Number 5 June 28, 1999

Advisory Aspects

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NEW EXECUTIVE DIRECTOR

Steve White is the newly appointed Executive Director for the Assessment Services Branch. Steve joined the Branch from the City of Edmonton where he was the city assessor. Before moving to Alberta in 1997, Steve was the Executive Director and Chief Executive Officer of the Municipal Assessment Agency in Newfoundland.

QUALIFICATIONS OF ASSESSOR REGULATION

Questions have been asked regarding the administration and general requirements of this regulation. We will attempt to address some of these questions you may have. We have reprinted the pertinent sections of the Act for easy referencing.

Part 6
Municipal Organization and Administration

Performance of major administrative duties

208 (1) The chief administrative officer must ensure that

(m) assessments, assessment rolls and tax rolls for the purposes of parts 9 and 10 are prepared

Part 9
Assessment of Property

Definitions for Parts 9 to 12

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

(d) "assessor" means a person who has the qualifications set out in the regulations and

(i) is designated by the Minister to carry out the duties and responsibilities of an assessor under this Act, or

(ii) is appointed by a municipality to the position of designated officer to carry out the duties and responsibilities of an assessor under this Act,

and includes any person to whom those duties and responsibilities are delegated by the person referred to in subclause (i) or (ii)

(Note: This section was amended in 1999 as part of the Municipal Government Amendment Act.)

Preparing annual assessments

285 Unless section 286 applies, each municipality must prepare annually an assessment for each property in the municipality, except the property listed in section 298.

Assessments for property other than linear property

289 (1) Assessments for all property in a municipality, other than linear property, must be prepared by the assessor appointed by the municipality.

Some common questions

Where does the responsibility begin?

The assessor is the person responsible for preparing the assessment while the CAO is the one responsible for ensuring that this occurs (s. 285). This section states that an assessment must be prepared for assessable property in the municipality. Under section 208, the chief administrative officer (CAO) for a municipality is responsible for ensuring assessments, assessment rolls and tax rolls are prepared in accordance with the legislation. However, this does not mean that the CAO prepares the assessments nor is he normally the appointed assessor. In fact section 284 suggests that the assessor is a designated officer.

What is the definition of "assessor"?

"Assessor" is defined in section 284(1)(d) of the Act. Assessor means a person holding the qualifications set out in the regulation. Subsection (i) refers to an assessor designated by the Minister to prepare assessments of linear property and subsection (ii) is for the appointment of an assessor by a municipality to prepare assessments for all property. Thus, in order to be appointed the person must also hold the necessary qualifications.

What are the duties and responsibilities of an assessor under the Act?

"Assessor" is mentioned 41 times in the legislation. The most noteworthy sections are:

284 definition

289 preparation of assessments

293 duties of assessors

294 right to enter and inspect property

295 duty to provide information

296 court authorized inspection

297 assigning assessment classes to property

299 access to assessment record

Does the council have to appoint the assessor designate by bylaw ?

Yes Because the assessor must be a designated officer (s.284), the only way he/she can be appointed is by bylaw (s.210). Where the Act specifies council to do something by bylaw it must be done by bylaw.(s.180)

What qualifications does the appointed assessor need?

When the assessor delegates any of his powers, duties or functions to an employee of the municipality, must that person have the qualifications set out in the regulation?

Yes, s.284(1)(d) defining assessor and imposing the requirement of qualifications applies to any person to whom those duties and responsibilities are delegated. Persons simply working for or on behalf of a properly designated and qualified assessor are not likely to be considered delegates and therefore are not, in most cases, required to have the qualifications set out in the regulations.

Why do we have an assessor qualification regulation?

There are a number of reasons and issues surrounding the drafting and eventual completion of the regulation.

Background information:

- *When the MGA came into force in 1995, it did not contain provisions stipulating the qualifications required by the assessor.*
- *Several municipalities had appointed someone other than a qualified assessor as the designated assessor for the municipality.*

From the Alberta Assessors Association's perspective

- *The Association has been accrediting assessors since 1960*
- *A qualifying assessor is only part of the associations responsibility to the public.*
- *The association is registered as a profession under the Professional and Occupational Associations Registration Act.*
- *The designated assessor for the municipality is held accountable for completing the work and preparing fair and equitable assessments in a consistent manner.*

How will a municipality provide to the Minister information requested in accordance with section 3 of the regulation?

Currently there is no specified form or manner by which the assessor is required to meet the provisions of section 3. In the future this may be combined with the audit form which requests information from the assessor for the municipality.

It is proposed that the information requested in 54/99, section 3 be collected annually on the 'Assessment Audit Form Return Letter of Declaration'. This form is part of the 'Reporting Information or assessment Audit' document. Copies of the declaration are mailed out annually to the municipality. The form will be revised to accommodate this change

In 1996 the Department proposed an assessor qualification regulation but was unsuccessful largely due to the fact that it was exclusive to the AMAA designation. It did not provide for equivalencies. What about exclusivity and equivalencies?

The new regulation allows an assessor to qualify if they have valuation designations other than from the Alberta Assessor's Association. Section 2(d) states that the Minister may consider equivalencies. For example, other provinces may have similar education and experience requirements for an assessor to perform his or her duties. These factors would then be considered in determining whether the assessor meets the qualifications in Alberta's regulation.

What about the appointment of new assessors and the grandfathering of currently appointed assessors?

The regulation comes into force January 1, 2000. This means that the regulation applies to any assessor appointment made after that date. For assessors that are appointed prior to January 1, 2000 and carrying out the duties of an assessor on January 1, 2000, they have until January 1, 2001 to comply with the regulations.

ASSESSMENT AUDIT

Two Ministerial Orders were passed recently that apply to assessment audit. MO L:073/99 extended the date that all municipalities must provide audit information to April 1, 1999. It also gave the Assistant Deputy Minister of Local Government Services the ability to extend the date that municipalities must report information to assessment audit.

MO L:074/99 delegates the authority to prepare both annual and detailed audits to the Assistant Deputy Minister of Local Government Services. In addition, the inspection of an assessment will also include an assessment audit. Audits will be carried out by an inspector appointed under section 571 of the Municipal Government Act.

ALBERTA WELL/PIPELINE ASSESSMENT 1999-2000

The assessment of wells and pipelines in Alberta is undergoing a major transition in two phases during 1999. The objective is to move away from a self-reporting system to a system that is primarily reliant on company reported data in the Alberta Energy Utility Board (AEUB) database.

Phase 1 - 1999 Tax Year

The 1999 assessments for well and pipeline have been produced through the department's new PC-based computer system. The system is Y2K compatible, provides enhanced reporting capabilities, will be much more compatible to client systems technologies and should improve the electronic transfer of data.

Although wells will be assessed to the licensee in 1999 unitized wells can still be accommodated for the 1999 tax year through the use of the declaration of special operator form. The treatment of unitized wells will be reviewed later in the year once an impact study has been completed to determine the number of wells involved in this type of business arrangement.

Other Important Changes for 1999

1. Pipelines and wells will be assessed based on a 1994 valuation base.

2. Flowlines will no longer be assessed as part of the well. They will be treated as pipeline assessment. Flowlines will be identified by the well LSD "from" location and eliminating the "to" location on the assessment sheets.

3. The 1999 tax year will be the first in which a low producing well assessment allowance will be included in the assessment. This allowance will be calculated based on the production records in AEUB and will provide graduated obsolescence factors based on production criteria for both oil and gas wells.

