

**COUNTY OF LETHBRIDGE
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB 55290000- 2010

IN THE MATTER OF A COMPLAINT filed with the County of Lethbridge Composite Assessment Review Board (CARB) pursuant to Part 11 of the Municipal Government Act (MGA), being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act)

BETWEEN:

Outlook Pork Ltd. - Complainant

- a n d -

County of Lethbridge – Respondent

BEFORE:

Members:

Tom Hudson, Presiding Officer

Henry Van Hierden, Member

John Willms, Member

A hearing was held on Wednesday, December 1, 2010, in the City of Lethbridge in the Province of Alberta to consider complaints about the assessments of the following property tax roll number:

| Roll No./ Property Identifier | Assessed Value | Owner |
|-------------------------------|----------------|-------------------|
| 55290000 NW.19.10.22.W4M | \$1,480,750 | Outlook Pork Ltd. |

Appeared on behalf of the Complainant:

- Peter Klok, Outlook Pork Ltd.

Appeared on behalf of the Respondent:

- Les Whitfield, Assessor, County of Lethbridge

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PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property under complaint is a bulk grain storage facility constructed in 1998, and located on the NW 19-10-22-4 in the County of Lethbridge. The facility is operated by Outlook Pork Ltd. The current assessment on the subject property includes exempt farm buildings, a residence, and a non residential portion which includes the bulk grain storage, handling, and ancillary facilities. The total assessment for the subject property is \$1,480,750.00. However, only the non residential portion of the assessment is in dispute. The current non residential assessment is \$1,226,650. The Complainant is requesting that the bulk grain storage facility be reclassified as exempt farm building, and further, that the non residential portion of the assessment be eliminated.

PART B: PROCEDURAL OR JURISDICTIONAL MATTERS

The Composite Assessment Review Board, derives its authority to make decisions under Part 11 of the MGA. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

PART C: ISSUES

The CARB considered the complaint form together with the representations and materials presented by the parties. The matters or issues raised on the complaint form are as follows:

- Issue 1: Assessment Amount
- Issue 2: Assessment Class
- Issue 3: Is the subject property Assessable
- Issue 4: Should subject property be exempt from Taxation

ISSUE 1: Assessment Amount

Board's Findings on Issue 1: The calculation of the current non residential assessment includes an approximate ten (10%) adjustment as exempt farm building, while the Complainant estimated that a more equitable adjustment would be in the range of forty(40%) to sixty(60%). However, the Complainant presented no evidence to support the increased adjustment, and therefore the Board finds the current non residential assessment amount to be a reasonable estimate of market value, and prepared in accord with MGA Section 298(y), and Alberta Regulation 220/204 Section 1(h).

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ISSUE 2: Assessment Class

Board's Findings on Issue 2: The classification of the bulk grain storage and ancillary facilities as non-residential rather than farmland is based on the historical use which was still in place during the valuation period for the 2010 assessment. As noted under the findings on the Assessment Amount, the only issue is the extent of the non residential use. Therefore, the Board finds that the current classification of the bulk grain storage, handling, and ancillary facilities as non residential for assessment purposes is appropriate and in accord with MGA Section 297 and Alberta Regulation 220/204.

ISSUE 3: Is the subject property Assessable

Board's Findings on Issue 3: Given the Board finding under the issue of Assessment Class, the Board finds that the non residential portion of the subject property is assessable as per MGA Section 298(y), and Alberta Regulation 220/204 Section 1(h).

ISSUE 4: Should subject property be exempt from Taxation

Board's Findings on Issue 4: A portion (ie.10%) of the subject property under complaint has been classified as "farm building" which is defined in Alberta Regulation 220/204 as "any improvement other than a residence, to the extent it is used for farming operations." Based on the submissions of the parties with respect to use of the property, the Board finds that under MGA Section 298(y), the subject property qualifies for partial exemption from assessment, and from taxation to the extent of the exemption. However, it is the obligation of the Complainant to present evidence sufficient to prove that the partial exemption applied to the assessment by the Respondent does not accurately reflect the use of the building for farming operations. In the absence of evidence, the Board must not alter the current partial exemption status of the subject property.

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PART D: FINAL DISPOSITION OF COMPLAINT

The complaint is denied and the assessment is confirmed as follows:

| Roll No./ Property Identifier | Value as set by the CARB | Owner |
|-------------------------------|--------------------------|-------------------|
| 55290000 NW.19.10.22.W4M | \$1,480,750 | OutLook Pork Ltd. |

There were no dissenting reasons by any panel member.

It is so ordered.

Dated at the City of Lethbridge in the Province of Alberta, this **14th** day of **December, 2010**, and signed by the Presiding member on behalf of all three panel members who agree with this decision.



Tom Hudson, Presiding Officer

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APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

No. ITEM

1. Exhibit A1 Peter Klok, Outlook Pork Ltd., Submission(s)
2. Exhibit B2 Les Whitfield, County of Lethbridge, Submission(s)

APPENDIX "B"

ORAL REPRESENTATIONS

PERSON APPEARING CAPACTIY

1. Peter Klok, Outlook Pork Ltd.
2. Les Whitfield – County of Lethbridge

An appeal may be made to the Court to 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 refereed 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*
- (b) *any other persons as the judge directs.*
