

County of Stettler No. 6 Composite Assessment Review Board

In the matter of the complaint filed with the County of Stettler No. 6 Composite Assessment Review Board (CARB) as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Gordon Gary Grant

Complainant

and

The County of Stettler No. 6

Respondent

DECISION OF
Peter Irwin, Presiding Officer
John Pearson, Board Member
Gord Latham, Board Member

A merit hearing was held on October 18, 2013 in Stettler, Alberta in relation to a complaint about the assessment of the following property tax roll number:

Name of Complainant	Legal Description of Property	Municipal Address	Tax Roll	Assessment
Gordon Gary Grant	NE 31-39-19-W4	39575 Range Road 200	445900	Improvements \$442,180 Land \$1,100,000 Total \$1,542,180

Procedural Matters

- [1] When asked by the Presiding Officer, after the disclosure by the Presiding Officer that he knew the Complainant from high school many years earlier, the parties did not object to the composition of the Board. The Board members indicated that they have no bias in the matter before them.

Preliminary Matters

- [2] There were no preliminary matters.

Background

- [3] The subject property, known as the Pheasantback Golf and Country Club, is a 136.72 acre parcel of land located 10 km north of Stettler, with an 18-hole golf course, club house, tournament building and a maintenance building.

Issue(s)

[4] Is the subject property assessment correct?

Position of the Complainant

[5] The Complainant presented a 27 page disclosure package to the Board, as well as a 9 page rebuttal, pursuant to the Respondent's disclosure.

[6] The Complainant advised the Board that the subject property went into receivership in September, 2012, following a Court Order filed on September 4th and the Receiver, MNP, closed the golf course on September 21st. He submitted that the golf course was basically bankrupt on July 1st, 2012 and that the process had been going on for months. He stated that the previous owners went bankrupt.

[7] On June 14th, 2013, the Complainant made an Offer to Purchase the subject property from the receiver for \$515,000. This was comprised of \$200,000 for the golf course (real property), \$300,000 for the fixed assets and inventory and \$15,000 GST on the fixed assets and inventory.

[8] The Complainant's disclosure included two pages of a report to Court from the Receiver that included an Analysis of Purchase Price. It noted that the Receiver's inhouse accredited real estate appraiser conducted a Farmland Values search of the Farm Credit Canada website to obtain details of the average price per acre of the most recent historical farmland sales in the area. The conclusion was that the average purchase price was \$1,344.66/ acre; for cultivated land, \$1,450/ acre; and for pasture land, \$660/acre. For 146 acres, the land value, at \$1,344.66/ acre, would be \$197,635.62. An opinion from Montgomery (auctioneer and appraiser) provided a gross liquidation value of the equipment and fixed assets at a gross sum of \$175,000 before auction commissions and costs.

[9] The Complainant advised the Board that he arrived at his offer price after talking to a knowledgeable person (a Mr. Ken Graham). The Complainant had expected another offer to be made. He told several people about it. A Mr. Don Peters had the most to gain from a purchase because he had an adjacent property that he was planning to develop into an RV Park. The Complainant's rebuttal included four pages of a draft report by New Venture Analysis Ltd. that had been commissioned by Mr. Peters. It included a statement: "Based on actual financial results as presented, the likelihood is that the value of the business as it existed immediately before going into Receivership was under \$500,000.". No final draft was done and Mr. Peters indicated to the Complainant that he was not interested and the golf course was not worth \$500,000. The Complainant canvassed withdrawing his offer but it was irrevocable.

