

**CITY OF ST. ALBERT  
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, Section 460, Revised Statutes of Alberta 2000 (the Act).

**between:**

***Hole's Greenhouse & Gardens  
COMPLAINANT***

**and**

***The City of St. Albert, RESPONDENT***

**before:**

***J. Acker, PRESIDING OFFICER  
B. Cleland, MEMBER***

This is a complaint to the St. Albert Composite Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of St. Albert and entered in the 2012 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>126325</b>
<b>LOCATION ADDRESS:</b>	<b>101 Bellerose Drive</b>
<b>HEARING NUMBER:</b>	<b>0292-01-2012</b>
<b>ASSESSMENT:</b>	<b>\$ 8,784,000</b>

This complaint was heard on 21<sup>st</sup> day of November, 2012 at the City of St. Albert Council Chambers located at Floor Number 3, 5 St. Anne Street, St. Albert, Alberta.

Appeared on behalf of the Complainant:

- *William (Bill) Hole*
- *Lolita McDougall*

Appeared on behalf of the Respondent:

- *Stephen Bannerman*

**Property Description:**

1. The subject is a 10.57 acre parcel with a number of improvements comprising 156,895 sq. ft. of greenhouses and some secondary storage/retail facilities. The subject property is adjacent to other properties held by Hole's Greenhouses & Gardens and the storage components of the subject are utilized in the continuing operations on those adjacent parcels.
2. The greenhouses were in continuous production prior to the opening of the new Hole's Enjoy Centre in April/May 2011 and the focus of horticultural activity was relocated to that facility.
3. Less intensive use for horticultural purposes has continued on the subject property.

**Issues:**

4. Is the subject property at 101 Bellerose Drive properly classified for assessment purposes as required under current legislation?

**Complainant's Requested Value:** \$ 2,656,100

**Complainant's Position**

5. The Complainant testified that the subject property continues to be an integral part of the horticultural pursuits of Hole's Greenhouses & Garden Centre notwithstanding the migration of some growing operations and the retail components of the business to the new Enjoy Centre. In his written testimony he states:

*"Although this site has been listed for sale, there has been no change in the greenhouse use of this property from year to year. The greenhouses continue to be used according to the rise and fall of production requirements throughout the year for Hole's Greenhouses and Gardens, in conjunction with the requirements at the Enjoy Centre."*

6. The Complainant noted that the equipment, seeds and other horticultural goods are stored in the warehouse facility on the subject property and used in the continuing operations on adjacent properties held by his company. The greenhouses themselves share water,

security systems, electrical and control systems provided from the improvements on the subject site and these same systems are utilized to provide those services to the adjacent parcels.

7. The subject property has been listed for sale, but, as it is zoned Direct Control (DC), any changes in use for the lands are subject to St. Albert City Council approval. Accordingly, conversion of the parcel to other uses would require Council approval or rezoning as might be necessary to support alternative development approaches.

### **Respondent's Position**

8. The Respondent provided the Board with evidence outlining his approach to assessment of the subject property. Having determined from site inspections in January, May and October 2012 that the subject improvements were largely vacant and unused for farming operations, the assessor reclassified the property from farmland to vacant developable land.
9. In September, 2011, the St. Albert Assessment Department contracted an independent 3<sup>rd</sup> party appraisal of the subject property. (Harrison Bowker Appraisals). This report provided an estimate of value utilizing the direct comparison approach which included on page 23 of that report the following:

*"A specific use for the subject property has yet to be identified, and therefore our analysis included land values for commercial and multi-family lands. Both market sectors exhibited similar values. It is acknowledged that the ultimate development potential of the site will not be apparent until criteria is proposed and approved in terms of use and density. The potential to create value through the regulatory process does exist." ...*

*"A final adjustment has been applied to reflect the 'as is' development potential of the site, which is significantly impaired by the believed existence of unstable river bank and soil conditions. Our analysis assumes that 3.0 acres of the site will be effectively undevelopable, or subject to such additional foundational requirements that its contributory value to the rest of the site would be negated. It should be noted that the results of the valuation may require amendment if/when additional details regarding the development potential of the site emerge."*

*"Our final value has thus been calculated on a 'per developable acre' unit value as follows: \$925,000/acre x 7.58 developable acres = \$7,012,000 (rounded). This results in a final unit value on the gross site area of \$663,000/acre (\$7,012,000 ÷ 10.58 acres), representing a 28.3 percent discount due to poor site conditions"*

10. The Respondent addressed the issue of whether or not Hole's Greenhouses & Gardens meets the legislative requirements to be classed as a bona fide farm operation on the subject lands:

*"Respectfully, there is little doubt the appellant meets the definition of farm operations in other property holdings within and outside of St. Albert's boundaries. Ownership continues to be involved in the science of cultivation; however, for 2011 assessment year the property located at 101 Bellerose Drive does not meet the definition of a bona fide farming operation. Since the fall of 2011 the property sits largely vacant. There has*

*been little attempt to produce a viable crop on this property while the overall intent is to sell for future development purposes. The property located at 101 Bellerose Drive has ceased to be a part of the bona fide farming operation and become, in essence, a holding property with a future sale pending."*

11. Following the May 2012 inspection by the assessment department, the assessor discussed a second option with the Complainant which would have classified 10% of the subject as farmland (.94 acres) with the remaining parcel area classified as vacant developable land. This option was not pursued.

