

**DECISION NUMBER: 0305-001-2010**

In the matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

***between:***

***Strategy Summit Ltd., Complainant***

***and***

***Sturgeon County, Respondent***

***before:***

***L. Wood, Presiding Officer***

***A. Plante, Member***

***N. McDougall, Member***

This is a complaint to the Sturgeon County Assessment Review Board in respect of Property assessment prepared by the Assessor of Sturgeon County and entered in the 2010 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	375.000
<b>ADDRESS:</b>	55325 Range Road 222
<b>LEGAL LAND DESCRIPTION:</b>	NW 23- 55- 22 W4
<b>ASSESSMENT:</b>	\$1,480,500

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This complaint was heard on the 3rd day of November, 2010 at the Sturgeon County Centre located at 9613- 100 Street, Morinville, Alberta.

**Appeared on behalf of the Complainant:**

- Mr. B. Ferguson
- Mr. A. Walker

**Appeared on behalf of the Respondent:**

- Ms. A. Pirtle
- Mr. C. Boddez
- Mr. G. Gaetz

**Board's Decision in Respect of Procedural or Jurisdictional Matters:**

There were no procedural or jurisdictional matters raised by the parties during the hearing.

**Property Description:**

The subject property is a 5,876 sq ft single family dwelling, (a residential log home) that was constructed in 1999. The subject property consists of a 54.95 acre parcel, which is located between the North Saskatchewan River and Sturgeon River. The parcel includes 51.95 acres that is assessed as farm land, and its harvest is donated to charity ("Friends of Pro Rodeo").

**Issue:**

1. What is the appropriate class for the subject property?

**Complainant's Requested Value:** \$5,351.46 (taxes payable)

**Legislation:**

***MUNICIPAL GOVERNMENT ACT, R.S.A. 2000, Chapter M-26***

*s. 297(1) When preparing an assessment of property, 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.*

*(2) A council may by bylaw*

- (a) divide class 1 into sub-classes on any basis it considers appropriate, and*

*(b) divide class 2 into the following sub-classes:*

- (i) vacant non-residential;*
- (ii) improved non-residential,*

*and if the council does so, the assessor may assign one or more sub-classes to a property.*

*(3) If more than one assessment class or sub-class is assigned to a property, the assessor must provide a breakdown of the assessment, showing each assessment class or sub-class assigned and the portion of the assessment attributable to each assessment class or sub-class.*

*(4) In this section,*

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

*(a.1) "machinery and equipment" does not include*

- (i) any thing that falls within the definition of linear property as set out in section 284(1)(k), or*
- (ii) any component of a manufacturing or processing facility that is used for the cogeneration of power;*

*(b) "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;*

*(c) "residential", in respect of property, means property that is not classed by the assessor as farm land, machinery and equipment or non-residential.*

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

The Complainant submitted that a change had occurred in the subject property's assessment class in 2009 that had a significant impact in regards to the amount of tax that was payable (there was an increase in taxes of 139%). The class had changed from residential (100%) to a split between class 1- residential (50%) and class 2- non residential (50%) for the 2010 taxation year (Exhibit 2, pages 4 5).

The Complainant submitted he had purchased the property in late 2005 with the intent of changing it from a private residence into a guest retreat for corporate events, as reflected on the Complainant's website. He detailed the steps that he had undertaken to have amendments made to the bylaw for this change to occur and discussions that he had with County representatives over the course of four years but to no avail (Exhibit 2, pages 7- 71). He subsequently sold the property in July 2010.

The Complainant testified that he held several functions at the ranch, primarily for family and friends (reunions, birthday parties, pre-Oiler game parties etc.) with minimal costs for recovery (food,

cleaning, administration etc); otherwise, the subject property was used as his primary residence (Exhibit 2, pages 1 & 2).

The Respondent submitted that a change had occurred in the subject property's assessment from class 1- residential (100%) in 2009 taxation year to a split of class 1- residential (50%) and class 2- non residential (50%) for the 2010 taxation year (Exhibit 3, pages 11- 21). This change was intended to capture the commercial operations that were taking place in the subject property, as reflected on the Complainant's website (Exhibit 3, pages 22- 25).

However, upon hearing the Complainant's testimony, the Respondent indicated that the current classification for the subject property is too harsh since it appears the property was not operating as a commercial property but primarily as a personal residence. The Respondent submitted that a class split of class 1- residential (98%) and class 2- non residential (2%) and would be appropriate in these circumstances. The Complainant agreed.

The Board finds the assessment class split of class 1- residential (98%) and class 2- non residential (2%) is reasonable based on the parties' agreement. This only affects the improvement on the site and the first 3 acres. The remaining 51.45 acres, which is class 3- farm land, remains unchanged.

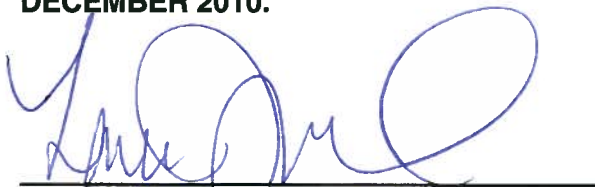
**DECISION:**

It is the decision of the Board to revise the assessment class split for the subject property as follows:

**class 1- residential (98%) & class 2- non-residential (2%).**

The 2010 assessment for the subject property remains unchanged at \$1,480,500.

**DATED AT THE TOWN OF MORINVILLE IN THE PROVINCE OF ALBERTA THIS 3rd DAY OF DECEMBER 2010.**

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**Lana J. Wood**  
**Presiding Officer**

**APPENDIX "A"****DOCUMENTS RECEIVED AND CONSIDERED BY THE ASSESSMENT REVIEW BOARD:**

<b>EXHIBIT NUMBER</b>	<b>ITEM</b>
1.	Assessment Review Board Complaint Form received June 29, 2010.
2.	Complainant Disclosure which included a Tax Assessment Argument, the 2010 Taxation Notice and Property Assessment, the 2009 Taxation Notice and Property Assessment, a letter from Sturgeon County to the Complainant dated April 27, 2006, material addressing Sturgeon County concerns to potential development, Government of Alberta Budget 2010, Agriculture and Rural Development, Business Plan 2010-13.
3.	Municipal Disclosure which included the Complaint Form, a Map of Sturgeon County, Location of Subject Property, Plan of Subject Property, Images of Subject Property, Summary Report Historic, Summary Report, Current, Improvement Details, Market Land Details, Farmland Calculation, Improvement "Pick-Up" Card, Summit Ranch Webpage, <i>Municipal Government Act</i> .

*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.*