

ISSUE NUMBER: 1 AUGUST 24, 1998

TABLE OF CONTENTS

THE NEW ADVISORY ASPECTS.....	1
WE'VE MOVED	1
NEW CONSOLIDATION OF THE MUNICIPAL GOVERNMENT ACT	1
BASE COST MODIFIERS & COST INDICES	2
PROCEDURAL COMPLIANCE MUNICIPAL GOVERNMENT ACT S. 295(4).....	2
COMMUNITY ORGANIZATION 1998 PROPERTY TAX EXEMPTION AMENDMENT REGULATION.....	3
LSAS SURFACE CODES	3
MUNICIPAL GOVERNMENT BOARD ORDERS.....	5
ADVISORY ASPECTS SURVEY.....	49

THE NEW ADVISORY ASPECTS

In case you hadn't noticed, Advisory Aspects has a new look. The front page resembles documents such as the Officials Directory, Information Bulletins, and others that come from the Local Government Services Division. The numbering system has also changed. Instead of a volume number, there is an issue number. This is Issue Number 1.

Also, and to keep everyone informed of changes in assessment and MGB decisions, the Assessment Services Branch has decided that Advisory Aspects should be sent out more often. Our goal is every two months.

In the near future, we hope to have Advisory Aspects on the Internet. First, we would like some input from you. Go to the form at the back and let us know how we're doing and what else you would like to see and let us know if you have an email address.

Expect the next issue in November.

WE'VE MOVED

Please note that the Assessment Services Branch is now located on the 15th floor of Commerce Place. Other than the floor number, our street address, phone and fax numbers remain the same.

NEW CONSOLIDATION OF THE MUNICIPAL GOVERNMENT ACT

The Municipal Government Act, consolidated July 6, 1998, is now available from the Queen's Printer. It is important to note that this consolidation does not include amendments coming into force on January 1, 1999. Among these amendments is Section 40 of Bill 34 which relates to the Recovery of Taxes Related to Designated Manufactured Homes.

Queen's Printer Bookstore
11510 Kingsway
Edmonton T5G 2Y5
Phone: 427-4952 Fax: 452-0668

Queen's Printer Bookstore
Main Floor, McDougall Centre
455-6 Street SW
Calgary T2P 4E8
Phone: 297-6251 Fax: 297-8450

BASE COST MODIFIERS & COST INDICES

Following are the 1998 Base Cost Modifiers that factor the 1984 Manual to cost to July 1, 1998, and cost indices that factor current costs to the 1983 base cost. Comparable data for the preceding years is included.

IMPROVEMENTS 1984 MANUAL

	Residences	Commercial Institutional	Steel	Warehouses Workshops
1993	1.41	1.30	1.28	1.30
1995	1.42	1.32	1.31	1.33
1996	1.43	1.34	1.33	1.35
1997	1.45	1.36	1.34	1.36
1998	1.50	1.42	1.42	1.43

1.190.050 COST INDICES 1984 MANUAL

	RESIDENTIAL		COMMERCIAL					INSTITUTIONAL & INDUSTRIAL		
	Frame	Masonry Veneer	Masonry Wood	Masonry Concrete	Masonry Steel	Frame	Steel	Masonry Wood (A)	Masonry Concrete (A)	Masonry Steel (A)
1992	.786	.778	.827	.805	.809	.786	.819	.796	.807	.812
1993	.773	.771	.808	.791	.799	.769	.802	.780	.797	.795
1994	.746	.748	.792	.778	.786	.754	.785	.764	.782	.776
1995	.742	.741	.782	.764	.767	.743	.767	.750	.763	.757
1996	.735	.736	.770	.754	.761	.732	.757	.740	.755	.748
1997	.695	.697	.754	.738	.745	.717	.737	.725	.741	.734
1998	.666	.668	.726	.709	.714	.689	.704	.695	.712	.703

**PROCEDURAL COMPLIANCE
MUNICIPAL GOVERNMENT ACT S. 295(4)**

- (4) No person may make a complaint under section 460 or, in the case of linear property, under section 492(1), about an assessment if the person has failed to provide the information requested under subsection (1) in respect of the assessment on or Before February 15 of the year following the assessment year.

This subsection provides the assessor with the means for gathering information necessary to prepare assessments in a timely manner.

There are times when assessments are prepared using the income approach. Section 295 states that a person must provide to the assessor any information necessary to prepare an assessment. Section 296 provides for an assessor to apply to the Court of Queen's Bench if a person does not provide the information necessary to complete the assessment.

This amendment means that an appeal may be refused if the complainant has failed to provide information requested under section 295. The information requested by the assessor should be relevant, available, and relate to the issue or assessment being prepared.

If an assessed person meets the basic requirements of the legislation regarding reasonable compliance in providing information, non-conformity should not automatically disqualify a person from making a complaint. Only in instances when there has been little or no attempt to provide information should the provisions of the MGA prevail and the complaint not be heard. Setting parameters for what is reasonable information in a specific situation is a discretionary issue determined by the Assessment Review Board. Full disclosure of the evidence and issues would allow the complaint to be heard at the ARB and ultimately, the Municipal Government Board.

COMMUNITY ORGANIZATION 1998 PROPERTY TAX EXEMPTION AMENDMENT REGULATION

Alberta Regulation 60/98

Municipal Government Act

Filed: March 30, 1998

Made by the Minister of Municipal Affairs (M.O. L:128/98) pursuant to section 370 of the Municipal Government Act.

- I. The *Community Organization 1998 Property Tax Exemption Regulation* (AR 289/97) is amended by this Regulation.
- II. Section 15 is amended
 - a. **in subsection (2) by striking out "section 14(1)(a)" and substituting "section 14(a)";**
 - b. **in subsection (3) by striking out "section 14(1)(f)" and substituting "section 14(f)".**

LSAS SURFACE CODES

Interest has been expressed in receiving information on LSAS surface codes. We have provided codes for various types of leases including where there are tax clause conditions.

Surface Activity Code	Name	Tax Clause/Condition (yes, no, n/a)
AAG	ancillary agreement-grazing lease	*n/a
AFS	agricultural farm sale	***n/a
AHM	Alberta Housing Metis lease	yes
CHL	civilian homestead lease	***n/a
CHS	civilian homestead sale	yes
CTL	coniferous timber license	no
CTP	coniferous timber permit	no
CUP	cultivation permit	yes
DTL	deciduous timber license	no
DTP	deciduous timber permit	no
ECA	ecological corridor agreement	*n/a
EZE	easement	yes
FDL	farm development lease	yes
FDS	farm development sale	yes
FGL	forest grazing lease	*yes/no
FMA	forest management agreement	no
FRD	forestry road	no
GRL	grazing lease	yes
GRR	grazing permit	yes
HAP	hay permit	no
HLS	homestead lease loan sale	***n/a
HTW	head tax permit (white)	no
KRS	Kananaskis RCMP staff housing	no
LDR	land disposition request	n/a
LOC	license of occupation	yes
MLL	miscellaneous lease	yes
MLP	miscellaneous permit	yes
MSL	mineral surface lease	*yes/no
MTS	miscellaneous	**yes
PIL	pipeline installation lease	no
PLA	pipeline agreement	no
PLS	private land sale	*yes
PPL	public pit license	no
PSA	private surface agreement	no
RDS	roadway	no
REA	Rural Electrification Association easement	no
REC	recreational lease	yes
REV	request to review	n/a
RIA	range improvement agreement	n/a
RMP	resource management operational plan	no
ROE	right-of-entry agreement	no
ROW	right-of-way lease	no
RRD	registered roadway	no
RSP	refined spill	n/a
SCL	seed crop lease	*yes
SGL	sand and gravel lease	**yes
SGR	sour gas release	n/a
SHL	staff housing land license	no
SMC	surface material license	yes
SME	surface material exploration	no
SML	surface materials lease	yes

Surface Activity Code	Name	Tax Clause/Condition (yes, no, n/a)
TPA	trapping area	n/a
TRS	tax recovery sale	*yes
USP	unrefined spill	n/a
VCE	vegetation control easement	no
VHL	veteran homestead lease	***n/a
VHS	veteran homestead sale	***n/a
WDL	water development license	no
WRO	wild rice operation	no

*AAG This forms part of a Grazing Lease for which taxes are payable under the Grazing lease.

*ECA This forms part of a sale for which taxes are payable under the sale.

*FGL Yes, if not part of a Forest Management Agreement Area.

*MSL Tax Clause/Condition may or may not be inserted depending on the purpose of the lease.

*PLS A clause would have been inserted, if a Land Sale Agreement was entered into with Environmental Protection (EP). **Note:** EP no longer enters into Land Sale Agreements. Purchase price must be paid in full. The land would be subject to the assessment of taxes, when titles is issued to the purchaser.

*SCL There is only one left in the system, and no new ones are being issues. They are being replaced with FDL's.

*TRS Same as PLS's.

**Activity code type no longer issued. Note, that upon renewal:

SGT replaced with SML

MTS replaced with MLL

***Activity code type no longer issued. no activities in existence.

MUNICIPAL GOVERNMENT BOARD ORDERS

Access to Board Orders over the Internet is now complete. You may access the search engine through the Municipal Affairs home page at:

www.gov.ab.ca/~ma

Then, go to Local Government Services and to the Municipal Government Board. From there, highlight Board Orders and you have the search engine.

The search engine is simple. Try some examples of municipalities, order numbers, etc., and get a feel for how it works. It will produce a listing of Board Orders meeting the criteria you established in your inquiry. When you double click on the Board Order number, you will get a

summary sheet. If you go to the right side that lists the board order and pdf number (e.g., m145/97pdf.) and double click on the item you will get a copy of the actual board order.

All Board Orders from 1/95 to 85/98 are on the system. The current ones should be added over the next couple of weeks.