- [10] The Court of Queen's Bench approved the sale of the subject property to the Complainant on July 24th, 2013, with a closing date of July 29th, 2013.
- [11] The Complainant advised the Board that, subsequent to the sale, the golf course received a permit to re-open around August 10th and then re-opened 9 holes initially and then 18 holes.
- [12] With respect to the future of the subject property, the Complainant indicated that it was uncertain as to whether or not it would continue as a golf course. He stated that memberships are not being sold for 2014.
- [13] The Complainant submitted to the Board that he had received information that the Town of Stettler Golf Course (his competition) was paying no taxes. He referred to a handwritten note in his disclosure package, but subsequently referred to another document from the Town of Stettler stating that the taxes were \$298.54 for 2013.
- [14] In summary, the Complainant stated that he now has a better understanding of the Assessor's approach to valuing the property on a cost approach per hole. However, he stated that the cost approach was not appropriate, that the income approach should have been used; i.e., that the previous owners should have been asked for financial statements. Further, he stated that the receiver accepted the Complainant's offer as fair market value. With respect to the glowing comments in the receiver's description of the subject property, he indicated that that the receiver was simply trying to present it in the best possible light and sell it.
- [15] The Complainant's requested assessment is \$200,000.

Position of the Respondent

- [16] The Respondent presented a 66 page disclosure package to the Board. As well, he offered an additional three pages of information related to the golf course located in the Town of Stettler. After time to review these latter documents, the Complainant indicated no objection to them and therefore they were accepted by the Board.
- [17] A picture section included re-inspection photos of Pheasantback's welcome sign, a clubhouse, a tournament building, a maintenance building, and greens/ fairways shots. The Respondent drew the Board's attention to a sprinkler in operation in a picture dated September 24, 2013.
- [18] For details on the derivation of the assessment, the Respondent referred the Board to section K of his disclosure package (pages 53 – 56). He stated that, shortly after the Valuation Date, he talked to the owner (on August 6th, 2012) and was advised that there had been no changes to the property. He

noted that the property had been appraised in 2006 for \$1,400,000 and sold that year for that price. A tourney house was then added, for \$200,000, and the assessed value was subsequently revised to \$1,600,000. At the Valuation Date of July 1st, 2012, the total assessment was \$1,542,180. The total included a land value assessed at \$1,100,000 and also included three improvements:

- Club House: 2,273 sf, built in 2002, and assessed at \$223,130
- Tournament Building: 2,906 sf, built in 2007, and assessed at \$179,180, and
- Maintenance Building: 2,399 sf, built in 1994, and assessed at \$39,270.

The value of the improvements included various downward adjustments for depreciation and a locational influence (inferior, relative to proximity to Highway 2). In his opinion, the buildings had not been aggressively assessed.

Upon questioning, the Respondent stated that golf courses are valued on a dollar figure per hole and he used \$61,100/ hole in his calculations (\$61,100/ hole x 18 holes = ~\$1,100,000). Doing the math, the land was valued at \$8,046/ acre (\$1,100,000/ 136.72 acres).

[19] The Respondent noted, in section J, that the ownership of the golf course changed hands on June 21, 2011, from Rise Resources Corp. to Pheasantback Golf and Country Club Ltd., for \$1,531,760. However, he acknowledged that the parties were related and it was regarded as an internal transfer (no money changed hands). As such, the sale was non-arm's length and therefore not a valid sale for valuation purposes.

[20] As the centerpiece of the complaint was the sale transaction to the Complainant in July, 2013, the Respondent's disclosure package included nine pages from an assessor's manual dealing with the nature of sales transactions. He highlighted a section on market data that stated: "it is important to know whether the transaction was arm's length (between unrelated parties or parties not under abnormal pressure from each other) or resulted from foreclosure, condemnation, or other circumstances in which price was not representative of the market."

[21] Further, the Respondent highlighted the section on "highest and best use" and referred to a quote from the U.S. Supreme Court: "The value of property results from the use to which it is put and varies with the profitableness of that use, present and prospective, actual and anticipated." The Respondent also noted from the manual: "The use must be a probable one and not an unlikely or speculative one. There must be a demand for the use either in the present or in the near future, as determined by the market."

[22] Four pages from the Receiver's Information Summary for Prospective Purchasers (section C) were included in the package and the Respondent noted some of the highlights:

- An 18-hole, 6104 yard, championship course located 10 km north of Stettler, AB;
- Recognized by SCORE Golf as "an excellent local course" with a course rating of 6.50. Listed as one of the "Top 10 Must Plays" in Alberta.