Phase 2 - 2000 Tax Year

Phase 2 of the pipeline assessment transition will actually begin in the first quarter of 1999 with the delivery of the first run of the year 2000 pipeline inventory. These will be distinguishable by the coloured paper they will be printed on. Pipeline assessments for tax year 2000 will be completely based on the AEUB database. Therefore, the pipelines will be assessed to the recorded licensee, based on recorded lengths, diameters, and operational status. It is proposed that there will be quarterly runs of this assessment so corporate clients can monitor changes to correct the base for the assessment.

Beginning in 1999, all changes to pipeline inventory must be completed in the AEUB system with proper AEUB regulated procedures and forms. The department's assessment staff will not make changes as the process moves away from self-reporting to the AEUB records.

Oil companies should keep in mind that the verification of pipeline inventory with AEUB records should be completed and amended as early in 1999 as possible to avoid being shut out of data amendments due to overwhelming paper flow at the AEUB prior to the October 31, 1999 cut off date for assessment.

MUNICIPAL GOVERNMENT BOARD ORDERS

Under the authority of the Evidentiary Matters Regulation 121/97, the following complaints were referred back to the Assessment Review Board.

MGB 049/99
Erich Schluter and M.D. of Rocky View No. 44

MGB 053/99
Ester and Guido Panizzon and City of Edmonton

MGB 072/99
Anthony Van Deurzen and City of Lethbridge

MGB 074/99
Maria Miller and City of Edmonton

MGB 105/99
Canadian Valuation Group Ltd. on behalf of Trilogy Development Corp. and the City of Edmonton

MGB 107/99
Judith Nickol and the County of Lethbridge No. 26

MGB 109/99
AEC Valuations (Western) Inc. on behalf of University of Alberta and the City of Edmonton

MGB 110/99
Paralee Property Tax Consultants Ltd. on behalf of Grove Rentals & Leasing Ltd.

MGB 111/99
Canadian Valuation Group on behalf of Union Bank Inn and the City of Edmonton

MGB 302/98
City of Calgary
and
Minister of Municipal Affairs

The subject of this appeal is the City of Calgary's 1997 equalized assessment. The appeal so far:

MGB 73/98	An administrative hearing to identify issues and set out procedures for the exchange of information.
MGB 113/98	On whether regulated property should be equalized to 1.00, it was decided that the issue is within the Board's jurisdiction.
MGB 147/98	The Board decided that it has jurisdiction to hear the issue concerning the use of blanket chattel adjustments and stratification by some municipalities and not others.
MGB 170/98	A one month extension was granted.
MGB 218/98	A further four month extension was granted.

This Board Order grants another extension for one month.

MGB 303/98
Derald A. Harris
and
Summer Village of Gull Lake

The property under appeal is a lake front lot. Lake front lots are located on Premier, Lakeview, and Oliver Avenues. The property under appeal is located on Oliver Avenue. The issue of the appeal was whether the land assessment is fair, equitable and correct when compared to other lake front lots.

The appellant stated that the assessor did not consider the characteristics of this property in comparison to other properties located along Premier and Lakeview Avenues. The appellant presented information concerning the differences between the three avenues and stated that there was no justification for an increase to the Oliver Avenue properties.

The appeal was allowed. The Board was convinced that properties along Premier Avenue were superior to those on Oliver Avenue, but the assessment did not recognize the differences between them.

MGB 026/99
Edmonton Chinatown Multicultural Centre Foundation
and
City of Edmonton

The Chinatown Multicultural Centre is owned by the Alberta Social Housing Corporation. The appellant has an agreement that permits them to use the premises for the promotion of Chinese culture, the encouragement of cultural exchange and the enhancement of the community's social welfare. The issues of the appeal were whether the property is exempt from taxation under section 362(a) of the MGA, and if so, is the appellant an agent of the owner having no assessable interest in the property? If it is not exempt under 362(a), is the property used for charitable or benevolent purposes for the benefit of the general public and exempt under section 362(n)(iii) of the MGA?

The appellant sponsors and promotes charitable, educational, cultural and recreational activities, including seniors programs. The agreement between the owner and the appellant restricts the appellant's responsibility to the management, operation and administration of the Centre. The agreement does not convey any permit, license or leasehold interest of any kind. Section 362(a) of the MGA states that any interest held by the Crown in right of Alberta is exempt from taxation. The appellant argued further that if it is found that the property is "held by" the appellant, then the property should be exempt under section 362(n)(iii) of the MGA. The Centre meets all the criteria, it is owned by the Crown, it is held by a non-profitable organization, and is used for charitable or benevolent purposes that benefit the general public.

The appeal was allowed in part. Except for the portion of the property that is used as a daycare centre, the centre is exempt under section 362(n)(iii) of the MGA.

MGB 027/99
Gordon F. Anderson
and
City of Lethbridge

The notice of appeal was received after the statutory time frame. The appellant requested that the Board consider the appeal.

The respondent mailed the decision of the ARB to the appellant. The letter indicated that the deadline to appeal to the MGB was November 20, 1998. The appellant faxed a notice of appeal to the Board on November 27. The accompanying letter stated that the mailing came to a rural mail box not used for normal mail.

The appeal was dismissed. The decision letter from the ARB also stated the timeline for filing an appeal and the mailing address on that letter is identical to the one sent by the respondent.

MGB 028/99
Braul Gaffney on behalf of 630386 Alberta Ltd.
and
City of Edmonton

In 1969-1970 eleven walk-up apartment buildings containing 229 suites were constructed. A condominium plan was registered in 1986. The appellant purchased the complex in 1993, and a new condo plan with 233 units was registered. Units 5 to 233 are the original 229 apartments. Units 1 to 4 are the subjects of this appeal. They are intended for the additional housing units. There is underground and surface parking on unit 1 and surface parking on units 2 to 4 available to the residents of units 5 to 233. The issues of the appeal were:

1. Should the assessment of units 1,2,3, and 4 be added to the value of the common property?
2. Is the assessment fair and equitable?

The appellant stated that the existing common property benefits the owners of the units but not the owner of the bare land units. A residential condo unit owner uses the elevator, hallways and other parts of the building and these are incidental to the property. The owner of the bare land unit has no use for any of the existing common property. On the second issue, the appellant stated that the assessment should reflect a lower value because of the parking burden. Any new residential building would have to provide parking for both the new units and for those displaced by the new building.

The appeal was allowed. The Board found that a portion of the common property belongs to owners of the bare land condominium. The Board accepted that the properties were put at a disadvantage by the additional parking burden.

MGB 031/99
Home Depot Canada Inc., represented by AEC Valuations (Western) Inc.
and
City of Edmonton

This appeal concerns the business assessment of a Home Depot store. The issues of the appeal were:

1. Is the assessment equitable when compared with similar businesses?
2. Is the property similar in character to fast food outlets?
3. Is the property similar to other general commercial properties?
4. Is the assessment too high when compared with its typical gross annual rental value?

The appellant stated that the business assessment is too high in comparison with similar buildings and compared with typical market rent for this type of building. The appellant presented evidence supporting this argument.

The appeal was allowed in part.

MGB 032/99
Lister Industries Ltd., represented by Property Tax Appeal Services
and
City of Edmonton

The appeal concerns the business assessment of a warehouse in an industrial park. The issue of the appeal was whether the reported rent was equivalent to the typical gross annual rental value of similar properties and is the assessment fair, equitable and correct considering the typical gross annual rental value of warehouse premises?