NOTE: Acrobat Reader is needed to read the board orders. It is available from the button at the bottom of the Local Government Services page. Select the button and follow the directions. It is important to select the proper version of Windows or whether you have a Macintosh computer.

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

MGB 12-98

Canadian Valuation Group on behalf of W.A. & D. Pertman and City of St. Albert

MGB 37-98

Canadian Valuation Group Ltd. on behalf of Airways Business Plaza Ltd. and City of Calgary

MGB 45-98

Damon David Himsl on behalf of Michael Duke and County of Minburn No. 27

MGB 51-98

Paralee Property Tax Consultants on behalf of Loomis Armoured Car and City of Edmonton

MGB 52-98

Paralee Property Tax Consultants on behalf of S.H. Lee Investments Alberta Ltd. and City of Edmonton

MGB 53-98

Paralee Property Tax Consultants on behalf of IXL Industries and City of Edmonton

MGB 56-98

TAAG International on behalf of Imperial Deluxe Apartments Ltd. and City of Edmonton

MGB 57-98

Shores Belzil on behalf of St. George's Anglican Church and City of Edmonton

MGB 65-98

Pheasantback Golf and Country Club Ltd. and County of Stettler No. 6

MGB 68-98

Paralee Property Tax Consultants Ltd. on behalf of Gerald Yakiwchuk and City of Edmonton

MGB 84-98

TAAG International on behalf of Imperial Deluxe Apartments Ltd. and City of Edmonton

MGB 86-98

Canadian Valuation Group Ltd. on behalf of Mutual Life Assurance and City of Calgary

MGB 88-98

Nigeria Association of Alberta and City of Edmonton

MGB 89-98

B.M.C. Automatic Transmission Centre Ltd. and City of Edmonton

MGB 90-98

Property Tax Appeal Services on behalf of 390660 Alberta Ltd. and City of Edmonton

MGB 99-98

Walls Alive (Edmonton) Ltd. and City of Edmonton

MGB 100-98

Property Tax Appeal Services on behalf of 404577 Alberta Ltd. and City of Edmonton

MGB 101-98

Paralee Property Tax Consultants Ltd. on behalf of Super Mart Drugs and City of Edmonton

MGB 111-98

Property Tax Appeal Services on behalf of McCoy Bros. Group and City of Edmonton

MGB 118-98

Graham Ross on behalf of Elkwater Park Golf Club and Municipal District of Cypress

MGB 119-98

Royal LePage Property Tax Consulting on behalf of Norcen Energy Resources Ltd. and Municipal District of Taber No. 14

MGB 120-98

Royal LePage Property Tax Consulting on behalf of Norcen Energy Resources Ltd. and County of Lethbridge No. 26

MGB 127-98

Paralee Property Tax Consultants Ltd. on behalf of Argyll Ventures Ltd., One to Four Holdings, Singhmar Acres Ltd. and Alberta Tractor and City of Edmonton

MGB 128-98

Paralee Property Tax Consultants Ltd. on behalf of 513011 Alberta Ltd. and Town of Athabasca

MGB 129-98

TAAG International on behalf of Triple H. Enterprises Inc. and City of Edmonton

MGB 135-98

James Zackowski and Improvement District No. 9 (Banff)

MGB 138-98

City of Edmonton and Canadian Valuation Group Ltd. on behalf of Westfair Properties Ltd.

MGB 6-98

Paralee Property Tax Consultants on behalf of Bewernick Developments Ltd. and 724002 Alberta Ltd.

and

City of Calgary

MGB 142-98

Newell Group on behalf of Abak Estates Limited and City of Edmonton

MGB 143-98

Paralee Property Tax Consultants Ltd. on behalf of Laidlaw Transit Ltd. and City of Edmonton

MGB 145-98

Canadian Valuation Group Ltd. on behalf of Westfair Properties Ltd. and City of Edmonton

MGB 151-98

361881 Alberta Inc. on behalf of 607775 Alberta Ltd. and Village of Andrew

MGB 152-98

Royal LePage Property Tax Consulting on behalf of Norcen Energy Resources Ltd. and County of Two Hills No. 21

MGB 153-98

Aseniwuche Winewak Nation on behalf of Kamisak Development Enterprise Ltd., Muskeg Seepee Co-op Ltd., Susa creek Co-op Ltd., and Victor Lake Native Co-op Ltd. and M.D. of Greenview No. 16

MGB 159-98

Paralee Property Tax Consultants on behalf of Lamcorp Management Ltd. and City of Edmonton

MGB 176-98

Canadian Valuation Group on behalf of Andromeda Investments Ltd. and City of Edmonton

The properties under appeal were two vacant industrial parcels. Both parties were appealing the decision of the Assessment Review Board. The issues of the appeal were:

1. Is it subject to the Evidentiary Matters Regulation?
2. Does the City have the authority to appeal an assessment confirmed by the ARB?

3. Are the assessments correct, fair and equitable?

With regard to the evidentiary matters regulation, the City of Calgary submitted that the effective date of the regulation was June 25, 1997, and as the complaint was filed with the ARB on the same date, the Evidentiary Matters Regulation does not apply to this appeal.

Concerning the assessed value of the property, in arguing that the value was too high, the appellant presented ten comparable land sales in the area. The City of Calgary submitted that if the Board is adopting the principles of the Witral decision, the same principles must be applied to increasing values. The City also submitted a number of comparable sales in the area to support their position that an increase was warranted.

The appeal was denied.

MGB 9-98
Prince Royal Inn/Glen Eden Realty & Development Ltd.
and
City of Calgary

This appeal concerns the land assessment of an improved parcel in downtown Calgary. The issues of the appeal were:

1. Is market evidence for 1995 and 1996 relevant to the assessment?
2. Is the assessed land value in error?

The appellant stated that sale prices of surface parking lots in downtown Calgary should be adjusted for the value of the improvements. Comparables were submitted and the appellant referred to the Witral decision in support of the position that market evidence subsequent to the base year is relevant and to be considered by the Board.

The appeal was allowed.

MGB 11-98
George Monson
and
City of Edmonton

This appeal concerns the 1995 business assessment. The appellant received a notice and appealed the assessment to the Assessment Review Board, and then, the MGB. A decision was reached by the Board and set out on Board Order MGB 36/96. Due to a computer error, the City sent a second business assessment notice for 1995. This appeal concerns the second notice. The issues were:

1. Can the ARB hear a 1995 business assessment complaint more than once?
2. Can a second business assessment notice issued for the 1995 tax year be a valid notice?
3. Does the MGB have jurisdiction to hear the appeal?

The Board concluded that there is no appeal and did not proceed with the hearing.

MGB 13-98
Urban Ore Farms Ltd.
and
County of Leduc No. 25

The property under appeal consists of 78.26 acres, assessed as agriculture, commercial and residential. Improvements include two mobile homes and a shop/office. In 1989, the appellant began a business of calcium carbonate recovery and permits were obtained from the County of Leduc and the province. A January 1997 the development permit lapsed and an injunction was issued requiring the appellant to remove certain material. The deadline for complying with the court order was not met. The issues of the appeal were:

1. Is the calcium operation a commercial or agricultural operation?
2. Is the commercial designation and assessment for a portion of the property correct?
3. Does the assessed value represent market value as of December 31, 1996?

The appellant claimed that since all permits for the operation of the business have lapsed, the commercial portion of the property should be assessed as either residential or agricultural.

The Board allowed the appeal on the land assessment, but denied the appeal on the improvement assessment. The Board found that no change was warranted for the commercial designation, but concluded that the condition of the commercial portion justified a reduction.

MGB 14-98
John and Sabina Zutter
and
Summer Village of Crystal Springs

This appeal concerns two lots assessed as one parcel from 1924 to 1994. In 1994, the assessor valued the lots separately. No survey or measurement supported the change. The change was successfully appealed in 1994 and the property reverted to single parcel status. In 1995, the lots were again assessed separately, but the appellants did not meet the appeal deadline. The 1996 assessment showed the separation of the two parcels and the assessment was appealed. This appeal was heard by the MGB in November 1996 and the Board's decision was to combine the two lots into one parcel. This appeal is against the 1997 assessment which once again shows a separation of the parcels. The issues of the appeal were:

1. Should the property be assessed as one or two parcels?
2. If the property is assessed as one parcel, what should the assessment be?
3. Should the appellant be awarded costs?

The appellant stated that the residence sits over the property line of the two lots and that is why it is assessed as one parcel. The appellant requested that the Board award costs to compensate for having to appeal numerous times on the same issue.

The appeal against the land assessment was allowed. The Board denied the appeal on the improvement assessment. The application for costs was denied.

MGB 25-98**City of Calgary
and****Rickard Realty Advisors Inc. on behalf of Atlanta Industrial Sales**

This was an appeal of a decision by the 1994 Court of Revision. The property is a seven storey, 48 suite high rise apartment constructed in 1977. The issues of the appeal were whether the assessment was correct, fair and equitable when compared to similar properties in the same area and whether the improvement experienced abnormal depreciation in 1993.

The City stated that the 1994 Court of Revision erred in its decision to reduce the improvement assessment for abnormal depreciation because there was no evidence to warrant such a reduction. The City requested that the Board reverse the decision.

The appeal was allowed.

MGB 26-98**Rickard Realty Advisors Inc. on behalf of Schickendanz Bros. Limited****and****City of Calgary**

The subject of this appeal was the land and improvement assessments of a twin tower multi-family complex built in 1971-1972. The properties were registered as residential condominiums with individual titles but operate as rental accommodation.

The issues of the appeal were whether the assessment represents market value when considering the November 1995 sale price, repair costs, alleged stigma and problems associated with post-tension construction.