[23] The Respondent reviewed for the Board four pages (section D) also from the Receiver's Information Summary, and highlighted its description of the subject property as:

Property	\$
Land & Building ⁽¹⁾	1,528,162
Equipment ⁽¹⁾	427,896
Inventory ⁽¹⁾	72,930
Total	2,028,988

¹ Values as stated in the Company's 2011 accountant-prepared financial statements.

[24] In support of the assessment, the Respondent presented a table, at section L, of equity comparables that included seven golf courses plus the subject property. These comparables (Kananaskis, Carstairs, Sundre, Crossfield, Bowden, Delburne, and Acme) had assessments ranging from a high of \$7,256,990 to a low of \$566,510, with Pheasantback in the middle of the table, at \$1,542,180. The Respondent opined that Pheasantback was not over-assessed compared to the others in the table. On questioning, he stated that he did not include comparables on more nearby golf courses because he had not prepared the assessments on any of them.

[25] The Respondent reviewed two pages of a First Report to Court of the Receiver dated July 14, 2013 (section E) and highlighted, for the Board, paragraphs 48 – 51 which dealt with the analysis of purchase price. It was noted that the Receiver's inhouse accredited real estate appraiser conducted a Farmland Values search of the Farm Credit Canada website and other comparables to obtain details of the average price per acre of the most recent historical farmland sales in the area. The conclusion was that the average purchase price was \$1,344.46/ acre; for cultivated land, \$1,450/ acre; and for pasture land, \$660/ acre.

[26] Offer to Purchase documents submitted to the Receiver by the Complainant and by a numbered company (1736280 Alberta Ltd.) in sections G and H were reviewed by the Respondent. The former was included in the Complainant's presentation. The latter offer included \$1,013,000 for the real property, but the Complainant stated that the party

that made this offer could not obtain financing. Therefore in his opinion it was not a bona-fide offer.

[27] The Respondent reviewed a Development Permit (section M) that had been issued on September 19th, 2013 to a Mr. Donald Peters for a property on the other side of the road from the Pheasantback Golf Course. This permit was for a campground with a maximum of 20 RVunits/ stalls/ sites and the Respondent highlighted certain conditions that made reference to the Pheasantback Golf Course. He submitted that the campground was being built to work with the golf course.

[28] In his review of the legislation applicable to property assessment, the Respondent highlighted the sections of the Act and the Regulations pertaining to farming and, while acknowledging that bales of hay may have been taken off the subject property, he submitted that it wasn't a farm in 2012; it was a golf course.

[29] With respect to the golf course valuation in the Town of Stettler, the Respondent indicated that the land assessment was \$1.82 million for approximately 75 acres. For a nine-hole golf course, this worked out to \$202,000 per hole. Comparing the two properties was problematic because the Stettler Town golf course was comprised of three parcels of land and the improvements included an arena and a swimming pool as well as a club house and pro shop. The Respondent stated that the land was being valued as a golf course and would likely be higher if commercial development (strip malls, etc.) was allowed.

Decision

[30] The Board confirms the 2012 assessment of the subject property, for the 2013 Taxation Year, at \$1,542,180.

Reasons for the Decision

[31] The Board finds that as of the Valuation Date of July 1st, 2012, the subject property was operating as an 18-hole golf course and country club.

[32] The Board accepts that the subject property was placed in receivership during September, 2102 and that the Receiver initiated the usual and appropriate measures to prepare the property for the winter season such as blowing out the irrigation system water lines.

[33] The Board finds that, on the Condition Date of December 31st, 2012, the subject property was a typical golf course property in winter hibernation mode, notwithstanding that it had been placed in receivership.

[34] While there may have been some hay baling activities carried out in either the assessment year (2012) or in the taxation year (2013), the Board did

not hear any testimony to indicate any plan to change the intended use of the subject property to farmland. As the Board finds no evidence that the subject property was farm land, or used for farming operations, within the meaning of the Act and Regulations, it could not be assessed on the basis of its agricultural use value.

