

**TOWN OF MCLENNAN BOARD ORDER NO. 0216 01/2012**

**IN THE MATTER OF A COMPLAINT** filed with the Town of McLennan Assessment Review Board pursuant to the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

**BETWEEN:**

Integrated Life Care Inc. - Complainant

- a n d -

Town of McLennan - Respondent

**BEFORE:**

Members:

J. Schmidt, Presiding Officer

G. Beaudoin, Member

M. Lanctot, Member

Ms. Rita Maure, Assessment Review Board Clerk

Appearances

Complainant                      Mr. G. Zinyk, President, Integrated Life Care Inc.

Respondent                      Mr. A. McNaughtan, Compass Assessment Consultants Inc.

A hearing was held in the Town of McLennan on October 29, 2012 to consider an assessment and taxation complaint against the following property:

Roll No.	200-1595
Legal Land Description	Plan 2810 BF, Block B-C
Municipal Address	164 3 Avenue NW
Assessed Value	\$3,050,400

The complaint came forward on grounds the described property is exempt from taxation in whole or in part.

**Legislation**

*362(1) The following are exempt from taxation under this Division:*

*(g.1) property used in connection with health region purposes and held by a health region under the Regional Health Authorities Act that receives financial assistance from the Crown under any Act;*

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*(h) property used in connection with nursing home purposes and held by a nursing home administered under the Nursing Homes Act; ... .*

### **Background and Description of Property**

[1] The subject property is known as the Manoir Du Lac and is a 73 unit Designated Assisted Living (DAL) facility on a 5.17 acre parcel. This property is registered under Certificate of Land Title as a fee simple estate to Integrated Life Care (McLennan) Inc. as the owner which is a private Alberta Corporation. There are 22 Long Term Care, 25 Designated Assisted Living, 25 Independent Care and one Guest Units in the complex as of December 31, 2011.

### **Position of the Complainant**

[2] The Complainant submitted that the property is exempt from taxation pursuant to the provisions s. 362(1)(g.1) and (h) of the Act since it is used in connection with nursing home purposes and is controlled by a health region (AHS).

[3] At the hearing it was argued that the 25 Independent Care Units have experienced a long term vacancy rate of approximately 10 units annually, which should be considered in determining the assessment.

[4] It was conceded that the 25 Independent Care units may not fall under the tax exemption provision of the Act, however, the balance of the facility, by agreement, is held by Alberta Health Services and is therefore exempt from taxation.

[5] In support of the complaint Exhibits C1 to C6 were entered into the record.

### **Position of the Respondent**

[6] The Respondent took the position the subject property does not qualify for a tax exemption as submitted by the Complainant.

[7] The property is owned and operated by Integrated Life Care Inc. as a fee simple estate registered under a Land Title Certificate and therefore cannot be considered held by a health region or nursing home.

[8] It was argued that the words "held by" as found in the Act have specific meaning which includes ownership, lease, license, permit or other physical control.

[9] The Respondent submitted that the original Master Agreement and subsequent Amendment Agreement between the Complainant and Alberta Health Services is a contractual

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agreement and does not in any way suggest that the subject property is owned, leased, licensed, held under permit or other physical control by Alberta Health Services.

[10] With respect to the matter of vacancy it was offered the assessment was completed by the application of the Income Approach to market value. In calculating the assessed value a vacancy rate at 15% was applied to all of the leasable units in the care facility. Even though this was not brought forward prior to the hearing, the 15% vacancy allowance gives ample consideration for the vacancy argument as submitted by the Complainant.

[11] In support of the Respondent's position Exhibit R1 was entered.

[12] The Respondent requested that the CARB deny the complaint and confirm the assessment.

### **Decision**

[13] No assessment change or tax exemption is required in this case.

### **Reasons**

[14] With respect to the matter of long term vacancy no value estimate was provided by the Complainant, and as a result the Board will rely on the Respondent's evidence, that a 15% vacancy allowance was provided for all the rentable space in calculating the assessment, as being a reasonable consideration for this issue. No assessment change is therefore necessary.

[15] The issue of tax exemption hinges on the meaning of "held by" with both parties citing previous cases where this meaning has been addressed at length.

[16] In this case, the Board agrees with the Respondent's specific meaning of "held by" argument.

[17] The Board is satisfied the original and amended care services agreement between AHS and ILC does not transfer physical control or any ownership rights to the health authority or a nursing home.

[18] The evidence supports the fact that Integrated Life Care Inc. is the legal land title registered owner of the subject property and full physical control is maintained by ILC.

[19] The care services agreement does not include a lease, license or permit nor can it be a substitute for these ownership considerations.

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[20] Having given careful consideration to the evidence argument and fact which came forward in this case the Board is convinced the subject property does not qualify for a tax exemption in whole or in part.

[21] Accordingly, the assessment is confirmed at \$3,050,400 and no change to the assessment roll or tax roll is required.

It is so ordered.

Dated at the Town of McLennan in the Province of Alberta, this 9<sup>th</sup> day of November 2012.

  
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J. Schmidt, Presiding Officer

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**APPENDIX "A"**

**DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:**

<b>NO.</b>	<b>ITEM</b>
Exhibit C1	Complainant – September 12, 2012, Argument letter (2 pages)
Exhibit C2	Complainant – May 24, 2012 (6 pages)
Exhibit C3	Complainant – AHS Amending Agreement (16 pages)
Exhibit C4	Complainant – Rental Rates – Extra Service (3 pages)
Exhibit C5	Complainant – Board Order MGB 031/00 (7 pages)
Exhibit C6	Complainant – Operational Cash Flow (4 pages)
Exhibit R1	Respondent – Submission (67 pages)