**Board's Decision in Respect of Each Matter or Issue:**

12. The subject lands are incorrectly classified as vacant developable lands for assessment purposes.

**Reasons:**

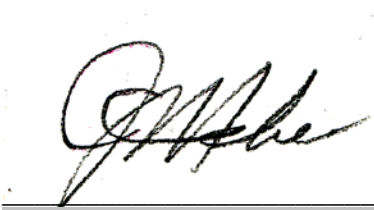
13. The single issue in contention in this appeal is the correctness of the reclassification of the subject lands from farmland to vacant developable land. The subject has been in continuous use for horticultural purposes for over 60 years and has been zoned as Direct Control over that period of time with the exception of a period during which the land was redistricted to allow continuing redevelopment for horticultural and retail sale purposes. It was subsequently returned to Direct Control and continues under that Land Use District today.
14. In April/May 2011, the new Enjoy Centre was opened by Hole's Greenhouses & Gardens as a new retail centre and much of the horticultural activity in raising plant materials for resale was relocated to that premise. The subject property continued to support the overall operations of the corporate entity through the provision of cold frame spaces and operational supports for the ongoing day-to-day activities conducted on adjacent properties. The Complainant did not dispute the fact that the historical use of the subject property has been affected by the construction of the new Enjoy Centre, but clearly indicated that no alternative use has been made of the subject property for anything other than its continuing asset value in support of the overall corporation.
15. The subject has been offered for sale in the open market. It has the potential of supporting both commercial and multi-family development; but its Direct Control zoning classification introduces some uncertainty as to permitted uses for the property. The development potential may be impacted by soil and riverbank stability issues as identified in the appraisal report submitted by the Respondent.
16. The Respondent indicated that an alternative assessment scenario discussed with the Complainant recognized that, in the Respondent's opinion, approximately 10% of the subject parcel area continues in agricultural use. The Complainant indicated that some minor dismantling of the existing greenhouse structures had commenced, but that the majority of the greenhouse facilities remain in operational condition for horticultural purposes and the other structures continue to be used as they always have in support of the overall operations of his company.

17. Section 297 of the Municipal Government Act defines farmland as being used for farming purposes as outlined in the regulations. Alberta Regulation 220/2004 defines further in section 1(i) what constitutes farming operations and both parties to this complaint agree that Hole's Greenhouses and Gardens fully meets that definition for its operations. The dispute is solely related to how Hole's Greenhouses and Gardens uses the subject property in support of those operations.
18. The Act and its regulations are silent on the intensity of land use for farming operations and the timing of agricultural activities in any given assessment cycle to ensure compliance with the continued classification of farm lands for assessment purposes. From the testimony of both parties, the Board understands that the subject continues in part to be used for agricultural purposes and that no alternative use has been made of the remaining portions of the property.
19. The Board is not convinced that the Respondent's site inspections in January, May and October of 2012 have established sufficient evidence of abandonment of horticultural production on the subject property. No evidence was advanced of any significant dismantling of those structures and systems emplaced for the production of horticultural materials.
20. No evidence was advanced by the Respondent to indicate any application by the Complainant for any development that would necessitate consideration by the Council of the City of St. Albert to vary the uses of the subject property as permitted under its Direct Control land use designation. The Board is therefore not persuaded that the use of the subject property has changed from its historical agricultural classification with minor warehouse and retail components.
21. The Complainant agreed that the subject property is currently being offered for sale, but no transaction has completed and no development proposals outlining specific land uses have been advanced beyond the preliminary concept stage. The end use of the lands is therefore unknown and the site constraints, if any, are not yet identified.
22. The current Direct Control land use classification introduces a degree of uncertainty as to the future permitted uses on this parcel of land, and the Board is not persuaded that the direct sales comparison approach delivers a fair and equitable assessed value when the subject is compared to properties with known permitted uses under their land use classification.
23. Upon questioning by the Board, the Respondent indicated that assessment market values have not varied measurably from those of the previous year. The subject property was assessed at \$2,656,100 in that year.
24. Accordingly, the Board determines that the portions of the subject identified historically as farm land have not changed classification insofar those lands have not yet been impacted by any change in land use.

This complaint is therefore upheld, and the assessment of the subject property is amended to \$2,656,100.

**It is so ordered.**

**DATED AT THE CITY OF ST. ALBERT THIS 26<sup>TH</sup> DAY OF November 2012.**

A handwritten signature in black ink, appearing to read 'J. P. Acker', is positioned above a horizontal line.

**J. P. Acker**  
**Presiding Officer**

**APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure

*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.*

Subject	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Other Property Types	Vacant Land	Classification	Farm Land Classification