[35] The Board is aware that there are different methods of assessing golf courses: the income approach, the cost approach, and the sales approach.

With respect to the sales approach, the Board finds that the assessable portion of the subject property (land and improvements) was sold in a court-approved sale in July, 2013 for \$200,000 but notes that this was a post-facto sale. Further, the Board notes that the Court relied on estimates of value based on farmland, not golf courses. The Board finds that this sale is insufficient evidence to determine that the market value at valuation date was \$200,000. The Board also notes that another party appeared willing to offer an amount in excess of \$1,000,000 for the real property, although the offer with its conditions was not accepted. The Board did not find the sale of the subject property in 2011 to be a good indicator of market value as it was not an arms-length transaction. The only other sale information in evidence was the Sundre Golf Course transaction for \$2,811,960 in February, 2006, but with little other information about its comparability to Pheasantback, and its datedness, the Board placed little weight on it.

With respect to the income approach, the Board heard testimony to the effect that the income for the subject property prior to the Valuation Date would not support the assessed value, but no evidence was before the Board to enable the calculation of the assessment on an income approach.

With respect to the cost approach, the Board was not provided with detail on where the \$61,100/ hole came from in order to support the correctness of the assessment, nor was any evidence provided on its incorrectness.

[36] The Board considered the New Venture draft report, and that while interesting, it was only a draft, it was unsigned, and the Board had only a portion of the report. Therefore, the Board gave little weight to it.

[37] The Board noted that the Act (section 467(3)) states that "An assessment review board must not alter any assessment that is fair and equitable, taking into consideration ... (c) The assessment of similar property in the same municipality." As there are no other golf courses in the County of Stettler with which to compare the subject property, the Board recognizes the challenge or difficulty for the Respondent to demonstrate internal equity within the municipality. That then leads to external comparisons. The Board finds that comparison to the Town of Stettler golf course assessment was not helpful because that property had several titles and had usages beyond golf course (arena, swimming pool) and these matters clouded the comparability. The Board also finds that the Respondent's equity table of seven other, more

distant comparables, while interesting, had such wide-ranging values and attributes, but no back-up information, were not compelling evidence of equity.

[38] In summary, the Board finds there to be insufficient evidence to alter the assessment.

Dissenting Opinion

[39] There was no dissenting opinion.

Heard Friday, October 18, 2013.

Dated this 14th day of November, 2013, at the Town of Stettler, Alberta.

A handwritten signature in cursive script, reading "Peter Irwin".

Peter Irwin, Presiding Officer

Appearances:

Gordon Gary Grant for the Complainant

Rod Vikse, Assessor, Wild Rose Assessment Services Inc. for the Respondent

This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, RSA 2000, c M-26.

APPENDIX

Legislation

The *Municipal Government Act*, RSA 2000, c M-26, reads:

Decisions of assessment review board:

s 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.

s 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.

Interpretation:

s 1(1)(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;

Assessment of Property Interpretation provisions:

s 284 (1) In this Part and Parts 10, 11, and 12,

(c) "assessment" means a value of property determined in accordance with this Part and the regulations;

(r) "property" means

- (iii) a parcel of land and the improvements to it.

Preparation of Assessments:

s 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.

Assigning assessment classes to property:

S 297 (4) In this section,

- (a) "farm land means land used for farming operations, as defined in the regulations;

Matters Relating to Assessment and Taxation Regulation [AR 220/2004] reads:

Definitions

s. 1 In this Regulation,

- (b) "agricultural use value" means the value of a parcel of land based exclusively on its use for farming operations;
- (i) "farming operations" means the raising, production and sale of agricultural products and includes
 - (i) horticulture, aviculture, apiculture, and aquaculture,
 - (ii) the production of horse, cattle, bison, sheep, swine, goats, fur-bearing animals raised in captivity, domestic cervids within the meaning of the *Livestock Industry Diversification Act*, and domestic camelids, and
 - (iii) the planting, growing and sale of sod;