

# Capital Region Assessment Services Commission

Regional Assessment Review Board

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Complaint ID 11 - 03  
Roll 89900  
Decision #: 0215 – 0001 - 2011

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COMPOSITE ASSESSMENT REVIEW BOARD DECISION  
HEARING DATE: 14 OCTOBER 2011

PRESIDING OFFICER: D. H. MARCHAND  
MEMBER: D. DOBING  
MEMBER: D. CHARTRAND

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BETWEEN:

MR. EDWARD ENS

Complainant

-and-

TOWN OF MAYERTHORPE

Respondent

IN THE MATTER of the *Municipal Government Act* R.S.A. 2000, ch M-26 (MGA); section 460.

AND IN THE MATTER of an assessment complaint filed within the Town of Mayerthorpe to the Capital Region Assessment Services Commission for the 2011 Assessment.

Appeared on behalf of the Complainant:

- E. Ens (Owner)

Appeared on behalf of the Respondent:

- K. Lawrence, AMAA (Assessor)

Roll Number:	89900
Municipal Address:	4420 – 42 avenue
Legal Description	Plan 9825697; Lot 4
Assessment	\$93,800

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## **BACKGROUND / FILE HISTORY**

- The subject property consists of 9.77 acres with a land use designation as industrial/highway. The property has highway exposure however, there is no direct highway access.
- The site is improved with several non-permanent structures used for the owner's sale and rental operation. Included on site is the owner's residence. The assessment has been split 50/50 between residential and non-residential classifications. Details of the assessment record indicates that \$15,600 have been assigned to the buildings with the balance being assigned to the land component. The parcel was purchased by Mr. Ens in 2006 for \$115,000.
- The assessment for 2010 was before a 2010 CARB and in CARB Decision 0215-10-07/2010 the assessment was revised from \$109,900 to \$70,000. The foundation of the revised assessment was the \$70,000 amount concluded within the Appraisal commissioned by the Town of Mayerthorpe; the effective date is June 4, 2009.
- The Appraisal also concluded, that if serviced, the value estimate would be \$150,000.
- In decision 0215 10-07/2010 the CARB was satisfied that the Appraisal's conclusion was based on the fact that subject was not serviced and that this characteristic and condition remained the same as of December 31, 2009.

## **PROCEDURAL OR JURISDICTIONAL MATTERS:**

Upon review of the file it was determined that both Parties were each a few days short in exercising their disclosures. The Parties were offered additional time if they felt they were being prejudiced by the amount of time they received. It would have meant the current hearing would have to be adjourned and reconvened if need be. The Parties advised their desire to proceed with the current scheduled hearing. Both Parties swore an oath. No objection was raised as to the composition of the CARB panel.

## **LEGISLATION:**

### ***The Municipal Government Act, R.S.A. 2000, c. M-2***

1(1) In this Act,

(n) "market value" means the amount that a property, as defined in section

284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

284(1) (j) "improvement" means

- (i) a structure,
- (ii) any thing attached or secured to a structure, that would be transferred without special mention by a transfer or sale of the structure,
- (iii) a designated manufactured home, and
- (iv) machinery and equipment;

(r) "property" means

- (i) a parcel of land,
- (ii) an improvement, or
- (iii) a parcel of land and the improvements to it;

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- (u) "structure" means a building or other thing erected or placed in, on, over or under land, whether or not it is so affixed to the land as to become transferred without special mention by a transfer or sale of the land;

**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.

**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.

**(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.

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

**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 conditions for properties similar to that property

### **PARTY POSITIONS:**

Within the Assessment Review Board Complaint form Mr. En's initial request was for an assessment value of \$60,000. This was revised to \$35,000 at the outset of the hearing.

The reasons for the complaint filed are stated as follows: 1. Zero improvements on the property, 2. Land values have decreased, 3. No services from the Town, 4. Services lines are only close to the property.

Mr. Ens is of the opinion that his property value is declining, not increasing. He pointed out the poor condition of his access road and the lack of weed maintenance to the surrounding properties as contributors. He also advised that his site is still not serviced because of the requirement of a lift station. The cost of lift station based on his estimate is in the range of \$300,000 to \$400,000. Mr. Ens drew the CARB's attention to the Town's drawing dated August 10, 2011 found in the Respondent's material (Appendix F of exhibit R1) where it states: "Note, future lift station to be installed by others."

The Respondent submits that the servicing is available to the property. The water and sewer lines are located in land adjacent to the subject parcel. The assessment has been prepared in accordance and meets with all regulations and legislation governing the assessment of property in Alberta, and that the assessment reflects a fairness and equity.

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## **Findings:**

1. The buildings located on the site are improvements and are assessable.
2. The CARB received no evidence as to the parcel having a value of \$35,000.
3. The CARB received no evidence that water and sewer services were available as of December 31, 2010.
4. Evidence as to the subject having a value of \$70,000 land remains substantiated by the Town's Appraisal.

## **Decision:**

In consideration of these findings the complaint is allowed for the following reasons.

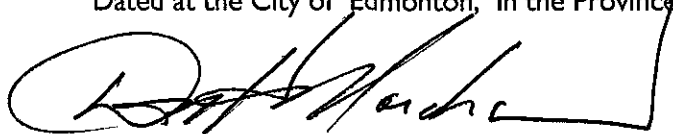
The structures on the subject property become assessable as improvements by the very nature. The fact that they are on skids or not on permanent foundations does not detract or place them outside of the definition set by the Act.

It is reasonable to say that a parcel is serviced with water and sewer when it is adjacent to existing water and sewer lines. One has only to "tie in" or "join up" and water and sewer will flow.

However, if one must provide a lift station in order to "tie in" then the parcel without water and sewer may not necessarily be serviced. The CARB was not advised if the subject parcel was exempt from the installation of a lift station in order to tie in to the adjacent lines. Or if the subject property has a prorated share in the cost of a lift station prior to joining to the existing water and sewer lines. In the absence of this key disclosure the CARB concurs with Decision 0215-10-07/2010. The Town of Mayerthorpe is the Party that can answer the question as to whether or not the parcel is serviced.

The assessment is therefore revised from \$93,800 to \$70,000.

Dated at the City of Edmonton, in the Province of Alberta this 31<sup>st</sup> day of October, 2011.



D. H. Marchand, Presiding Officer

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Parlee McLaws Letter
2. C2	Exit Reality Letter
3. C3	2010 assessment/tax notice
4. C4	2011 assessment/tax notice
5. C5	Copy of the assessment review board complaint form
6. R1	Respondent's Disclosure (13 pages)
	Received as Information                      Copy of CARB Decision 0215 10-07/2010

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