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

MGB 30-98**Elmwood Court Condo Association, represented by R. Jespersen, President, R.****DeRudder, Member and E. Miller, Member****and****Town of Stony Plain**

The property under appeal was a 22 unit condominium located in Stony Plain. The total assessment of each unit was under appeal. The issue of the appeal was whether the assessment is fair and equitable when compared to similar properties within the neighbourhood and the municipality.

The appellants stated that the assessed value of the property has varied greatly since its construction in 1993. The appellant presented sales information on units in the complex and comparable properties in Stony Plain to illustrate that the assessment was too high.

The appeal was denied.

MGB 34-98**TAAG International on behalf of Sturgeon Valley Golf & Country Club
and
Sturgeon County**

The Sturgeon Valley Golf & Country Club is a semi-private 18 hole golf course. Improvements include a clubhouse, pro shop, maintenance shop and a metal warehouse. This decision and Board Order are the result of a rehearing. The original appeal was heard in March 1997 and the Board decided that because of the new market value legislation, there was insufficient evidence to decide if the assessment was correct, fair and equitable. The issues were:

1. Is the capitalized income technique the correct method to value the course?
2. Does the depreciated replacement cost method used to value the property compare to fair market value?

The appeal was denied.

MGB 35-98**Hinton & District Chamber of Commerce
and
Town of Hinton**

The Hinton & District Chamber of Commerce property consists of a two-storey building and land leased from the Town of Hinton for \$1.00 per year. Apart from the Chamber of Commerce, the building is also occupied by a tourist information office, a gift shop, and a business. Prior to the general assessment in 1996, the entire property had been exempt. The issue of the appeal was whether or not the property is exempt from taxation.

The appellant submitted that the Hinton and District Chamber of Commerce is a non-profit organization providing services for benefit to the general public. The Chamber relies on revenues generated from annual membership fees, rent from the two commercial spaces and fund raising by volunteers. The Town of Hinton pays the Chamber of Commerce a fee to operate the Tourist Centre. The Chamber is responsible for all utilities, repairs and maintenance.

The respondent agreed that the Chamber of Commerce meets most of the legislated requirements. However, the area occupied by the gift shop and the business are retail stores and compete with other businesses and are disqualified under section 3 of Regulation 125/95. The Chamber of Commerce has a specific business interest or objective and is not for the benefit of the general public.

The appeal was allowed in part. The Board was of the opinion that both the gift shop and the business are taxable. The Tourist Information Centre is for the benefit of the general public and meets the requirements of the legislation, and is exempt from taxation. The Chamber of Commerce is a non-profit organization with no restrictions upon membership or prohibitive fees, is also exempt.

MGB 36-98
Heinz Bogacz
and
Parkland County

The property under appeal is 3 acre parcel located about seven miles north of Stony Plain. The improvement is a one storey bungalow with an attached garage and a separate single car garage. Construction began in 1995, and was unfinished as of December 31, 1996. The issues of the appeal were what the correct square footage of the residence was, and whether the assessment is fair and equitable in comparison with similar properties?

The appellant stated that the assessment was too high considering that the house is unfinished. The appellant also argued that the square footage of the house as shown on the assessment notice is wrong.

The appeal was denied.

MGB 38-98
Carl Olson
and
Parkland County

The property under appeal is located northwest of Stony Plain. It was an appeal of a decision by the 1997 Assessment Review Board. The improvements consist of a one storey house and attached garage, and a detached garage. In 1993, the Court of Revision granted a reduction to compensate for noise from gravel pits in the area. In 1994, the County removed the reduction. The issues of the appeal were:

1. Does the municipality have the right to remove an assessment reduction granted by the Court of Revision?
2. Is the Board compelled to invoke section 521 of the MGA at the request of the appellant?
3. Is the assessment fair and equitable?

The appellant argued that the assessor is legally bound to carry out the decisions of the ARB. The appellant stated that, as with any court decision, a decision by the ARB must remain in effect until it is struck down by a successful appeal. The assessor does not have the right to set aside or disobey the decision. There must be a court hearing before the assessor can raise the assessment. The actions of the assessor results in criminal contempt of court, theft by failing to account, and denial of constitutional rights.

The appeal was denied.

MGB 39-98
Esther Neuman
and
Parkland County

The property under appeal is located west of Edmonton. It consists of 30.58 acres and the improvement is a two storey house with attached garage. Construction started in 1982 and the assessment reflects that the residence is incomplete. The issue of the appeal was whether the assessment is fair and equitable in relation to similar property.

In presenting her case, the appellant requested that arguments from a previous hearing be considered (September 18, 1996-Board Order 49/97). The appellant stated that both the land and improvement assessments were too high. The property is prone to flooding as a result of work done in the area by the County and Alberta Transportation. The appellant requested that the Board consider all arguments of the previous appeal by Mr. Carl Olson.

The appeal was denied.

MGB 40-98**Property Tax Appeal Services on behalf of John Sabo Enterprises Ltd.
and
City of Edmonton**

The property under appeal consists of a office/warehouse complex constructed in 1972 and located in northwest Edmonton. This issues of the appeal were:

1. Should the high vacancy and lower net income be recognized in the property's assessment?
2. Is the assessment of the property supported by sales of comparable properties?

The appellant stated that the income produced does not support the property's assessed value. Sales of warehouses in the same area of the city were presented.

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

MGB 41-98**J.T. Consulting on behalf of POCO Petroleum Ltd.
and
County of Stettler No. 6**

The POCO Spiers Gas Compressor Station was assembled in 1982 and was in operation at the end of 1996. A declining raw natural gas source was evident as early as 1986, and the compressive capacity of the station functioned at less than the design capacity from 1986 to 1995. The issues of the appeal were:

1. The appropriate amount of economic obsolescence.
2. To determine if a shortened age-life schedule should apply to the machinery and equipment.

The appeal was allowed in part.

MGB 42-98**J.T. Consulting on behalf of POCO Petroleum Ltd.
and
County of Stettler No. 6**

The Maple Glen (Provost) Gas Compressor Station was assembled in 1984 and was in operation at the end of 1996. A declining raw natural gas source was evident as early as 1986, and the compressive capacity of the Station functioned at less than design capacity from 1986 to 1995. The issues of the appeal were:

1. The appropriate amount of economic obsolescence.

2. To determine if a shortened age-life schedule should apply to the machinery and equipment.

The appeal was denied.

MGB 43-98

**Rickard Realty Advisors Inc. on behalf of Braebourne Manor
and
City of Calgary**

This was an appeal from decisions of the 1995, 1996 and 1997 Assessment Review Board. Before the hearing, the City recommended a reduction to the 1995 improvement assessment. The appellant refused and the appeal proceeded. The property is a three storey 35 suite walk-up apartment building constructed in 1982.

The basis for the appeal was the loss in value due to post tensioning problems. The issues were whether the assessment is fair, equitable and correct, and if there is abnormal depreciation relating to post tensioning problems.

The assessment was confirmed for all three years. Engineering reports indicated that the post tensioning slabs may develop physical problems some time in the future, but the Board found no abnormal depreciation associated with post tensioning construction in the appeal period.

MGB 44-98

**Lougheed Tomasson Inc. on behalf of 550029 Alberta Ltd. and Corporation Financiere
Genecan
and
City of Calgary**

This was an appeal of a decision of the 1995 and 1996 Assessment Review Board. The property under appeal was a two storey 22 unit office condominium, constructed in 1980. For 1995, only 12 of the 22 offices suites were under appeal, for 1996, only one. The issues before the Board were:

1. Are the assessment correct, fair and equitable when compared with similar property?
2. What is the impact of post tension construction?

The appellant stated that the City over-assessed the properties and presented comparables in defense of their position. In addition, the appellant argued that the assessment does not reflect post tension problems, and that portions of the building have been treated differently with respect to depreciation.

The appeal was denied.

MGB 46-98

**Rickard Realty Advisors Inc. on behalf of the Calgary Chamber of Commerce
and
City of Calgary**

This was an appeal of a 1996 decision of the Assessment Review Board. The improvement is a four storey office and retail building constructed in 1910 and renovated several times since. The main floor has four retail tenants, the second and fourth floors are restaurant and dining/meeting rooms for Chamber members, and the third floor is office space for Chamber

of Commerce administration. In 1982, the Chamber of Commerce sold certain air rights to Petro-Canada Centre, and in 1987, the property was designated as a historic building. The issues of the appeal were:

1. Does the sale of air rights affect property value?
2. Does heritage designation affect property value?
3. Are there extraordinary repairs and additional functional obsolescence?
4. Is the assessed land value excessive?
5. Is the assessment correct and is it fair and equitable when compared with similar properties?
6. How is market value included within the assessment analysis, and what property sales have been used in order to determine an indicated market value for the property?

The Board allowed the appeal on the land assessment, but denied the appeal against the improvement assessment.

MGB 47-98

**Rickard Realty Advisors Inc. on behalf of Bridgeview Heights Investments Ltd.
and
City of Calgary**

This was an appeal of decisions by the 1994 Court of Revision and the 1995, 1996 and 1997 Assessment Review Board. The property under appeal was a three storey 30 suite walk-up apartment building constructed in 1981. The issues of the appeal were:

1. Is the improvement assessed correctly, and is it fair and equitable in comparison with similar property?
2. Has the improvement experienced abnormal depreciation due to post tensioned construction and water leakage?

The appeal was denied.

MGB 48-98

**Rickard Realty Advisors Inc. on behalf of 667400 Alberta Ltd.
and
City of Calgary**

This was an appeal from a decision of the 1996 Assessment Review Board. The property under appeal was a seven storey high-rise rental apartment building built in 1981.

The appellant submitted that the owner's purchase of the property in October 1995 is the best indicator of value and the assessment should be reduced accordingly. The assessment should also be reduced further to recognize post tension stigma attached to the building.

