe to service as a practice burn for the fire department. Thistles are growing through the floor boards, there are no services and it is more of a hazard than anything else. The closed shed in the camping area houses irrigation equipment and is not used in anyway for camping. The old three-sided cattle shed is of little value. The photos show it is used for miscellaneous storage some of which is related to camping. Concern was also expressed about the assessment of an old pump house, however the Assessor clarified that this building has been assessed as a farm building and is not taxed. The Complainants indicated that they did not have any real concerns with most of the other aspects of the assessment and requested that the CARB consider their position on those aspects raised in their complaint and reduce the assessment.

## Respondent

The Assessor indicated that the subject property is zoned as a direct control district because of the interests and importance of other subdivisions from the quarter section and its features. The Respondent argued that the Act requires that land used for other than farming operations must be assessed and taxed at market value. Therefore, the approximately 3 acres used for camping has been classed as a non-residential parcel not used for farming operations and has been assessed at market value. This 3 acre parcel has been added to the farm building site of three acres for assessment purposes. If it were to be valued independently the value would be higher. The Respondent referred the CARB to section 4 (3) (a) through (f) of the Matters Relating to Assessment and Taxation Regulation (MRAT). In the Assessor's opinion several of these provisions would apply to the land being used for camping and all provide that these lands should be assessed at market value. The buildings in this area should also be at market value.

The Assessor argued that he could not get into the old cottage building but nevertheless it should still have some value. The three-sided shed and hip-roof shed are both believed to be used in conjunction with the camping activities and therefore have been assessed at market value along with the land on which they are located.

The Assessor made reference to the Recreational Residential Bylaw as well suggesting that it may provide another option for the CARB. The CARB requested that this bylaw be provided to be Board and to the Complainant. The Respondent indicated the application of this bylaw would be left for the CARB to decide, however the position of the Respondent is that the assessment of the subject property should be confirmed.

## Findings and Reasons:

The CARB has carefully reviewed the Act and MRAT with respect to the assessment that should be placed on the area used by the family for camping. The CARB has determined that the only provisions which may be applicable to this undefined parcel are MRAT section 4 (3) (b) or (c). The CARB, however is of the opinion that these provisions were intended to relate to farmland parcels which do not have permanently occupied farm building sites, however may have a small site which is used for residential purposes on a seasonal basis or from time to time, but which is not occupied for that purpose on an ongoing basis. If the CARB is found to be incorrect regarding its opinion of intent discussed above, the CARB also has determined that in the subject case the assessment of the camping area is inequitable with the assessments of other farm building sites in excess of 3 acres. The Assessor acknowledged that in cases where the farm building area exceeds 3 acres, the excess land simply reverts to farmland status. The only difference in the subject case is that the camping area is not attached to or contiguous with the farm building site. The CARB rests its decision primarily on this aspect to ensuring some degree of equity with other assessments where any land over the 3 acre threshold used in conjunction with the residents and for their family's enjoyment reverts to the farmland classification. The CARB also took into consideration the fact that this area is not conducive to the use of typical farm equipment because of its size and shape, therefore is not unlike many non-farmable areas which remain classified as farmland.

The CARB has carefully considered the assessment of the out buildings that were of concern in this complaint. Based on the condition of the old CPR or cottage building as described by the Complainant and as shown by the photographs, the fact that it is not in use and is not serviced, has led the CARB to find that there is no value remaining in this building. The hip-roof shed located adjacent to the pond and camping area is apparently used for irrigation and farm purposes, and therefore, should be assessed as a farm building. The three-sided shed is used for residential purposes and therefore the assessment should be coded and attached to the residential portion of the assessment without change.

### Decision Summary

Based on a careful review of all of the evidence provided by the parties the CARB has decided that the 3 acre parcel which had been classified as non-residential should be returned to the farmland classification and assessed as such. The assessed value of the CRR/cottage building at \$2,960 has been reduced to \$0 and the hip-roof shed housing irrigation equipment is to be assessed as a farm building. The Assessor is therefore instructed to amend the 2010 assessment based on this decision of the CARB without making any other discretionary adjustments. The Assessors amended value should be in writing and provided to the owners and the Kneehill County ARB within 10 days of the signing of this decision.

It is so ordered.

Dated this 10th day of November 2010.



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**Paul G. Petry**  
**Presiding Officer**

**An appeal may be made to the Court of Queen's Bench in accordance with the Municipal Government Act as follows:**

**470(1)** *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.*

**470(2)** *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).*

**470(3)** *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*
- (b) *any other persons as the judge directs*