

0770-A01

**County of Vermillion River
COMPOSITE ASSESSMENT REVIEW BOARD (CARB)
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(4).

between:

D. & C. Livingston, COMPLAINANT

and

The County of Vermillion River, RESPONDENT

before:

J. Fleming, PRESIDING OFFICER

D. Whittaker, MEMBER

B. Romanchuck, MEMBER

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

ROLL NUMBER: 749200108

LOCATION ADDRESS: NE-20-49-07-4

ASSESSMENT: \$476,140*

* The total assessment on the roll includes \$16,540 classified Farmland which is not under appeal. The property under appeal are the improvements and the land deemed to be required to support those improvements with an assessment of \$459,600.

This complaint was heard on 10th day of November, 2010 at the County of Vermillion River Assessment Review Board located at 4912 50th Ave. Kitscoty AB. in the Council Chambers.

Appeared on behalf of the Complainant:

- D & C Livingstone *for the Complainant*

Appeared on behalf of the Respondent:

- D. Paul of Blackfoot Creek Assessments, contracted Assessor *for the Respondent*

In attendance from the Assessment Review Board

- R. King, Clerk of the Assessment Review Board & Recording Secretary.

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

Following the introduction of the Panel, Mr Whittaker advised that in his previous elected role, he had general discussions with the Complainant about the property when the Complainants were initially planning to build the project. He indicated that he did not feel there was a conflict. The presiding officer confirmed that there were no objections to the panel by either party.

There were no other procedural or administrative matters raised.

Property Description:

The property is a 4,507 square foot wood frame building with a walk-out basement situated on a quarter section of land. The Assessor has calculated that 3.6 acres of land is required for the improvement, but in the assessment he has attributed only 3.0 acres of land to the improvement. The balance of the quarter is farmland, and as noted above, is not under appeal. The site is serviced with a septic system, power, natural gas, and water well.

The property is located roughly 6 miles southwest of the town of Vermillion. It was built in 2009 to be used as a catering/banquet/meeting facility and is known and promoted as Red Feather Ridge. The zoning for the property is Agricultural, and the property is valued on the Cost Approach.

Issues:

Is the property properly classified as non-residential?

Complainant's Requested Value:

The Complainant asked that the assessment be set at the agricultural value before the construction of the improvements began. They were unable to confirm the exact amount of that assessment.

Summary of Party Positions

Complainant

The Complainant's position was that the operation of the facility was an element of Agri-tourism, and as such should be assessed on an agricultural basis. They acknowledged that this was a commercial operation, but in their minds it was still part of farming and agricultural use of the land, and was simply part of the type of diversification that was needed to sustain a modern farming operation. Philosophically it was no different than their cattle operation and their registered seed operation both of which were businesses which they indicated were not assessed as a "commercial" operation. On another level, they indicated that as an economic development initiative, there should

be some assistance to reduce the costs for "new" businesses to give them a chance to get established.

They suggested that they were aware of other jurisdictions that had found a way to classify similar uses as "Rural Recreation" with a resulting lower tax burden, but they conceded they had no evidence to support that.

In summary, while they acknowledged that the facility was probably properly assessed under the current legislation, they saw their complaint as the first step in the process to rectify a perceived inequity in the assessment system.

They requested that the previous Agricultural assessment be reinstated for the property.

Respondent

The respondent provided details of the method of calculation for the assessment. He noted that the land value was calculated from comparable sales (noting that they were sales of vacant residential land). The improvement value was based on the 2001 Alberta Assessment Manual, which was less than the value obtained from the Marshall & Swift cost manual. While the Complainant noted that additional money would need to be spent to prepare the building for an alternate use as a residence, there was generally no complaint on the valuation method.

The Assessor further advised that he had confirmed his interpretation of the Class and the allocation with a responsible person in the Ministry of Municipal Affairs.

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

The property is properly classified according to the Municipal Government Act.

Board's Decision:

The assessment is confirmed at \$476,140.

REASONS:

The CARB reviewed all of the evidence. In particular, the CARB reviewed the legislative requirements for a "farm land" designation. Section 297 (4) (a) of the Municipal Government Act Revised Statutes of Alberta 2000 Chapter M-26 (MGA) states *"farm land" means land used for farming operations as defined in the regulations*. Turning to Matters Relating to Assessment and Taxation Regulation Alberta Regulation 220/2004, (MRAT) shows that farming operations is a defined term and Sec. 1 (i) states *"farming operations" means the raising production and sale of agricultural products and includes (i) horticulture, aviculture, apiculture and aquaculture. (ii) the production of horses, cattle, bison, sheep, swine, goats, fur-bearing animals raised in captivity, domestic cervidsand (iii) the planting, growing and sale of sod*. In the opinion of the CARB, no part of this definition would permit the property under complaint (admitted to be a "retreat and conference centre" (Ex 2C pg 1)) to be classified as farm land. The CARB notes that the cattle and seed business noted by the Complainant would fall under the definition of farming operations and thus meet the requirement for a farm land classification.

Accordingly, the CARB concludes the property is properly classified and confirms the assessment as noted above.

DATED AT the Village of Kitscoty THIS 7 DAY OF December 2010.

James Fleming (on behalf of)
James Fleming
Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

No.	Item
1.	Exhibit 1C Completed Complaint Form
2.	Exhibit 2C Complainant's Brief
3.	Exhibit 3R Respondent's Brief
4.	Exhibit 4C Complainant's Rebuttal

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.*