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

MGB 49-98**City of Calgary
and****Rickard Realty Advisors Inc. on behalf of 667400 Alberta Ltd.**

Between April and October 1997, administrative hearings were held to establish procedures and schedules for the exchange of information relating to post tension problems. A hearing was scheduled to deal with specific merits of the assessment. The day before this hearing, the City received a 57 page submission from the appellant. At the hearing, the City advised that if the Board proceeded, it would be impossible for them to receive a fair hearing, and also stated that they would be applying for costs. The purpose of this hearing was to consider the City of Calgary's request.

The City provided their estimates in preparation for the initial hearing. They concluded by stating that Rickard ignored the procedures and guidelines set out by the Board. If costs are awarded, they should not only compensate the City, but there should also be punitive costs.

The request for costs was granted.

MGB 50-98**City of Calgary
and****Rickard Realty Advisors Inc. acting on behalf of six property owners**

In early 1997, the Board had a backlog of about 1,700 appeals related to post tensioning construction in Calgary. The Board, the City of Calgary and representatives of the affected property owners developed post tensioning administrative procedures. All parties agreed to follow these procedures.

The timely exchange of evidentiary information prior to hearings was a key element in the procedures. The Board advised all parties that the exchange procedures would be strictly enforced and any violations could lead to cost assessment. Rickard Realty did not comply with the submission exchange procedure, and six of the ten hearings had to be postponed. Also, Rickard Realty amended their late submissions with evidentiary additions and deletions. The purpose of this hearing was for the Board to decide whether repeated non-compliance of the procedures warrant costs and if so, the appropriate amount.

The appeal was allowed and costs were assessed against Rickard Realty Advisors.

MGB 54-98**Dezman Cowan Real Property Appraisal Ltd. on behalf of Western Asset Management
Corporation****and****Strathcona County**

The property under appeal were two warehouses in a complex of four located in Sherwood Park. The issue of the appeal was whether the assessment of the two properties was fair and equitable when compared with similar property.

The appellant submitted a report containing appraisal data, but it was not signed as an appraisal report. The report showed data on sales of nine comparable properties and the method used to develop an indicated market value.

The appeal was denied.

MGB 55-98**City of Calgary
and****Lougheed and Company Inc. on behalf of Canada Mortgage & Housing Corp.**

This was an appeal from decisions of the 1994 Court of Revision and the 1995 Assessment Review Board. The property under appeal was a 17 storey apartment complex constructed in 1980 using unbonded post tension cables. The City of Calgary is appealing the decisions of the 1994 Court of Revision and 1995 Assessment Review Board which reduced the improvement assessment. The issues of the appeal were:

1. Does work required or undertaken to correct post-tension problems represent a loss in value?
2. What is the correct, fair and equitable value of the improvement for both assessment years?

The City presented assessment and sales comparables in defense of their position. A review of the engineering report used to award the PCL Maxam contract revealed that only a portion of the renovations costs were to repair post-tension problems.

The appeal was allowed.

MGB 59-98**The Newell Group on behalf of CN Real Estate
and
Wheatland County**

This appeal was heard on November 19, 1997, and the Board provided an oral decision. In a letter dated November 21, Wheatland County requested a written decision, and on November 28, the Board advised that a written board order would be issued. On January 2, 1998, the Board received a letter requesting a rehearing. In a letter dated February 19, CN Real Estate withdrew the appeal and requested the original assessment be left in place. The issue before the Board was since an oral decision is not a decision until it is confirmed in writing, and a notice had not been issued, can the Board consider a request by the property owner to withdraw the appeal?

The request to withdraw the appeal was approved and the decision of the Assessment Review Board stands.

MGB 60-98**The Newell Group on behalf of CN Real Estate
and
Municipal District of Rocky View**

This appeal was heard November 19, 1997. The Board provided an oral decision. In a letter dated November 21, the M.D. of Rocky View requested a written decision, and on November 28, the Board advised that a written board order would be issued. On January 2, 1998, the Board received a letter requesting a rehearing. In a letter to the Board dated February 19, CN Real Estate withdrew its appeal and requested the original assessment be left in place. The issue before the Board was since an oral decision is not a decision until it is confirmed in writing, and a notice had not been issued, can the Board consider a request by the property owner to withdraw the appeal?

The request to withdraw the appeal was approved and the decision of the Assessment Review Board stands.

MGB 61-98

**Kerry's Kasuals Ltd./Laura Lee 1980 Ltd., represented by Rickard Realty Advisors Inc.
and
City of Edmonton**

The property under appeal was a 100 unit apartment building in downtown Edmonton. The issue of the appeal was whether the assessment is too high considering the rents attained, and the size and design of the units; awkward access; and the type of tenants willing to locate in the building.

The building was constructed as an apartment/hotel with 100 bachelor suites. A CMHC survey shows that the average rent charged for these suites is less than that of other bachelor suites in the area. Access to the building is off a one way street, and the steep grade of both the street and parking ramps make it difficult to attract long term tenants.

The Board denied the appeal on the land assessment, but allowed the appeal on the improvement assessment. The Board agreed that the building is unique and has distinct locational disadvantages.

MGB 62-98

**City of Calgary
and
Wilson Laycraft on behalf of Royal LePage Property Tax Consulting**

This is an application for costs made by the City of Calgary against Royal LePage Property Tax Consulting. At an appeal on October 28, 1996, a postponement was requested by both parties and rescheduled for September 10, 1997. On September 9, Royal LePage withdrew the appeal. The issues were whether it is appropriate for the Board to hold separate hearings to address jurisdictional issues and the merits of the cost applications, and also, to determine the requirements and timing of an information exchange relative to both cost application and issues of jurisdiction?

The Board decided that jurisdictional arguments are a preliminary matter to the merits of the application for costs and should be heard on the same date. The MGB set a date by which both parties must exchange information on the application for costs.

MGB 63-98

**Richard Huot
and
Sturgeon County**

This appeal was against the land and improvement assessments of two lots located in the Hamlet of Cardiff. The land assessment was reduced by the ARB, but the appellant requested an additional reduction.

The appellant referred to problems associated with the property, as well as an appraisal report done for mortgage application purposes.

The appeal was denied.

MGB 64-98
Carriage House Motor Inn
and
City of Calgary

The property under appeal was a 157 room hotel and convention complex south of downtown Calgary. An adjacent parcel used for parking was also under appeal. The issues were:

1. Is it appropriate to use values per room to determine the total assessment of hotels.
2. Is it correct to assess the adjacent parcel of land in addition to the hotel.

The appellant argued that the assessment per room of the hotel is higher than comparable hotels and the separate assessment of the parking lot increases the overall assessment.

The appeal on the assessment of the parking lot was denied. On the assessment of the hotel, the land assessment was confirmed, and the appeal on the improvement assessment was allowed in part. It was the Board's opinion that the lack of conveniently located parking is a form of obsolescence that exists in addition to normal depreciation.

MGB 66-98
Grove Seniors Village Housing Cooperative Ltd.
and
City of Spruce Grove

The property under appeal consisted of 89 self-contained residential rental units on a single parcel of land built in 1991-92. The units are rented to residents 55 years of age or over. There is also a common recreational building used by the tenants. The issue of the appeal was whether the property is assessed using the correct residential classification.

The appellant stated, that like condominiums, the cooperative provides services such as snow removal, street lighting, landscaping, etc., but there is only one title and the units are rented. The appellant stated that the wording of the manual should be changed and a different mill rate applied to this unique property.

The appeal was denied.

MGB 67-98
Correcting Board Order

Corrects Board Order 67/98.

MGB 69-98
Alexander Miller
and
Jasper Improvement District

The property under appeal is located at Lake Edith, about 12 kilometers from the Jasper Townsite. The lots are leased from the Crown for a term of 42 years. The terms of the leases include that the property must be closed and unoccupied during the winter, and the lessee is responsible for all school taxes. The issue was whether the assessment is correct, fair and equitable.

The appellant stated that the assessment is excessive when considering the leasehold and the property may only be occupied for only part of the year. The appellant also questioned

the basis for the assessment which is derived from a single sale of a leasehold interest. The appellant questioned the authority of the Jasper Improvement District to retain an assessor, when taxation is a responsibility of the school district.

The appeal was denied.

MGB 70-98
Jack Jennings
and
Municipal District of Clearwater No. 99

The property under appeal is located near the eastern boundary of the M.D. of Clearwater. The issue of the appeal was whether the Rural Assessment Policy is a fair method of assessment, and if a three acre site must be assessed at market value, is the value of this property correct?

The appellant stated that the assessment of a three acre parcel at market value is unfair because the parcel is not subdivided and cannot be sold. The appellant presented sales of comparable properties and cited problems associated with the services on the property.

The Board accepted a recommendation from the assessor to reduce the farmland portion of the assessment.

MGB 71-98
Frank G. Williamson
and
City of Calgary

The property under appeal was a double wide mobile unit built in 1974. It is located in Greenwood Village, a mobile home park situated at the base of Canada Olympic Park. The park consists of 416 sites for single and double wide units.

The appellant argued that the City of Calgary has a policy of assessing all mobile units the same without taking into consideration what park they are in. He added that his unit would be worth twice as much if it was in another park.

The appeal was denied.

MGB 72-98
Bruce Kipp Nelson Ltd. on behalf of Pinnacle Resources Ltd.
and
Municipal District of Westlock No. 92

The decision on board order MGB 143/97 did not set out the new assessments. This hearing was called at the request of the appellant as both parties were unable to agree on what the assessments should be. Clarification of this order was sought before and had resulted in board order MGB 159-97.

The Board amended MGB 143-97 and rescinded MGB 159-97.

MGB 73-98
City of Calgary
and
Minister of Municipal Affairs

This appeal concerned the City of Calgary's 1997 equalized assessment. On September 8, 1997, both parties requested an adjournment to allow for a negotiated settlement. On March 9, 1998, the City asked the Board to resume hearing the appeal.

The purpose of this hearing was to determine what issues were still outstanding, and to set out procedures so the appeal can be heard.

MGB 74-98
City of Airdrie
and
Minister of Municipal Affairs

This appeal concerned the City of Airdrie's 1997 equalized assessment. On September 8, 1997 both parties requested an adjournment to allow for a negotiated settlement. On March 9, 1998, the City asked the Board to resume hearing the appeal.

The purpose of this hearing was to determine what issues were still outstanding, and to set out procedures so the appeal can be heard.

MGB 75-98
Lougheed Tomasson Inc. for owner Parrish & Heimbecker
and
The County of Warner No. 5

The property was purchased in July 1986 is about twenty miles south of Lethbridge. Originally, the improvements were used as a sugar factory. The issue of the appeal was that not all forms of depreciation had been included in the assessment.

The appellant stated that in 1996, the MGB granted a reduction to the improvement assessment as set out in board order MGB 56/97. The appellants requested that the same reduction be applied to the 1997 assessment. They argued that not all forms of depreciation had been included in the assessment.

The appeal was allowed. The Board found evidence of both functional and economic obsolescence.

MGB 78-98
City of Calgary
and
Rickard Realty Advisors Inc. on behalf of W.E. Roth Construction Ltd.

This was an appeal of a decision of the 1994 Court of Revision and Albert Assessment Appeal Board Order AAAB 15/96. The property under appeal is known as Bridgeview Apartments. The building was constructed in 1982 using unbonded post tensioned cable construction. The issues were:

1. What is the correct, fair and equitable assessment of the improvement at December 31, 1993?
2. What effect do post tension problems have on value?

The City of Calgary recognizes that a post tension problem exists in the building, but they argued that the cost to cure is a one time only expense and should be recognized when the expense is incurred. They stated that the vacancy rate has been lower than average and the engineering report does not call for immediate repairs. The value of the property cannot have been affected to the extent recognized by the Court of Revision and Alberta Assessment Appeal Board.

The appeal was allowed in part.

MGB 79-98
Loyal Order of Moose represented by Edwin Carswell
and
County of Red Deer

This was an appeal of a decision by the 1996 Assessment Review Board. The issue of the appeal was whether the property should be exempt from taxation.

The appellant stated that the Lodge is a non-profit organization and raises funds for various charitable purposes, and assists a variety of charitable organizations. The hall is used by the Boy Scouts on a regular weekly basis without being charged a rental fee. The hall is may be rented to anyone.

The appeal was allowed in part, and the assessment was reduced. The Board determined that the property must be used for charitable or benevolent purposes. Weddings or other social functions do not meet that test. Similarly, fundraising at the hall is not a charitable use of the hall, even though funds raised are used for charitable purposes. The Board reduced the assessment to recognize the use of the property by the Scouts.

MGB 80-98
Lougheed Tomasson Inc. for owner, Parrish & Heimbecker
and
County of Warner No. 5

This was an appeal of a decision of the 1995 Assessment Review Board. The ARB hearing was held in October 1995, but the appeal to the MGB was not initiated until May 1997. The ARB decision was not received by the tax agent resulting in a delay of the appeal to the MGB. The respondent argued that the appeal should not proceed as the appeal period had passed. Based on statements made by both parties, the Board decided to proceed. This panel of the MGB dealt with the 1997 appeal, and both parties requested that evidence presented to the Board for the 1997 appeal be used for the 1995 appeal. The issues for both are identical.

The property was purchased in July 1986, and is located about twenty miles south of Lethbridge. Originally, the improvements were used as a sugar factory. The issue of the appeal was that not all forms of depreciation had been included in the assessment.

The appellant stated that in 1996, the MGB granted a reduction to the improvement assessment as set out in board order MGB 56/97. The appellants requested that the same reduction be applied to the 1997 assessment. They argued that not all forms of depreciation had been included in the assessment.

The appeal was allowed. The Board found evidence that the elevator suffers both functional and economic obsolescence.

MGB 81-98**AEC Valuations (Western) Inc. on behalf of Alberta Wheat Pool
and
Town of Westlock**

The property under appeal was a grain elevator built in 1927. The appellant advised that while the land assessment was under appeal, it would not be argued or disputed. The issues of the appeal were:

1. Does the assessment reflect market value?
2. Is the assessment fair and equitable when compared to similar property?

The appellant presented a report prepared by AEC Valuations titled "Assessment Review-Alberta Wheat Pool-Obsolescence Study 1997-1998". The report was used as the background for the appellant's position. The appellant referred to various defects and concluded that the building was over-assessed.

The appeal against the improvement assessment was allowed in part. The assessment did not reflect true market value, and the Board granted additional function obsolescence.

MGB 82-98**Roger Brincker
and
M.D. of Willow Creek No. 26**

The property under appeal was two farmland parcels with an old residence on the larger parcel. The ARB reduced the improvement assessment because of its poor condition and the respondent recommended a further reduction because of a calculation error. The main issue of the appeal was whether the improvement assessment could be reduced to zero, and if so, should the three acre site value be removed from the assessment?

The appellant referred to many examples of the residence's poor condition, and concluded that if the improvement has no value, the three acre site should be removed from the assessment and the value reduced to pasture land. In addition, flooding in 1996 and 1997 caused damage to the three acre site.

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

MGB 83-98**Rickard Realty Advisors Inc. on behalf of All Investments Ltd.
and
City of Calgary**

This was an appeal of decisions by the 1994 Court of Revision, and the 1995, 1996, and 1997 Assessment Review Board. The property under appeal is known as Granville House, a seven storey apartment complex built in 1969 of post tension reinforced concrete. The issues of the appeal were:

1. Does the property suffer a loss in value associated because of post tension construction?
2. Does the property suffer a loss in value because of the stigma of post tension construction?

The appellant argued that the assessor failed to consider all forms of depreciation. Assessment and sales comparables were presented. An engineering report indicated problems with post-tension construction.

The appeal was denied.

MGB 85-98
Annie Megyes
and
M.D. of Taber No. 14

The property under appeal was a 52 acre parcel of land and an older home. About six years ago, an intensive turkey farm started operating on the adjacent property. The issue of the appeal was the impact the turkey operation had on the value of the property under appeal.

The appellant's home is located about 500 feet away from the manure storage area of the turkey operation. When the M.D. of Taber granted a license for the operation, one condition was that the manure was not to be stored outside the barns. The M.D. does not enforce this condition. The appellant stated that the turkey operation decreases the market value of the property.

The appeal was denied. While the Board was of the opinion that the value of the property is effected by the turkey operation, the appellant did not present data or information that could be used to quantify a reduction.

MGB 91-98
Canadian Valuation Group Ltd. on behalf of Airways Business Plaza Ltd.
and
City of Calgary

This Board Order rescinds MGB 37-98, which returned the complaint to the ARB under the authority of the Evidentiary Matters Regulation. Board Order MGB 6/98 determined that the Evidentiary Matters Regulation applies only to complaints filed on or after June 26, 1997. This appeal arises from a complaint filed on June 25, 1997.

MGB 92-98
Spolumbo/Palumbo Inc.
and
City of Calgary

The property under appeal was a parcel of vacant land located near the Calgary Zoo. The issue of the assessment was whether the assessment is correct and fair considering the sale price of the property close to the end of the assessment year.

The appellant submitted that although the neighbourhood has improved, it is still a low income area. In previous years the neighbourhood was subject to a high crime rate including drugs and prostitution. The property was purchased in early January 1997. The arms length transaction brought a sale price less than the assessed value.

The appeal was allowed.

MGB 93-98

**Rickard Realty Advisors Inc. on behalf of First Civic Square Limited
and
City of Calgary**

This is an appeal of a decision of the 1994 Court of Revision. The property under appeal was a 17 storey office building located in downtown Calgary. The issues of the appeal were:

1. Does the price obtained from a judicial sale indicate market value, and was it an arms-length transaction?
2. Does the appraisal value of the property indicate the market value?
3. Is the assessment correct, fair and equitable when compared with similar properties?

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

MGB 94-98

**Ivan C. Robison and Company Ltd. on behalf of 675549 Alberta Ltd.
and
City of Calgary**

The property under appeal was a strip mall constructed in 1962. Previous appeals to the 1994 Court of Revision and the 1995 and 1997 Assessment Review Board were denied. The issue of this appeal was whether the assessment is correct, fair and equitable.

The appellant's position was that the assessment is too high when compared to similar properties, and considering the sale of the property in 1996.

The appeal was allowed. The Board found that the sale in 1996 was a strong indicator of value.

MGB 95-98

**Rio Lima Portuguese Canadian Cultural Society of Edmonton
and
City of Edmonton**

The property under appeal originally consisted of nine separate lots which were consolidated into a single parcel in 1997, the construction of the building began in 1996, and was completed in 1997. The issues of the appeal were:

1. Was the facility exempt from taxation?
2. At what stage of construction was the building as of December 31, 1996?

The appellant stated that the Society does not limit membership and the facility is open to anyone. Copies of the bylaws were distributed and the appellant referred to numerous organizations that have used the building. The appellant added that the building was only 20% completed on December 31, 1996.

The appeal was denied.

MGB 96-98

**Rowand, Lapatka & Savich on behalf of 666996 Alberta Ltd.
and
City of Edmonton**

This was an appeal for a rehearing of an MGB decision. The appeal was heard on May 21, 1997 and the Board confirmed a reduction based on the assessor's recommendation. In a letter dated June 12, 1997, the appellant requested a rehearing. The issues was whether the Board another hearing should be held when a value had been agreed to by both parties.

The appellant requested a further reduction to the assessment than that agreed to and presented to the MGB. The appellant believed that the agreement was arrived at unfairly.

The request for a rehearing was denied.

MGB 97-98

**Lougheed and Company Inc. on behalf of Sunic Investments Inc.
and
City of Calgary**

This was an appeal for a rehearing of an MGB decision. The appeal was heard on October 29, 1997 and an oral decision was given. In a letter dated October 31, 1997, the City requested a rehearing. The issues were whether the Board provided the parties with a fair hearing, and if there grounds for a re-hearing.

The City argued that evidence was submitted late and during the appeal that should not have been allowed. The appellant also introduced evidence during its summation that the City could not respond to.

The request for a rehearing was approved.

MGB 98-98

**Dezman Cowan Real Property Appraisal Ltd. on behalf of Western Asset Management Corp.
and
City of Edmonton**

The property under appeal consists of two warehouses.

The appellant presented evidence that included the vacancy and location of the property which in their opinion effected its value. The sale of the property and of comparative properties were also offered as proof that the assessment was too high.

The City stated that after the ARB hearing, the appellant re-measured the property and the City confirmed the size prior to this hearing. The City requested that the Board confirm the land assessment, and reduce the improvement to reflect these changes.

The appeal on the land assessment was denied, and the improvement assessment was reduced.

MGB 102-98
Roman Catholic Bishop of the Diocese of Calgary
and
City of Calgary

The property under appeal is next to the Fish Creek Provincial Park and consists of 32.61 acres and ten buildings. The buildings include two residences, three garages, two warehouses, a school building, Father Lacombe Centre, dormitory addition, and a water tower. The issues of the appeal:

1. Are the dormitory addition and one warehouse exempt from taxation?
2. Is the assessment of the land fair and equitable?

The dormitory was added to the Father Lacombe Centre in 1960. Its tenants, the "Fresh Start Addictions Centre", and the "Maria Labrecque Training and Consultation Centre", are non-profit societies. The second building was built in 1910. One of the tenants, "Midnapore Alcoholics Anonymous Group", has used the building for about 20 years, holds regular meetings, and does not charge any fees. The appellant argued that both buildings are used for charitable and benevolent purposes and should be exempt. With regard to the second issue, the appellant stated that the land assessment is unfair because the presence of historic sites restricts its use.

The appeal for exemption to the buildings is allowed. The appeal of the land assessment was denied.

MGB 103-98
The Dunes Golf and Winter Club
and
County of Grande Prairie No. 1

The Dunes Golf and Winter Club is a public 18 hole golf course located 1.5 miles from the City of Grande Prairie. Originally opened in 1990, the course expanded from 9 to 18 holes and added a club house in 1992. There are seven golf courses in the County and all of them successfully appealed their 1997 assessments to the Assessment Review Board. This is the only course to appeal to the MGB. The issues of the appeal were:

1. Is the assessed value of certain improvements such as landscaping of fairways, greens and hazards, and the irrigation system a true reflection of market value?
2. Is the assessment fair and equitable when compared with other courses?

The appellant's major argument is that new legislation requires properties to be assessed at market value. Fairness and equity with other golf courses is not being achieved. Current legislation requires that only similar properties in the same municipality are considered. Golf courses not only compete with others in the municipality, but with courses throughout the province. Assessments for golf courses in various areas of Alberta were presented in defense of this position. There is no market evidence to prove the property would sell at the assessed value.

The appeal was denied.

MGB 104-98**Lougheed & Company Inc. on behalf of Chevra Kadusha of Calgary
and
City of Calgary**

The property under appeal was a recently added portion of a cemetery. The improvements consist of a building that is residential in appearance, a public washroom, and a two car garage. The portions of the property that are exempt from taxation include the public washrooms, half of the garage, and the chapel portion of the residence.

The appellant was of the opinion that the entire property should be exempt. The property is a cemetery and under 362(1)(i), the land qualifies as a cemetery, and under 362(1)(iii) any improvement on the land used for burial purposes is subject to exemption.

The appeal was allowed in part.

MGB 105-98**Frank John Sawchuk
and
County of Grande Prairie No. 1**

The property under appeal consists of approximately 157.010 acres with a residence built in 1975. Water and power are provided from a well and powerline on an adjacent farmyard, but within the same property. The 1996 assessment was carried out under the provisions of the MTA, the 1997 assessment under the MGA. The issues of the appeal were:

1. Should the three acre site be assessed as if improved with services.
2. Is the property assessed fairly and equitably when compared with similar properties.

The appellant did not agree with the significant increase between 1996 and 1997. He argued that the assessment was unfair when compared with properties in nearby urban municipalities and acreages in the area. There had been no change to either the land or improvement. If the three acre site was subdivided and sold, the well and powerline would remain with the farm and there would be no services.

The appeal was denied.

MGB 106-98**J.T. Consulting on behalf of POCO Petroleum Ltd. and Signalta Resources Limited
and
County of Minburn No. 27**

At the start of the hearing, both parties agreed that the property under appeal be separated into three categories: 1) well site underground water disposal tanks, 2) well site separator installations, and 3) field booster compressors. The issues of the appeal:

1. Are the tanks, separators and compressors included in the regulated rates for linear property?
2. Is the equipment now assessed in the regulated rates for linear property also being assessed as machinery & equipment?
3. This matter has been before the ARB and the MGB twice. Is the County of Minburn entitled to costs?

The appeal was denied, no costs were awarded.

MGB 107-98
Victory Christian Fellowship of Lethbridge 1983 Inc.
and
County of Lethbridge No. 26

The property under appeal consisted of a church building and residence. The Agape Day Care occupies three rooms of the church. One room is used on Sundays for religious purposes. The issue of the appeal was whether the MGA allows an exemption for the part of the church used as a day care facility for five days a week and for religious purposes on Sunday.

The request for exemption was allowed.

MGB 108-98
Rickard Realty Advisors Inc. on behalf of Switzer's Investment Ltd.
and
City of Calgary

This was an appeal of decisions of the 1996 and 1997 Assessment Review Board. The property under appeal is a three storey retail/restaurant complex with one level of underground parking. The property was constructed in 1978 and was intended for office use. The building sold in 1993 and the building was converted to a shopping mall. The issues of the appeal were:

1. What effect does the post tension design and construction have on value?
2. Did the City apply all forms of depreciation?
3. Are the assessments correct, fair and equitable?

The appellant stated that the assessor erred in three areas. First, it was assumed that recent renovations added value to the property. Second, inappropriate lease rates and comparable properties were used to justify the assessment. Finally, the assessment fails to account for the unique nature of the property.

The Board denied the appeal on the land assessment for both years and the improvement assessment for 1996. Based on a recommendation from the City, the improvement assessment was reduced for 1997.

MGB 109-98
Paralee Property Tax Consultants Ltd. on behalf of Wayne Construction Ltd.
and
City of Red Deer

The property under appeal is known as Southwood Park. It consists of a 96 unit row housing complex, garage and office. The complex was built between 1971 and 1973 and is well maintained. The issue of the appeal was whether the assessment was fair and equitable in comparison with similar properties.

The appeal was denied.

MGB 110-98
City of Calgary
and
Lougheed & Company Inc. on behalf of Canada Mortgage and Housing Corporation

This was an appeal of decisions by the 1994 Court of Revision and 1995 Assessment Review Board. The property is an 11 storey 114 suite high rise apartment, constructed in 1980, in part of post tensioned concrete. A 1992 engineering review found serious problems with the roof, brick side walls, post tensioned concrete slabs and balconies. The repairs were done between 1994 and 1995. The improvement assessment was appealed in 1994 and 1995, and both were reduced by the full cost to cure. The City of Calgary appealed these decisions on the grounds that the cost to cure included items other than post tensioning repair.

The Board allowed the appeal and increased the improvement assessment for both years.

MGB 112-98
City of Calgary
and
The Minister of Municipal Affairs

This appeal relates to the City of Calgary's 1997 equalized assessment. The City of Edmonton, Town of Chestermere, and the M.D. of Big Lakes filed council resolutions indicating their intention to become intervenors in this appeal. At this hearing, the City of Edmonton was the only municipality present to request a role as intervenor.

The City of Calgary objected to the City of Edmonton having intervenor status. They argued that all municipalities are adequately represented by the appellant and respondent. The appeal has no direct effect on the 1997 equalized assessments of other municipalities, but the could have an impact on future equalized assessments. If the City of Edmonton is granted intervenor status, their role should be limited.

The respondent had no objections to the City of Edmonton's request.

The City of Edmonton's representatives stated that the outcome of this appeal could have an impact on Edmonton and it has a direct interest in the appeal.

The Board granted the City of Edmonton intervenor status and will receive all documents filed with the Board, all documents exchanged by the parties, and may call evidence at hearings and cross-examine witnesses. The Board will provide the Town of Chestermere and the M.D. of Big Lakes with Notices of Proceedings.

MGB 113-98
City of Calgary
and
The Minister of Municipal Affairs

This appeal relates to the City of Calgary's 1997 equalized assessment. The subject of this hearing was whether the Board has jurisdiction to hear the appeal.

The appellant has three grounds for appeal:

1. The Minister allowed some municipalities to make blanket chattel adjustments.
2. Regulated property was not properly equalized to 1.00.

3. The City of Calgary used stratification for some classes of property, some municipalities did not.

The appellant argued that these inconsistencies resulted in the 1997 equalized being prepared in a manner that was not fair and equitable. The information provided by the City of Calgary and other municipalities is not being questioned, it is the lack of consistent standards applied equally to every municipality that is being challenged.

The respondent replied that a municipality's assessments and ratios are prepared by local assessors and provided to Municipal Affairs, who in turn, reviews it for errors, compliance with legislation, and conformity with property assessment practices and procedures. The Annual Assessment Audit Report is produced summarizing the overall ratios for property classes. The equalization team equalizes non-regulated properties to an assessment level of 1.00 and regulated property in accordance with factors the Minister deems appropriate. These ratios and factors are used to calculate an equalized assessment. The respondent argued that two of the three grounds for appeal are not part of the equalized process, but of the assessment and audit function, and the Board does not have jurisdiction to hear the appeal.

The Board severed the issue that regulated property should be equalized to 1.00. Both parties were instructed to provide written legal arguments related to the severed issue to the Board, each other, and the City of Edmonton by May 28. If the City of Edmonton chooses they may contribute, also by May 28. After that, both parties have until June 4 to respond to the submissions and must indicate whether another Board hearing is necessary.

MGB 114-98**Mobil Oil Canada****and****Mountain View County and the M.D. of Rocky View No. 44**

The properties under appeal were installations located at producing gas, sour gas, and oil and gas lift well sites. To ensure continuous production from the wells, various installations are required. These were the subject of the appeal, and include items referred to as buildings and structures and machinery & equipment. The installations have always been assessed as non-linear. Neither the appellant nor respondent disagreed with the valuation, but whether the installations are linear property or improvements.

Counsel for the appellant stated that the property is incorrectly assessed as improvements. The installations are included in the definition of linear property and are not liable to assessment as improvements. All of the installations are either integral with the production of oil and gas.

The appeal was denied.

MGB 115-98**Property Tax Appeal Services on behalf of Sheraton Business Forms Ltd.****and****City of Calgary**

When the appellant filed an appeal of the ARB decision with the MGB, the City filed a cross appeal. The properties under appeal are two warehouses in southeast Calgary. The issues of the appeal were:

1. What are the correct, fair and equitable values of the two properties?
2. Does the MGB have the right to increase an assessment confirmed by the ARB?

The representative for Sheraton Business Forms stated that the land assessment for both properties was higher than other warehouses in the same area. They presented sales of comparable properties in defense of their position. With regard to the second issue, the appellant argued that the City should not be allowed to increase an assessment that it had established.

The respondent took exception to the properties that the appellant used for their argument and stated that they were not comparable properties.

The appeals were denied.

MGB 116-98
Crowsnest Pass Bible Camp
and
Municipality of Crowsnest Pass

The property under appeal was the Crowsnest Lake Bible Camp. The camp consists of 19.72 acres of land leased from the Crown. The improvements include a chapel, main lodge, central wash facility, four cabins, five individual cabins, a small office, repair facility, and five non-assessed teepees. The issue of the appeal was whether the property is exempt under section 362(n)(iii) of the MGA and regulation 125/95, and if not, does section 362(k) apply?

The appellant stated that the Crowsnest Pass Bible Camp Association is a charitable non-profit organization registered under the Societies Act. The camps are provided free of charge and benefit the general public. There are no stipulations that screen out anyone based on race or religion. Most people on their mailing list do not have any church affiliation, and those that do represent many different denominations.

The respondent stated that section 362(k) applies to the chapel, but the land and buildings are not used solely for religious purposes. In MGB 51-97 (City of Edmonton and the Catholic Archdiocese of Edmonton), the Board found that only the third of the church hall used for religious education should remain tax exempt.

The appeal was allowed and the request for exempt status was upheld. The Board concluded that the property is used for a charitable or benevolent purpose for the benefit of the general public.

MGB 117-98
Huckvale & Company on behalf of Bow Valley Mission and Conference Grounds
and
Municipality of Crowsnest Pass

The property under appeal is owned by the appellant and includes 42.16 acres. The improvement is a new multi-purpose two storey cross-shaped building. The issue of the appeal was whether the property is exempt under section 362(n)(iii) of the MGA and regulation 125/95, and if not, does section 362(k) apply?

The appellant stated that the entire property is exempt under section 362(n)(iii) because it is used for charitable and benevolent purposes and benefits the general public. The Bow Valley Mission and Conference Grounds was incorporated in 1956 as a non-profit organization under the Societies Act of Alberta. Membership is unrestricted, there is no fee, and no members are paid for their services. There is no qualification for attendance and registration is on a first come first served basis.

The respondent stated that section 362(k) applies to the chapel, but the land and buildings are not used solely for religious purposes. In MGB 51-97 (City of Edmonton and the

Catholic Archdiocese of Edmonton), the Board found that only the third of the church hall used for religious education should remain tax exempt.

The appeal was allowed and the request for exempt status for the whole of the property is allowed. The Board is concluded that the property is used for a charitable or benevolent purpose for the benefit of the general public.

MGB 121-98
TAAG International on behalf of 471730 Alberta Ltd.
and
City of Red Deer

The property under appeal consists was a free standing office/retail/commercial building. The issue of the appeal was whether the assessment was fair and equitable when considering capitalized income, comparable sales and assessments.

The appellant stated that the best way to value this property is by using the capitalized income and the direct market comparison approach. Evidence was presented in defense of this position

The appeal was denied.

MGB 122-98
Rickard Realty Advisors Inc. on behalf of Daiwal Development Corporation Ltd.
and
City of Calgary

The property under appeal is a vacant lot. The issue of the appeal was whether an application for rezoning in November 1996, and effective on March 18, 1997, changed the classification of the property for the 1997 taxation year.

The appellant stated that the property should have been classed as multi-family residential instead of commercial on December 31, 1996, for taxation in 1997.

The appeal was denied.

MGB 123-98
Wayne and Diane Keiver
and
Mountain View County

At the start of the hearing, the appellant withdrew the all appeals except the value of the three acre site assessments on three parcels of land. The issue of the appeal was that the county's statistical base of information of three acre parcel land is not correct, and the three acre farmland parcels are not fair, equitable and correct.

The appellant stated that the three assessments are at least two-thirds higher than comparable land presented as evidence.

The appeal was allowed in part. The land value appeared too high in when compared with sales and listing data provided by the appellant. The assessments were reduced to compare with values in a nearby residential subdivision, adjusted for water and sewer services, and influences previously recognized by the ARB.

MGB 124-98
Gulf Canada Resources
and
Municipal District of Yellowhead No. 94

This was an appeal of decisions by the 1995, 1996 and 1997 Assessment Review Board. The property is known as Brazeau River Gas Plant and was originally constructed by Hudson Bay Oil and Gas Co. Ltd. in 1968. In 1993, Gulf Canada Resources Ltd. purchased about 25% interest in the plant and became the operator. The property under appeal consists of buildings & structures and machinery and equipment. The main issues of this appeal were:

- Revised assessment.
- Plant production and capacity.
- The proper assessment approach.
- Depreciation.

NOTE: This appeal is too lengthy and complex to summarize in a few paragraphs. If you want a copy of this Board Order, give us a call and one will be sent to you.

MGB 125-98
Newell Group on behalf of 572720 Alberta Ltd. and 815 Properties Inc.
and
City of Calgary

This was an appeal of decisions by the 1996 and 1997 Assessment Review Board. Both the property owners and the City of Calgary filed appeals with the MGB, and both have had difficulties exchanging documentation. The issues of the appeal were:

1. Is a municipality entitled to receive revenue and expense information from the taxpayer, and how much power does the Board have to force the respondent to provide the information?
2. Under section 299(1) of the MGA, a municipality is obligated to an assessed person to provide sufficient information to demonstrate an assessment was prepared.

The appellant was concerned about confidentiality being maintained if ordered to produce financial information. The appellant also indicated that information relating to the City's appeal to raise the assessment had not been received.

The City argued that it is entitled to revenue and expense information when checking the validity of the assessments. Sufficient information must be exchanged to provide the parties with details of the appeal and of the issues to be raised at the hearing.

Timelines and procedures for the exchange of documentation and information were set out, and a hearing to decide the merits of the appeal will be held at a later date.

MGB 131-98
Mike Linderman
and
Municipality of Crowsnest Pass

The property under appeal is situated in the Hamlet of Hillcrest. It is a 12 acre parcel with a home located to the rear of the parcel. There is municipal water and sewer service in the

street fronting the property. The assessment is separated into two parts: a three acre residential site, and nine acres of farmland. The three acre site was under appeal, the issues were:

1. Should the property be valued as serviced with water and sewer?
2. Is the property assessed fairly and equitably in comparison with similar sites?

The appellant stated that the assessment is too high in comparison to similar properties. The assessments of comparable properties were lower than the property under appeal. The appellant also argued that the nearby water and sewer lines do not add value to the property.

The appeal on the land assessment was allowed in part. The Board denied the appeal against the improvement assessment. The Board concluded that the water and sewer lines were too far away from the residence and do not add value to the property. The Board also found that similar properties had a lower assessment.

MGB 133-98
Canadian Valuation Group Ltd. on behalf of Mutual Life Assurance
and
City of Calgary

This Board Order rescinds MGB 86/98. It was determined that the Evidentiary Matters Regulation 121/97 applies only to complaints filed on or after June 26, 1997. This complaint was filed with the ARB on June 25, 1997.

MGB 134-98
Amending Board Order

Amends Board Order MGB 124-98.

MGB 136-98
Rickard Realty Advisors Inc. on behalf of Canada Trust Company
and
City of Calgary

This was an appeal from decisions of the 1994 Court of Revision and the 1995, 1996, and 1997 Assessment Review Board. The properties under appeal consist of two buildings constructed in 1978, and connected by a parkade in 1980-81. One of the buildings is a 13 storey office tower with a commercial main floor. The other is a three storey commercial and office building with a one storey as a retail section and racquetball court. The issues of the appeal were:

1. Has the public reserve caveat been fairly considered in the value of the land?
2. Have easements, rights of ways, no build areas and building shape been given fair consideration in determining fair actual value?
3. Is the racquetball court obsolete, justifying a loss in value?
4. Does the CFC charged air conditioning system warrant a loss in value?
5. Is there a loss in value due to post tensioning deterioration?

The Board denied the appeal on all aspects of the property except the racquetball court. The Board found that the court is under-used and adds little return to the property.

MGB 137-98
Nicolae Serbanescu
and
City of Edmonton

The property under appeal was bought about 10 years ago by the appellant as an unimproved parcel of land. The appellant constructed a home in 1992. The property receives a 10% allowance for lack of city water and sewer services. The issue of the appeal was whether the owner should receive a further allowance because of the property's location.

The appellant stated that besides water and sewer, he has reduced access to other city services. He agreed that the assessment is reasonable, but the 10% allowance is not enough to compensate for the lack of city services.

The appeal was denied.

MGB 139-98
Gail Edwards, President for 508703 Alberta Ltd.
and
Jasper Improvement District

The property under appeal is located on a residential street in the townsite of Jasper. The appellant leases three lots and negotiated with Parks Canada for additional land. A new lease was signed on October 28, 1996, but not registered with Land Titles until early 1997. The issues of the appeal were:

1. Is the land over assessed considering the restrictions placed on it by Parks Canada?
2. Is the new lease in effect even though it was not registered until early 1997.

The appeal was denied.

MGB 140-98
Henry J. Pirker
and
M.D. of Greenview No. 16

This half section of land is located near Grande Prairie along the Smoky River. The appellant grows alfalfa, raises cattle keeps bees. The issues of the appeal were:

1. Did environmental contamination damage plants, crops and trees in the area?
2. If contaminated, is it severe enough to reduce the assessment a nominal amount?

The appellant argued that before 1991, he grew enough alfalfa to support 60 head of cattle and the bee keeping operation. Since then, the crops have been poor, and the appellant blames this on environmental pollution. He asked that the assessment reduced to one dollar per year to recognize the harm done to his farming operation.

The appeal was denied.

MGB 141-98**Bryce Kipp Nelson Ltd. on behalf of Mayel Development Inc.
and
City of Calgary**

The property under appeal has been appealed in 1995 and 1996. In 1995, the MGB increased the depreciation, and in denied further reductions in 1996.

The appellant presented sales and assessments of comparable properties. They appellant argued that the comparables indicated fair and equitable assessments, but the assessment on this property was higher than its market value.

The Board denied the appeal against the land assessment, but allowed the appeal on the improvement assessment.

MGB 146-98**The City of Airdrie
and
The Minister of Municipal Affairs**

This concerns the appeal of the City of Airdrie's 1997 equalized assessment. The City of Edmonton requested intervenor status for this appeal. The issue was whether the Board has jurisdiction to hear this appeal on the grounds that some municipalities used blanket chattel adjustments and others did not.

The appellant argued that the Minister granted the right to take blanket chattel adjustments to some municipalities. This produced equalized assessments that were not fair and equitable. Information provided to the Minister was not being questioned; it was the adequacy of the procedures applied to the information and the lack of a consistent standard, applied equally to every municipality.

The City of Airdrie alleges that the audit function allowed the discounting of real property sales for chattels using a blanket rate. The respondent stated that the auditing function may not be used as the basis of an equalized assessment appeal. Decisions to use blanket chattel adjustments or stratification are made by the local assessor, and are not part of the equalization process. A challenge to such practices is not an appeal of the equalized assessment at all, but a challenge to the figures submitted by a municipality, and not appealable.

The Board does have jurisdiction to hear the appeal. The issue was not the data and ratios received by the Minister, but what was done with them that may effect fairness and equity between municipalities. The Board also allowed the City of Edmonton intervenor status and set out procedures for the exchange of information between the appellant, respondent, and the City of Edmonton.

MGB 147-98**The City of Calgary
and
The Minister of Municipal Affairs**

This concerns the appeal of the City of Calgary's 1997 equalized assessment. The issue on this application concerns the limitations of the appeal under sections 488(1)(b) and 488.1 of the MGA. The Board must decide whether the use of blanket chattel adjustments and stratification by some municipalities are beyond the scope of an equalized assessment appeal or are barred by section 488.1(b) or (c).

The City of Calgary had three grounds for appeal: (1) the Minister allowed some municipalities the right to blanket chattel adjustments, (2) regulated property was not properly equalized to 1.00, and (3) the City of Calgary used stratification for some property, other municipalities did not. These inconsistencies resulted in the 1997 equalized assessments being prepared in a manner that was not fair and equitable. Inconsistent procedures resulted in inclusion of significant values in some municipalities and omission of the same type of value in others. This was neither monitored nor adjusted for by the Minister. Information provided to the Minister was not being questioned; it was the adequacy of the procedures applied to the information and the lack of a consistent standard, applied equally to every municipality.

Municipal assessments are prepared by municipalities in accordance with Part 9, Division 1 of the MGA. Any appeal of those steps by a municipality, or the Minister cannot be made the subject matter of an equalized assessment appeal. Two of the three grounds for appeal are not part of the equalized process at all, but are a part of the assessment and audit function. Decisions to use blanket chattel adjustments or stratification are made by the local assessor, and are not part of the equalization process. A challenge of such practices is not an appeal of the equalized assessment, but a challenge to the figures submitted by a municipality, and not appealable.

The Board has jurisdiction to hear the appeal as it relates to the use of blanket chattel adjustments and stratification by some municipalities. The issue was not the data and ratios received by the Minister, but what was done with them that may effect fairness and equity. The Board also allowed the City of Edmonton intervenor status and set out procedures for the exchange of information between the appellant, respondent, and the City of Edmonton.

MGB 149-98**Milner Fenerty on behalf of McKenzie Meadows Golf Corporation
and
City of Calgary**

The property under appeal consists of five parcels of land located in south Calgary. The land is dissected by highway 22X. This is a cross appeal, McKenzie Meadows Golf Corp. is appealing the assessments of the five parcels of land, and the City of Calgary is appealing the ARB decision which reduced the assessment of two parcels. The golf course essentially consists of two parcels. One parcel is a developed golf course, the other is undeveloped. The main issue of the appeal was whether the undeveloped parcel should be assessed the same as the developed one?

The McKenzie Meadows Golf Corp. argued that land leased to them as a golf course is not being used as a golf course and is not associated with the portion of the property that is. They also argued that the City applied a value to the land that does not represent its true value.

The City of Calgary argued that both leases indicate that the lands are intended to be developed and operated as a golf course, and the lessee is entitled to use all the areas for that purpose. It was the City's position that the entire 271 acres should be assessed at one rate.

The appeal was allowed in part. The lands south of highway 22X were assessed as a golf course, but not used for that purpose. The commercial development of the lands is restricted because of characteristics of the land and terms of the lease. It was the Board's opinion that these limitations were not included within the assessment analysis, and the assessments were reduced.

MGB 150-98
361881 Alberta Inc. on behalf of Tim Lewyk
and
Village of Andrew

The property under appeal was a small hotel with a 40 seat restaurant and tavern. The issue of the appeal was whether the assessment was fair and equitable when the current economy and the assessments of other businesses in Andrew are taken into account.

The appellant stated that there had been no changes to the property, yet the assessment almost doubled from 1996 to 1997. Most of the businesses in Andrew receive depreciation for obsolescence of between 20% to 30%. The appellant argued that the property was not assessed the same as other commercial properties in the Village.

The assessor stated that a general assessment was done in 1996 for 1997. Due to limited sales, the valuation for the hotel was calculated using the 1994 manual. No obsolescence was granted.

The land assessment was confirmed. The Board reduced the improvement assessment.

MGB 154-98
Canadian Valuation Group on behalf of Adelaide Capital Corporation
and
City of Edmonton

The subject of this appeal were 183 condominium units within two buildings. A management company looks after the rentals and other units in the buildings are owner occupied. The issue of the appeal were that the assessment should be reduced by either an application of market value tests, or an application of obsolescence allowances.

The appellant argued that the assessments were too high because they compete with other complexes that receive an economic obsolescence allowance from the City. The appellant asked the Board to allow a 20% reduction to the land assessment and a 42% reduction to the improvement assessments.

The appeal was denied.

MGB 155-98
Paralee Property Tax Consultants Ltd. on behalf of Bewernick Development Ltd./724002
Alberta Ltd.
and
City of Calgary

The property under appeal consists of Lots 6, 7, 8, 9, and 10. Lots 7, 8 and part of 6 are subject of a lease to a private school. Lot 6 contains an office, a former theatre, an office and warehouse, a truck wash, and a small ancillary building. Lots 7, 8, 9, and 10 are vacant. The issues of the appeal were whether the school received all the exemption it was entitled to, whether Lots 7 and 8 should be exempt, and should the sale of the property affect the assessment?

The appellant argued that when comparing the assessment to the sale price, the assessment was higher. The appellant presented comparables indicating that the selling price was reasonable. The appellant's main complaint was that no exemption was granted to Lots 7 and 8 although they are included in the lease to the school.

The land appeal on Lot 7 was allowed in part, the remaining land assessment appeals were denied. The appeal on the improvement assessments was allowed. The Board concluded that the assessment of the property is too high when compared with its selling price. The Board awarded additional obsolescence to the improvement assessment.

MGB 156-98
David Kowalski
and
City of Edmonton

The property under appeal was a parcel of land bordered by laneways on both the east and west sides. To the north is a bike path and park land dropping to the North Saskatchewan River. The issue of the appeal was whether the assessment is fair, equitable and correct considering comparable sales and assessments.

The appellant referred to two comparable lots. One lot is identical in size, the other lot is larger, both have assessments lower than this property. In July 1988, the City of Edmonton offered to purchase the land. Using that offer and factoring it up to a current price, the appellant concluded that the assessment was too high. The third complaint related to negative factors affecting the property.

The appeal was denied.

MGB 158-98
City of Lethbridge
and
Mr. Eric Baker, Mr. Michael Slavich, Mr. