

**MOUNTAIN VIEW COUNTY COMPOSITE ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

IN THE MATTER OF A COMPLAINT filed with Mountain View County Composite Assessment Review Board (CARB) pursuant to the *Municipal Government Act* Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

**BETWEEN:** Thornccliffe-Greenview Community Association- Complainant

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Mountain View County - Respondent

**BEFORE:** Members:  
Rob Irwin, Presiding Officer  
I. McArthur, Member  
K. Blain, Member

A hearing was held on September 27, 2012 in the Mountain View County offices, in the Province of Alberta to consider a complaint about the assessment of the following property tax roll number:

- Roll # 529024001
- Legal description SW-02-29-5-W5M

Appeared on behalf of the Complainant:

- Marvin Quashnick - Public Service Director, Thornccliffe-Greenview Community Association (TGCA)

Appeared on behalf of the Respondent:

- Steve Nedoshytko, Assessor Mountain View County

**PART A: Background and Description of Property Under Complaint**

The subject property is leased Crown Land, reported as being +/-32.49 acres of bare land with no improvements. It is being used mainly between April and November for recreation as a wilderness campground. There are no facilities or structures on the land except a fire pit and outhouse.

*History of the Property:*

In 2011 a review of all exempt properties was completed by the municipality and the subject property at that time was deemed to be taxable. Prior to the review the subject property had been considered exempt and therefore nontaxable.

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**PART B: Procedural or Jurisdictional Matters**

The CARB derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to the complaint, as outlined below.

**Issues**

The Complainant stated that the two issues identified on the complaint form remained in dispute;

*ISSUE 1: an assessment class*

*ISSUE 2: whether the property or business is exempt from taxation.*

**Summary of the Party's positions:**

***Issue 1: an assessment class***

**Complainant**

The Complainant took the position that the subject property is improperly categorized as non-residential by the assessor. Concern was expressed as being grouped with commercial and industrial land uses. It was believed that these non-similar land use types would generate an erroneous typical market value and value for assessment and taxation.

**Respondent**

The Respondent testified that the property has been classified as vacant non-residential and explained that the current legislation results in the Assessment Department to apply taxation to the property and class the property as "Nonresidential". The Respondent stated that market value for various types of property occur within the grouping. In the subject property's case, the sale values of more rural undeveloped acreage, pasture and bare land sales would be used as comparables. Calculations of value would only include as close to similar as possible and would not include dissimilar, urban, industrial or commercial uses.

**Finding**

The Respondent gave the subject property the appropriate class.

**Reasons**

MGA 297(1) states that when preparing an assessment the assessor must assign one or more of the following assessment classes to the property.

- (a) class 1- residential
- (b) class 2- Non-residential
- (c) class 3-farm land
- (d) class 4-machinery and equipment

Further, MGA 297 (4)(b) which states;

*"non-residential" in respect of property, means linear property, components of manufacturing or processing facilities that are used for the cogeneration of power or other property on which industry, commerce or another use takes place or is permitted to take place under a land use bylaw passed by a council, but does not include farm land or land that is used or intended to be used for permanent living accommodation.*

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In this case, the subject property is used on a season basis for recreation purposes. This use accords with its land use bylaw designation as "P-PR" Parks and recreation District, as shown in the Respondent's supporting documentation.

The property under consideration is obviously not "linear property or components of manufacturing or processing facilities used for cogeneration of power". Nor does it appear to be used for industry or commerce. However, it is unquestionably property on which "another use takes place or is permitted to take place under a land use bylaw". Further, no evidence of any weight was advanced to show that the land should be considered farmland or that it is intended to be used for permanent living accommodation. Accordingly the CARB is satisfied that the Assessor classified the land correctly as "non-residential" in accordance with Section 297.

Given the "Non-residential" classification, the Assessor determined that the market value assessment standard applied. He testified that his market value estimate was based on sales of similar land rather than land used or contemplated for commercial purposes.

The CARB sees no basis to interfere with the assessment.

**Issue 2: whether the property or business is exempt from taxation**

**Complainant**

The Complainant presented documentation and a letter of support to assert the position the Thorncliffe Greenview Community Association was a valid and respected community organization.

It was requested that the assessment should reflect the exemption on taxation for the subject property in accordance with Municipal Government Act section 362(1)(n)(ii).

"property that is held by a non-profit organization and used solely for community games,sports,athletics or recreation for the benefit of the general public."

The Complainant stated that a membership was available to the general public which included residents of Mountain View County.

The Complainant stated that the Thorncliffe-Greenview Community Association was considering options regarding increasing membership in the Association and developing a booking and usage scheduling plan for the subject property .

The Complainant referred to Community Organization Property Tax Exemption Regulation (COPTER) Part 1 :General Rules Section and indicated for the CARB how the TGCA was in compliance with the legislation. The Complainant stated that as they were a non-profit organization, holding property and using it in accordance with the rules they qualified for the requested exemption.

Further it was presented that the TGCA did have a non-voting membership that was available to members of the general public including residents of Mountain View County for \$30.00, the TGCA was again in compliance with COPTER, Meaning of restricted: Section 7(1) of the General Rules.

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**Respondent**

The Respondent noted that the complainant, the Thorncliffe-Greenview Community Association is a Community Association located in the City of Calgary while the subject property under appeal is located in Mountain View County.

The Respondent also drew attention to the fact that the Complainant had testified that no residents of Mountain View County were actually members of the Thorncliffe-Greenview Community Association or had used the subject property. It was disclosed that the property had been mainly used by the scouting group associated with the Thorncliffe-Greenview Community Association.

The Respondent identified that although the TGCA is a community organization, the specific area it services is not Mountain View County, it is a Calgary based association.

The following COPTER sections of the Municipal Government Act were presented;

- **Interpretation: 1 (2)** Community association.

Enhancing the quality of life for residents of the area or enhancing the programs, public facilities or services to residents of the area, or

Providing non-profit sporting, educational, social, recreational or other activities to the residents of the area.

-**Part 2 Qualifications for Exemptions under Section 362 (n)(ii) to (v)**

10(1) Property referred to in section 362.1 (n)(iii) of the Act is not exempt from taxation unless

(a) The charitable or benevolent purpose for which the property is primarily used is a purpose that benefits the general public in the municipality in which the property is located..

**Finding**

The subject property is not exempt from taxation.

**Reasons**

The Municipal Government Act and the COPTER legislation are very detailed in the qualifications for exemptions.

The Complainant relied on MGA Section 362 (1) (n) outlining that a property may be exempt if it meets the all the qualifications and conditions in the regulations.

The Board agreed that the TGCA appeared to meet the description of non-profit and that the manner in which the property is held and used is in compliance with Section 362 but not all qualification regulations were met.

The Board referred to COPTER 10(1)(a)Part 2; Qualifications for Exemptions Under Section 362 "the charitable or benevolent purpose for which the property is used is a purpose that benefits the general public in the municipality in which the property is located"

The CARB was not convinced that general public in Mountain View County benefitted from the use of the property and as such did not qualify for an exemption.

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The Board found that the Complainant did not illustrate that the assessment was incorrect and referred to Municipal Government Act section 467.3

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.


**PART D: Decision:**

In view of the above considerations, the CARB finds as follows:

**The appeal is denied and the 2012 Property Assessment is confirmed.**

It is so ordered.

Dated at the County of Mountain View offices in the Province of Alberta, this  
23 Day of October 2012.

  
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Presiding Officer  
R. H. Irwin