The appellant argued that the reported rental value of the building should not have been used to establish the assessment. The assessment should have been based on an analysis of market information using typical gross annual rental value of similar warehouses.

The appeal was allowed in part.

MGB 033/99
Don Wheaton Ltd., represented by Property Tax Appeal Services
and
City of Edmonton

This appeal concerns the business tax on a property used for auto body repair. The issues of the appeal:

1. Does this property compare more to a commercial building or to an industrial warehouse?
2. Is the Gross Annual Rental Value influenced by its location, and is the business assessment close to the typical GARV?
3. How does the assessment compare with similar properties?

The appellant stated that the business derives no benefit from its location on a major artery. The building is constructed as a typical warehouse. The appellant compared this property to an adjacent Don Wheaton property with a lower assessment, and requested that the assessment be set at the same rated.

The appeal was allowed in part.

MGB 035/99
Home Depot of Canada Inc., represented by AEC Valuations (Western) Inc.
and
City of Edmonton

This appeal concerns the business assessment of a Home Depot store. The issues of the appeal were:

1. Is the building comparable to warehouses or commercial buildings?
2. Is the assessment supported by the typical GARV?
3. Is the assessment of this property comparable with the assessments of similar properties?

The appellant argued that this building compares more to a warehouse than a commercial building. The typical GARV for warehouses show that the assessment rate is too high.

The appeal was allowed in part.

MGB 037/99
Tizirsands Property Tax Consultants on behalf of Jan and Daniele Sovak
and
City of Calgary

In this appeal, the ARB confirmed the land assessment and the improvement assessment was reduced based on a recommendation from the City. The recommendation was not accepted by the appellant and they filed an appeal with the MGB. The City filed a cross-appeal even though the assessment was reduced based on a recommendation from them.

During the merit hearing on February 9, 1998, the representative for the appellant found errors in the dimensions of the improvement that the City used to determine the assessment. On March 30, the City agreed that the dimensions were wrong and recommended a reduction. When asked by the Board whether the City would withdraw its cross-appeal, the City refused. At a hearing on September 23, the City informed the Board and the appellant that they were withdrawing the cross-appeal. No prior notice had been given. This Board Order deals with an application for costs.

The agent for the appellant stated that preparations were made to proceed with a response to the cross-appeal. By insisting on proceeding with a cross appeal, the City abused the process. The applicant should be compensated for additional costs incurred in preparation for the cross-appeal only to have it withdrawn.

The application for costs was allowed.

MGB 038/99
Stone Creek Properties Inc. represented by Lougheed and Company Inc.
and
Town of Canmore

The property being appealed was a partially constructed golf course. The issues of the appeal were:

1. Should cost-to-complete estimates be included in the assessment?
2. Should the land under construction be assessed the same as other golf courses in Canmore?

The appellant presented some information from an appraisal report. The main argument was that the property was valued as a completed golf course and not one under construction. In order to maintain fairness, the property should be assessed as a golf course, but the cost to complete the property should be included within the assessment.

The appeal was allowed.

MGB 040/99
Lougheed and Company Inc. on behalf of Parrish & Heimbecker Limited
and
County of Forty Mile No. 8

The property under appeal was a grain elevator located next to the Town of Bow Island. The elevator was built and began handling grain during 1997. The issue of the appeal was whether the grain elevator suffers from undue economic or locational obsolescence.

The appellant explained that since completion in 1997, the elevator has not achieve the volumes of grain that it was designed for. The owners are finding it difficult to develop a sound client base to attract sufficient volumes of grain. Two previous Board Orders were presented in which additional economic obsolescence was granted to recognize reduced grain handling capacities.

The assessor for the County stated that a 9% obsolescence factor was recommended to the ARB. That was the amount applied to other elevators in Bow Island. It was the respondents opinion that no further reduction is warranted. The two board orders referred to by the appellant dealt with older facilities that were functionally obsolete or not operational.

The appeal was denied.

MGB 041/99
Jasper Improvement District
and
Minister of Municipal Affairs

This was an appeal of Jasper Improvement District's 1998 equalized assessment. The issue of the appeal was how fairness and equity relates to the process used to equalize assessments, especially in a market where residential values are rising and the supply of land is fixed and controlled by an outside force.

The appellant argued that the Jasper Improvement District leases all land from the federal government. Other municipalities have the ability to expand boundaries and adjust supply of land to meet demand. Jasper does not have that ability as boundaries and land use are strictly controlled and limited. The appellant requested that the assessment for residential property be adjusted to reflect a value closer to those that exist in market where the supply of property is not controlled by an agency.

The appeal was denied. Fairness and equity were achieved through consistent and correct application of the law that governs equalized assessment. Both the Board and the respondent acknowledged that the situation in Jasper is unique, but it is not within the Board's jurisdiction to change the way the equalized assessments are done.

MGB 042/99
Royal LePage Property Tax Consulting on behalf of Regency Furniture Corporation
and
City of Calgary

Both the appellant and respondent appeared before the Board to request that the MGB instruct the ARB to rehear the appeal. They both took the position that the ARB erred when it refused to hear the appeal.

A supplementary assessment for a new building on the appellant's property was incorrectly placed on an adjacent property which is owned by the City. Both parties agreed that an error was made. The appellant received two assessment notices, one containing the correct roll number and for the land only. The second notice was the supplementary assessment for

both the land and building, but it listed the wrong roll number. The appellant did not realize the error and referred to the wrong roll number in the complaint to the ARB.

The ARB refused to hear the appeal and took the position that the appeal was not properly before it because the appellant did not include the roll number which contained the assessment. It was their position that the appellant could appeal only the land assessment.

The complaint was returned to the ARB.

MGB 043/99
Amoco Canada Petroleum Company Limited
and
Municipal District of Bonnyville No. 87

The appellant and respondent were to have exchanged information prior to a merit hearing. Certain problems arose and this Board Order sets out guidelines for the exchange of information.

MGB 044/99
Valley Ridge Co-ownership Co-operative Ltd.
and
City of Fort Saskatchewan

The property being appealed is an apartment style complex containing 60 suites. It is a four story structure with underground parking, built in 1993. Each suite has a registered Certificate of Title. Before the 1998 taxation year, the complex was assessed as one entity, and then apportioned to each unit. Since a general assessment for the 1998 taxation year, there are 60 individual assessments. The issues of the appeal were:

1. Can this complex be assessed as a single unit?
2. Does the assessment reflect market value?

The Co-op formed a tax committee which represented 58 of the suites. The committee argued that the Co-operative controls the total strata plan and the building should be assessed as a single entity.

The appeal was denied.

MGB 045/99
Amending Board Order

Amends Board Order MGB 034/99.

MGB 046/99
Ruth Ruby Fath
and
Town of Vulcan

The property under appeal was a 27.88 parcel of land containing a residence, two garages and a barn. The residence was built before 1950 and the three other buildings before 1957. Originally, the parcel was rectangular-shaped and located in the County of Vulcan. The parcel was annexed to the Town of Vulcan and the Town obtained a portion of it for a hospital. The issues of the appeal were:

1. Are the assessed values fair and equitable in comparison with other properties in Vulcan?
2. Have all forms of depreciation been properly applied?
3. Does the value of the farmland portion reflect the limitations of the site?

The appellant stated that the remaining land is bound by hospital access to the north and a graveled road to the east. There is a lot of traffic on the road, much of it is grain trucks traveling to nearby terminals. The dust, noise and air pollution produced by the traffic impact living in the residence. The farm land is leased, although the unusual "U" shape and small size make it uneconomical for farming. The three outbuildings are old and are used to store yard and garden equipment.

The appeal was allowed in part, the assessments of both the land and improvements were reduced.

MGB 047/99
TAAG International, on behalf of Regional Capital Properties Corp.
and
City of Calgary

This was an appeal of a decision by the 1997 Assessment Review Board. The property under appeal was built in 1983 and is a four storey office building with some retail space and underground parking. The property sold in 1998 for less than the assessed value. The issue of the appeal was whether the assessment reflects the value of the property and should there be extra depreciation applied?

The appellant stated that the assessed value does not take into account the problems with the property. They argued that it is unreasonable to expect a buyer to pay a price similar to the assessed value. This is demonstrated by the price paid for the property in 1998. An engineer's report was submitted indicating structural damage.

The respondent presented four assessment and two sales comparables. The assessment is based on the value of the property as of December 31, 1996. At that time, there was not enough information about problems with the building. The engineer's reports were from 1997.

The appeal was denied.

MGB 050/99
Western Asset Management Corporation
and
City of Edmonton

The property is located in northeast Edmonton. The area is 8.20 acres, and the improvements consist of a multi-tenant strip mall and five "pad-style" restaurants. A free standing Safeway and a Alberta Treasury Branch adjoins the property and a branch of the Alberta Motor Association is located to the northeast. The issues of the appeal were:

1. Does the assessment reflect market value?
2. Is the assessment fair and equitable when compared with other properties?

The appeal was allowed.

MGB 054/99
Amending Board Order

Amends Board Order MGB 035/99.

MGB 057/99
Rickard Realty Advisors Inc. on behalf of Cambridge Leasehold Limited
and
City of Edmonton

At the start of the hearing, the City requested that costs be awarded. Both parties had agreed to a postponement pending the outcome of a comparable appeal. That appeal was heard and a decision was issued. The respondent stated that the appellant had agreed to accept the outcome of the other appeal and apply the decision to this property. The decision was not accepted and additional time was required to prepare for this hearing.

The property being appealed is known as the Edmonton On-Guard Sentinel Self Storage. The site contains a 398 multi-building inside self storage facility and 215 outside self storage stalls. The issues of the appeal were:

1. Should costs be awarded to the City of Edmonton?
2. Has all depreciation been considered?
3. Should the income approach be used to reduce the assessed value?

The application for costs was denied. The appeal against both the land and improvement assessments was denied.

MGB 058/99
Rickard Realty Advisors Inc. on behalf of Sentinel Self-Storage Corporation
and
City of Edmonton

At the start of the hearing, the City requested that costs be awarded. Both parties had agreed to a postponement pending the outcome of a comparable appeal. That appeal was heard and a decision was issued. The respondent stated that the appellant had agreed to accept the outcome of the other appeal and apply the decision to this property. The decision was not accepted and additional time was required to prepare for this hearing.

The property being appealed is known as the Sentinel Self Storage West. The site contains 51,540 square feet and is improved with a 341 multi-building inside self storage facility. The issues of the appeal were:

1. Should costs be awarded to the City of Edmonton?
2. Has all depreciation been considered?
3. Should the income approach be used to reduce the assessed value?

The application for costs was denied. The appeal against both the land and improvement assessments was denied.

MGB 059/99
Rickard Realty Advisors Inc. on behalf of Sentinel Self-Storage Corporation
and
City of Edmonton

At the start of the hearing, the City requested that costs be awarded. Both parties had agreed to a postponement pending the outcome of a comparable appeal. That appeal was heard and a decision was issued. The respondent stated that the appellant had agreed to accept the

outcome of the other appeal and apply the decision to this property. The decision was not accepted and additional time was required to prepare for this hearing.

The property being appealed is known as the Sentinel Argyll Self-Storage. The 70,096 square foot brick building contains 352 indoor units and 139 outdoor units. The issues of the appeal were:

1. Should costs be awarded to the City of Edmonton?
2. Has all depreciation been considered?
3. Should the income approach be used to reduce the assessed value?

The application for costs was denied. The appeal against both the land and improvement assessments was denied.

MGB 060/99
Property Tax Appeal Services for 617576 Alberta Ltd.
and
City of Calgary

The property being appealed is known as the Shamrock Saddledome Motor Hotel. It is an 18-room hotel located near the Canadian Airlines Saddledome. The issues of the appeal were:

1. Is the assessment fair and equitable when compared with other hotels?
2. Have all forms of depreciation been recognized?
3. Does the assessment accurately reflect market value?

The assessments of five hotels were presented. Three of the comparables were similar to this property. The other two were not in the same classification, but in the appellants opinion are superior, their assessment per room is in the same range the subject. The assessor has not considered the physical and economic depreciation that applies to this property.

The appeal was denied.

MGB 061/99
Earl Pottage
and
City of Edmonton

This property is one unit of a bareland condominium known as Sunrise Village Town Centre. There are 60 units in the development and the owners own their site and a portion of the common land. The issue of the appeal was whether the land was correctly assessed and is it fair and equitable when compared with other similar properties.

The appellant stated that if his unit's land value is used as the basis for the entire condominium plan, the total assessment is high in comparison with the land value of another complex. The appellant concluded from the decision of the ARB that the City has moved to full market value a year early.

The assessor stated that the main reason for the increase in the assessed land value was an adjustment in land size to each unit. Prior to 1998, there had been an error in the common land apportioned to each unit.

The appeal was denied.

MGB 062/99
Jorgen Walter Ruppert
and
County of Wetaskiwin No. 10

The property being appealed consisted of three adjacent quarter sections of land with small log buildings. The issues of the appeal were:

1. Were two of the parcels are used for farming and should they be assessed at agricultural use values?
2. Is the assessment placed on the three acre residential site too high?

The County conducted a general assessment effective for the 1998 taxation year. In addition to an increase in the residential site value, the County concluded that two of the parcels did not qualify for agricultural use values. The appellant argued that the parcels are used for farming. The appellant also argued that the residential site value was too high.

The appeal was allowed in part. The Board determined that the assessment of all three parcels should be based on their agricultural use value, and they accepted the appellants argument that the assessment of the three acre site was too high.

MGB 064/99
Rickard Realty Advisors Inc. on behalf of 501506 Alberta Ltd.
and
City of Edmonton

The subject of this appeal was property located within Strathcona Industrial Park. The medium industrial site is developed with a rigid frame steel building and an adjacent 30,000 square feet of open storage area serviced by overhead cranes. The property was built in 1992 and has been occupied by British Steel Alloys Ltd. The issue is whether the improvement assessment is fair, equitable and correct in comparison to other similar property?

The appellant presented sales comparison data from six other properties and two income proforma studies for the subject. The appellant submitted that the basis of the assessed value of cranes is unrealistic and unfair.

The appeal was denied.

MGB 066/99
AEC Valuations (Western) Inc. on behalf of Pheasantback Golf and Country Club Ltd.
and
County of Stettler No. 6

The golf course at the Pheasantback Golf and Country Club is a professionally-designed 18 hole course located north of Stettler. The course is situated on 136 acres of land and began operations in 1995. The land assessment was not at issue. The appeal concerned the assessment of the improvements which included: the greens, fairways, sandtraps, watering system, clubhouse and storage facilities. This appeal was originally referred back to the Assessment Review Board relative to the Evidentiary Matter Regulation under Board Order 65/98. The issue of the appeal was whether the improvement assessment reflects the full measure of depreciation.

The appellant submitted that all methods of evaluation should be reflective of market value and presented the Board with three opinions based on the income approach, cost approach and on a comparison based on rounds of golf played.

The appeal was allowed in part.

MGB 067/99
Royal LePage Property Tax Consulting on behalf of Anthem Heritage Hill Ltd./Marvin F. Poer (Canada) Ltd.
and
City of Calgary

The property being appealed was the Heritage Hill Centre. It was constructed as a retail/office complex in 1993 and consists of a three storey office building and a retail plaza. The appeal against the improvements was withdrawn at the start of the hearing. The issues of the appeal were:

1. What is the correct size of the property?
2. Is the assessment fair and equitable in comparison with similar properties?

The appellant stated that the land assessment fails to account for certain characteristics. The property is unusually large, the unique topography and shape of the site has an affect on its value, and there is no ease of access. The appellant also presented five assessment comparables.

The appeal was denied, but due to a correction of the size of the parcel, the land assessment was reduced.

MGB 068/99
Water Tower Restaurant Ltd.
and
City of Wetaskiwin

The property being appealed is a restaurant which offers full service dining and lounge area. The issues of the appeal were:

1. Is the assessment fair and equitable?
2. Can the Board order the municipality to refund the appellant's filing fee?

The appellant stated that not all factors that influence the value of the property have been recognized in the assessment. Access is limited to only one entry and exit, and no direct access is available to southbound traffic. Assessment comparables for other restaurants were presented. In appealing the assessment, the appellant had to pay a filing fee. He asked that the Board order the City of Wetaskiwin to refund the fee.

The appeal was denied. The Board accepted the appellant's argument that access and exposure to the property has an influence on value, but they were satisfied that the decision of the ARB addressed the problem. The Board concluded that they do not have jurisdiction with respect to the filing fee.

MGB 070/99
City of Calgary
and
Rickard Realty Advisors Inc. on behalf of Boardwalk Equities Inc.

This appeal first came before the ARB on June 24, 1998. An adjournment was granted to give the City time to review submissions of the respondent that had been received that day. A new hearing was scheduled for July 20, and both parties agreed that the evidence exchanged at the June hearing would be the only evidence used at the July hearing. A day before the hearing, the respondent provided the City with an amended report. The ARB refused to admit the second report, and the hearing proceeded. The respondent filed an appeal to the MGB and a hearing was scheduled for November 16. About a week before the hearing, the respondent provided the City and the Board with a third version of the report. The City requested the following:

1. Some of the respondent's evidence should not be considered by the Board.
2. The matter not be sent back to the ARB.
3. The City be awarded costs.

The Board directed Rickard Realty Advisors to reference the report and explain what changes were made to the original report. The Board decided to address the issue of new evidence in the course of a merit hearing. The Board will also consider cost applications at the merit hearing.

MGB 071/99
Sandra J. Miller
and
City of Calgary

The subject of this appeal is the assessment of a local improvement frontage. In 1997, the City replaced a 3.5 foot sidewalk, curb and gutter along the appellant's property. The issue of the appeal was whether the City carried out the requirements of the Act with respect to a local improvement.

The appellant argued that the sidewalk did not need to be replaced and stated that she should not have to share the cost. The project was not initiated through a typical petition requiring two-thirds approval. She asked the Board to overturn the charges and direct the City to return money that had been paid.

The appeal was denied. The Board found that most of the appellant's arguments dealt with matters outside of the Board's jurisdiction.

MGB 075/99
Lougheed and Company Inc. for Revelstoke Home Centres Ltd.
and
City of Calgary

The property being appealed originally had a Woolco department store on the south end, a Safeway store on the north end and commercial lease spaces in the centre. In 1994, the site was redeveloped to house a Wal-Mart and a Revy Home Centre. Only the land assessment is being appealed. The issues of the appeal were:

1. Has the land value increased since 1994.
2. Does the value per square foot decrease as parcel size increases?

3. Is Macleod Trail a better market area than other areas of Calgary?
4. Should areas other than Macleod Trail be considered for comparables?
5. Do caveats limiting the use of the land affect its value?

The appellant stated that the property has been appealed to the MGB for the 1994, 1995, 1996 and 1997 assessment years. Each year, the City has increased the assessment back to the original assessment. The appellant presented the assessments of other shopping centres as comparables, and argued that caveats registered by Canada Safeway affects the value of the land.

The appeal was allowed in part.

MGB 076/99
E.G. Carswell
and
County of Red Deer No. 23

This appeal was heard on June 16, 1998 and the Board issued MGB 220/98. Mr. Carswell submitted a letter to the Board requesting a re-hearing. The Board held a review to consider the request. The issues were:

1. Are here grounds for a re-hearing?
2. Was the evidence provided by the assessor incorrect?
3. Was the Board's decision in MGB 220/98 inconsistent with decisions in MGB 30/97 and MGB 56/94?

The appellant requested a rehearing because some information was not brought out at the hearing and the respondent made a significant omission when it produced two appraisals of a property prepared by the same person. The respondent failed to tell the Board that a previous decision of the Board in March 1997 reduced the value of the property.

The request for a re-hearing was denied.

MGB 077/99
City of Calgary
and
First Church of Christ, Scientist

The property under appeal is leased premises used as a Christian Science reading room. People are permitted to borrow some of the publications and materials, and purchase publications and materials. A volunteer is on hand to provide assistance. The ARB determined that the room was used for religious education and granted a tax exemption. The issue of the appeal was whether the premises qualify for an exemption from taxes under section 362(1)(k) of the MGA.

The City argued that the property does not qualify for an exemption. The premises is not used for divine worship, public worship or religious education. It is used primarily as a library. The respondent stated that the room provides a quiet place for prayer and study of its weekly Bible lessons.

The appeal was denied and the exemption was upheld.

MGB 078/99
Amending Board Order

Amends Board Order MGB 062/99 between Jorgen Walter Ruppert and County of Wetaskiwin No. 10.

MGB 079/99
Paralee Property Tax Consultants Ltd. on behalf of Westlock Management Ltd.
and
Town of Westlock

The property under appeal was the improvement assessment of an eight-bay strip shopping centre. The issues of the appeal were:

1. Does the depreciated replacement cost method take into account all losses in value?
2. Is the assessment fair and equitable when compared to similar property?

The representative for the appellant stated that there are few sales of similar property in Westlock, and used the income approach to determine a new assessment.

The appeal was allowed in part.

MGB 080/99
Union Pacific Resources Inc. (formerly Norcen Energy Resources Ltd.) - Appellant, respondent in the costs hearing
and
The Ministry of Municipal Affairs - Assessment Services Branch (the Department) - applicant in the costs hearing

This appeal concerns the application for costs following a linear assessment appeal. The issue was whether there had been an abuse of the process that justified costs being awarded.

In November 1997, a preliminary inventory report was sent to Norcen Energy with instruction to review and confirm the status of the accounts listed on the report. The department received no reply and assessment notices were mailed. The consultant representing Norcen Energy noted errors and was advised by the department to send any corrections because amended notices were being prepared. Amended notices were mailed and none of the changes suggested by the consultant were made. The consultant filed 3,320 individual linear appeal applications. The department asked the Board to find the appeals invalid because it was a blanket appeal. A hearing was held, MGB 247/98 stated that the appeals met the requirements for filing an appeal. The order scheduled a merit hearing and also stated that requests for costs would be heard at the conclusion of the hearing. On the date of the merit hearing, the Department appeared before the Board and stated that the appeal had been resolved (MGB 300/98). Through the department, both parties requested a cost hearing.

The Board did not award costs to either party.

MGB 081/99
Property Tax Appeal Services on behalf of Alberta Teacher's Association
and
City of Edmonton

The property under appeal is known as the Alberta Teacher's Association offices. The property consists of a building that is partly three storeys and partially six storeys with an unheated parkade. Portions of the building is leased to Morgex Insurance and the Alberta Teacher's Retirement Branch. The issues:

1. Is the property assessed fairly and equitably?
2. Should the income approach be used to determine the assessment?

The appellant stated that although the property received a 50% adjustment, there are several reasons why that is insufficient to address the amount of obsolescence that should be awarded. Other class "B" office buildings in better locations and leased to professional occupants receive a 65% adjustment. Nine comparable properties were presented. The income produced by the property does not support its value.

The appeal against the land assessment was denied. The appeal against the improvement assessment was allowed in part.

MGB 082/99
The City of Edmonton
and
Wendy and Vera Kushinski, Dillon Davis, Christopher and Barbara Makepeace, Jean-Michel & Charlotte LeMelledo, Terrance and Mary-Jo Romaniuk, Helen and James Tutton, Donald and Catherine Beirnes, Ruby Rockwell, Donald Walen

This is an appeal brought forward by the City of Edmonton. The ARB awarded a nuisance factor to properties in the vicinity of a house where approximately 60 cats were removed in 1997. The ARB awarded the properties adjoining the "cat house" a 50% reduction and a 25% reduction for the balance of the property owners. The issues of the appeal were:

1. Can changes be made to an assessment for blight conditions?
2. Was there a blight condition that affected the properties, and if so, what criteria to use for making changes to the assessments and what level is appropriate?

The City stated that the reductions granted by the ARB should be removed and the original values reinstated. It was stated that any cat related problems that existed were resolved in 1997. As of December 1997 and 1998, they posed only an occasional nuisance to the surrounding properties. There is no evidence that the market values of the properties have been affected, and sales evidence shows that these properties have maintained their value.

The appeal was allowed in part. The Board was not convinced that the extent of the blight warranted the reductions granted by the ARB. The assessments for properties on either side of the cat house were reduced by 30%; those two lots away reduced by 20%; those three lots away reduced by 10%; and the balance by 5%.

MGB 083/99
City of Edmonton
and
Canadian Valuation Group on behalf of Andromeda Investments Ltd.

This appeal was before the Board on July 20, 1998 and Board Order MGB 176/98 was issued which sent the appeal back to the ARB pursuant to Evidentiary Matters Regulation 121/97. The ARB re-heard the matter for the second time. The issues:

1. Was the second ARB hearing a new one, or a continuation of the first one?
2. Was there evidence presented to the MGB that was not before the ARB and is it of sufficient importance to refer it back to the ARB for a second time.

The appeal was referred back to the ARB. The Board is of the opinion that MGB 176/98 directed the ARB to rehear the matter.

MGB 084/99
AltaGas
and
The Crown in the Right of the Province of Alberta as represented by the Minister of Municipal Affairs

This appeal concerns an appeal of linear property. On the day of the hearing, the appellant faxed a letter to the Board stating that due to an oversight, they were not able to appear. The issues:

1. Was the hearing closed and a decision reached?
2. Is a rehearing required?

The Board determined that a rehearing is not required because the first hearing did not conclude. The hearing will resume at another date.

MGB 085/99
Aseniwuche Winewak Nation on behalf of Kamisak Development Enterprise Ltd., Muskeg Seepee Co-op Ltd., Susa Creek Co-op Ltd., Joachim Enterprise Limited, Victor Lake Co-op Ltd., and Wanyandie Flats (The AWN)
and
Municipal District of Greenview No. 16

The purpose of this hearing was to decide whether the appeal filed by the AWN was received by the Board within 30 days of the ARB decision. The hearing took place on October 28, 1997. The ARB decision was appealed to the MGB, which returned the matter to the ARB pursuant to the Evidentiary Matters Regulation (MGB 153/98). A second ARB hearing was held on October 15, 1998. The ARB clerk faxed proposed minutes to both parties asking them to review the minutes and advise the clerk of any corrections. Both parties received copies of the minutes on November 5. They were neither signed or accompanied by a letter or request for review. On December 9, the AWN advised the MGB that they had received draft minutes from the ARB and requested an appeal before the MGB. The Board advised them that a final copy of the ARB's decision was needed before an appeal could proceed. The AWN faxed a letter to the ARB clerk requesting a copy of the approved minutes or some other form of decision. The ARB clerk faxed a signed copy of the minutes on December 14.

Counsel for the M.D. stated that the decision received on November 5 differed from previous drafts because it was mailed and not accompanied by a request for comments. There were no indications that this was a draft decision. It was the AWN's responsibility to file the appeal within the time required by the Act, and since the appeal was filed outside the 30 day period, the Board does not have the jurisdiction to hear it.

Counsel for AWN stated that the minutes from the first previous ARB hearing were accompanied by a dated covering letter. The minutes received on November 5, 1998 were not signed or accompanied by a covering letter. They assumed that the minutes were not in their final form.

The Board found that the AWN did comply with section 491(1)(c) of the Act. The question of costs will be addressed at a merit hearing.

MGB 087/99
Rickard Realty Advisors Inc. on behalf of Gibralt Capital Corporation
and
City of Edmonton

The subject of this appeal was a five storey office building with two levels of underground parking. In the 1997 tax year, the ARB reduced the assessment. When the appeal proceeded to the MGB, the assessor recommended a further reduction. The issues of the appeal were:

1. Should the assessment reflect costs to repair the parkade?
2. Is the property assessment reflective of market value?

The appellant stated that in 1996, a consulting engineer report showed that the parkade needed repairs that should be reflected in the assessed value. The appellant used both the sales and income approaches to demonstrate his opinion that the assessment was too high.

The Board denied the appeal.

MGB 088/99
Rickard Realty Advisors Inc. on behalf of Atco Manufacturing and Leasing
and
City of Calgary

This was an appeal from decisions of the 1996, 1997, and 1998 Assessment Review Board. The property under appeal is 51.16 acres of land located in south west Calgary. It was originally used as an airstrip. The improvements consist of 15 original buildings built in 1943 and 14 Atco constructed buildings built between 1971 and 1976. The appellant leases the site from the City. The issues of the appeal were:

1. What value do the buildings add to the property? Should their assessment be reduced to recognize age and condition?
2. What effect does the lease have on the value?
3. What effect do planning policies have on the value?

The appellant stated that the original buildings suffer from a number of age and design related problems are not fully recognized in the assessment. Atco has an option to purchase the land once the lease has expired, but all three levels of government have the right of first refusal. If Atco does acquire the land, the original buildings would have to be demolished in accordance with terms in the lease agreement. In addition, a number of planning studies concluded that long term planning policies for the area will have a major impact on the property. Two appraisals of the property were also presented as evidence.

The appeal was allowed in part.

MGB 089/99
AEC Valuations (Western) Inc. on behalf of Alberta Wheat Pool
and
Municipal District of Provost

The subject of this appeal was an Alberta Wheat Pool grain elevator. The improvements consist of a 1927 twin elevator, a 1969 elevator, and an office built in 1969. The issues of the appeal were:

1. Should costs be awarded to either the appellant or respondent?
2. Has abnormal depreciation from all causes been considered in the assessed value?
3. Is the depreciation apply equally to both the elevator and the office used in connection with the elevator?
4. Does the assessment reflect market value?

The appellant's representative stated that not enough depreciation was applied to the assessment. Abnormal depreciation was not properly considered. The assessor may have given some consideration to the age of the improvements and normal depreciation, insufficient consideration was given to market location throughput, market sales data, alternate location facilities, and imminent closure of the elevator.

The application for costs and the appeal were denied.

MGB 090/99
Rickard Realty Advisors Inc., owner: Parkside Holdings Ltd.
and
City of Lethbridge

The property being appealed was two mobile home parks adjacent to one another. The two properties are on separate titles but operate as one. The original park was constructed in 1990 and consists of 169 sites, the other park was started in 1996 and consists of 72 sites. The site consists of trailer pads, roads, landscaping, and fencing. Tenants own the own manufactured homes. The issue of the appeal was what the correct factors to use in determining an assessment using the income approach to value.

The appellant agreed with the respondent that the income approach was the best one to use to determine assessed value, but disagreed with the application of the operating costs, rental rates, vacancy rate, capitalization rate, income statement, and sales comparables.

The appeal was denied.

MGB 091/99
Canadian Valuation Group Ltd. on behalf of St. Albert Square Developments Inc.
and
City of St. Albert

The subject of this appeal was 5.51 acres of vacant land. The issue of the appeal was whether the assessed value of the land is fair and equitable in comparison with other property.

The appellant purchased two parcels of land in 1997 which were consolidated into a single parcel and then developed. The site now includes a Staples office supply store, a Chapters book store and two restaurant pads. The representative for the appellant stated that one of the parcels has a restrictive conditions on its use. In addition, the size and shape of the property also has an affect on its value.

The appeal was denied.

MGB 092/99
City of Calgary
and
Roman Catholic Bishop of the Diocese of Calgary

The subject of this appeal was a building situated on a lot adjacent to an inner city Roman Catholic Church. The ARB granted an exemption under section 362(1)(k)and section 4(2) of Alberta Regulation 289/97. The City appealed this decision to the MGB.

The representative for the City stated that the ARB erred in granting the property exemption from taxation. They maintain that while a considerable portion of the property is used for charitable or benevolent purposes, the property does not meet the requirements of 362(1)(k) because it is not used chiefly for the purposes prescribed in that section.

The respondents stated that the hall is used for many activities that are extensions of religious celebrations. They include coffee after mass, funeral receptions, instructional classes and other related activities. In addition, the property is used for other activities that are charitable and benevolent.

The MGB decided that the property is taxable. They concluded that the use of the property failed to meet the test of the legislation in that it is not used chiefly for divine service, public worship or religious education.

MGB 093/99
Lacasse Development Co. Ltd.
and
City of Leduc

The property under appeal was a long narrow, vacant, commercial lot. The issue of the appeal was: should the unit value of the property have a closer relationship to the adjoining properties?

The property is adjacent to a large, improved corner parcel that the appellant also owns. This corner parcel is three times larger, has more commercial exposure and is assessed less than the property under appeal. The appellant stated that the assessment does not include all relevant factors and there is no evidence to support an increase in value.

The appeal was denied.

MGB 094/99
Gamad Holdings Ltd.
and
Sturgeon County

The subject of this appeal was a 4,181 square foot single family residence located about 25 kilometers from St. Albert. The land assessment was not being appealed. The surrounding area is a mixture of agricultural and residential properties. The issues of the appeal were:

1. Is the assessment correct and fair when compared with similar properties?
2. Is there a loss in value due to odour from a nearby hog barn?

The appellant stated that the increase in assessment from 1997 to 1998 does not reflect market value and two appraisals of the property were presented in support of this argument. In

addition, the appellant claimed that odour from a nearby hog barn interferes with the use of the property in the summer.

The appeal was denied.

MGB 095/99
Dalin and Lori Ann Woolley
and
Sturgeon County

The subject of this appeal was a 2,663 square foot single family home with two attached garages in the Sturgeon Valley area. The issue of the appeal was whether the assessment was fair and equitable when compared with similar property.

The appellant challenged the assessment on five specific points:

1. The home has untreated pine shakes. The assessment is affected by the accelerated obsolescence and cost of replacing the shakes.
2. The assessment of the whirlpool tub is based on an eight person spa when it is just a 60" jetted tub.
3. Radiant heating was installed in the basement to provide extra heating. The system was not designed poorly, and adds no value to the property.
4. Except for its size, the home has no extra or upgraded features that distinguish it from the custom designation.
5. Based on the average value per acre and lot sale prices, the land assessment is too high.

The appeal on the land assessment was denied. The Board allowed the appeal on the improvement assessment in part.

MGB 096/99
Canadian Valuation Group Ltd. on behalf of Summit Centre Inc.
and
City of St. Albert

The subject of this appeal was a three storey office building. The main floor consists of retail space and the upper floors are leased to medical related tenants. The issue was whether the property was assessed fairly in comparison with other offices.

The appellant stated that the assessment is too high when compared with other similar buildings in St. Albert. The downsizing of the Sturgeon Community Hospital resulted in the owner having a difficult time maintaining tenants and rental rates.

The appeal was allowed in part.

MGB 098/99
M.D. of Bighorn No. 8
and
Minister of Municipal Affairs

This is an appeal of the M.D. of Bighorn's 1998 equalized assessment. The issue of the appeal was how fairness and equity relates to the process used to equalize residential assessments.

The representatives for the M.D. of Bighorn were not questioning the assessment numbers. The issue is the procedures applied to the reported information. There is no relationship between the increases in equalized assessments between similar municipalities.

The appeal was denied.

MGB 099/99
Telus Corporation on behalf of Telus Communications Inc. and Telus Communications (Edmonton) Inc.
and
The Crown in the Right of the Province of Alberta as represented by the Minister of Municipal Affairs

This is a complaint about 1996 linear property assessments. The appeal concerned whether certain computer software was assessable as linear property, and if so, is the assessment fair and equitable.

The appeal was allowed. Both parties were instructed to provide the Board with assessments excluding the software.

MGB 100/99
Rodney A. Keller
and
Municipal District of East Peace No. 131

The subject of this appeal was a quarter section of land located about six miles north of Peace River. In 1998, the assessor determined that the land was not being used for farming and changed its classification to residential and based the assessment on market value.

The appellant argued basing the assessment on market value is wrong, it should be based on agricultural use value. When the appellant bought the land in 1975, he meant to use it to graze cattle. He has not used it for that purpose, but the reason for owning the land has not changed, that is to have the land for back up pasture.

The appeal was denied.

MGB 101/99
Amending Board Order

Amends Board Order 084/99.

MGB 102/99
Campside Operations (South) Ltd.
and
Leduc County and the County of Wetaskiwin No. 10

The subjects of this appeal were Zeiner Campground located in Leduc County and Pigeon Lake Campground located in the County of Wetaskiwin. The two properties are within the Pigeon Lake Provincial Park and owned by the Province of Alberta. The issues of the appeal were:

1. Is Campside Operations the assessed person because of the service agreement between them and the Province?

2. Should assessments be prepared for the properties?

The appellant argued that both campgrounds should be exempt from taxation. Campside Operations has a service agreement with the Province, and does not control any aspect of the operation or facilities.

The appeal was allowed. The Board determined that the properties are entitled to a full exemption. The Board concluded that the service agreement is not characteristic of a lease because the Crown did not give up possession and use of the campgrounds.

MGB 103/99
Beverly Ann Hayes
and
City of Lethbridge

The subject of this appeal was a home constructed in 1930. Renovations began in 1987 and are continuing. The property is located on a street that was widened to four lanes of traffic. The ARB confirmed the land assessment and reduced the improvement assessment. The issue of the appeal was whether the assessment is too high because of damages caused by the City and of the incomplete renovations.

The appellant referred to circumstances that affect the property's value: problems caused by water main breaks and sewer back-up, changes in traffic flow, and the ongoing renovations.

The appeal was denied.

MGB 104/99
Amending Board Order

Corrects Board Order MGB 088/99

MGB 108/99
Peter Huculak
and
Town of Calmar

This appeal was heard on January 22, 1999, and the Board issued an oral decision. On January 27, the appellant reported errors in the respondent's evidence. On February 8, the appellant filed a request for a rehearing. The issue of this Board Order was whether the error was significant enough to warrant a re-hearing.

The application for a rehearing was denied.

MGB 112/99
Paralee Property Tax Consultants Ltd. on behalf of Fukienese Association of Alberta
and
City of Edmonton

This is an appeal of a 1997 Assessment Review Board decision. The property was purchased by the Association on May 5, 1997. The Association is a Chinese ethnic non-profit organization. The appellant is asking for an exemption for the portion of 1997 that the property was owned by the Association (May 5, 1997 to December 31, 1997).

The agent for the appellant stated that the Association is a cultural, charitable, non-profit organization entitled to an exemption under section 362 and 363 of the MGA. The appellant argued that the property should be entitled to the same exemption that it has received for the 1998 assessment year because the same Act is in effect for both years.

The appeal was denied. The Board did not accept the appellant's argument that the exemption granted by the City for the 1998 tax year should apply to the 1997 tax year. The 1997 assessment was done under the provisions of the Act and pursuant to AR 125/95; the 1998 assessment under the same Act, but pursuant to AR 289/97. In addition, the Board found no evidence that the property was used for the benefit of the general public in 1997.

MGB 113/99
Amoco Canada Petroleum Company Ltd.
and
Municipal District of Greenview No. 16

This is an appeal of decisions by the 1996 and 1997 Assessment Review Boards. The properties under appeal are two Amoco gas plants and associated wellhead equipment. The issues of the appeal were:

1. What is the total improvement assessment subject to appeal in 1996?
2. Should certain problems associated with the plant equipment and buildings be recognized as abnormal depreciation or functional obsolescence?
3. Should the building at a gas plant have the same age/life depreciation as the plant equipment?
4. What the correct methodology used to assess the buildings?
5. Were the remote telemetry units properly assessed as improvements?

The appeal was allowed in part.

MGB 114/99
AEC Valuations (Western) Inc. on behalf of Alberta Wheat Pool
and
Village of Wanham

The property under appeal is the improvement assessment of the Alberta Wheat Pool elevator located in Wanham. The ARB reduced the assessment on a recommendation from the respondent. The issues of the appeal were:

1. Is the elevator subject to abnormal depreciation due to economic obsolescence?
2. Is the assessment of the grain elevator office fair and equitable in comparison with other grain elevator office buildings?

The appellant submitted an obsolescence study prepared by AEC Valuations for the Alberta Wheat Pool. The study provided a statistical analysis on the performance of 184 grain elevators and compared the performance of the Wanham elevator with other elevators. Based on this analysis, the elevator performed below average and suffers from economic obsolescence and abnormal depreciation. The appellant stated that the decision in Board Order MGB 81/98 recognized abnormal depreciation and supported his position in the Wanham grain elevator.

The appeal was denied.

MGB 115/99
AEC Valuations (Western) Inc. on behalf of Alberta Wheat Pool
and
Village of Wembley

The property under appeal is the improvement assessment of the Alberta Wheat Pool elevator located in Wembley. The issues of the appeal were:

1. Is the elevator subject to abnormal depreciation due to economic obsolescence?
2. Is the assessment of the grain elevator office fair and equitable in comparison with other grain elevator office buildings?

The appellant submitted an obsolescence study prepared by AEC Valuations for the Alberta Wheat Pool. The study provided a statistical analysis on the performance of 184 grain elevators and compared the performance of the Wembley elevator with other elevators. Based on this analysis, the elevator performed below average and suffers from economic obsolescence and abnormal depreciation. The appellant stated that the decision in Board Order MGB 81/98 recognized abnormal depreciation and supported his position in the Wanham grain elevator.

The appeal was denied.

MGB 116/99
William C. Bell
and
City of Fort Saskatchewan

The subject of this appeal was a two-storey residence. The home is situated on a 16,383 square foot lot, the home is 2,473 square feet in size and has a fully developed basement and a triple attached garage. The issues of the appeal were whether the assessment was correct, fair and equitable with comparable properties.

The appellant presented the assessment and sales information of comparable properties, and problems with his property that affect its value.

The appeal on the land assessment was denied. The Board allowed the appeal on the improvement assessment.

MGB 117/99
Brian Chisan and John Kenneth MacPherson
and
City of Calgary

The events leading up to the appeal to the MGB:

- After the assessments were appealed to the ARB, the City sent letters to the appellants and requested a meeting to discuss the assessments and asked for the information they intended use to argue the assessments before the ARB.
- Mr. Chisan sent a letter to the City requesting an explanation of how the assessments were prepared.
- The parties appeared before the ARB. A summary of the way that the assessment was prepared for Mr. MacPherson's property was given to Mr. Chisan. The ARB directed the parties to exchange information and the hearing was adjourned.

- The City sent a letter to the appellants advising them that the ARB hearing had been re-scheduled.
- The appellants sent a letter to an alderman stating their concerns that the City failed to comply with section 299 of the MGB.
- The City sent another letter to the appellants with the request for a meeting to discuss their concerns.
- The City's lawyer and assessor were present at the ARB hearing. Mr. MacPherson attended but did not present evidence; Mr. Chisan was not present.

The issues of this appeal were:

1. Is the Board prohibited under the Evidentiary Matters Regulation from hearing or seeing evidence alleged to be new?
2. Did the appellants present new evidence, and should the appeal be sent back to the ARB?
3. Is the Board prohibited from returning the matter to the ARB since 150 days have passed since the appeals were filed?
4. Does the Board have jurisdiction to order the City to disclose how the assessments were determined?
5. Are the assessments correct, fair, and equitable?
6. Should costs be awarded.

The appeal was denied, no costs were awarded.

MGB 118/99
Newell Group on behalf of Canada Safeway Limited
and
City of Lethbridge

The property under appeal was a free standing grocery store constructed in 1991. At the start of the hearing, the Board was informed that the only dispute is the overall capitalization rate used within the income approach.

The appeal was denied.

Steve White, Executive Director
Assessment Services Branch

Alberta
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10155-102 STREET
EDMONTON, AB T5J 4L4

PHONE: (780) 422-1377
FAX: (780) 422-3110
E-mail: lgas@ma.gov.ab.ca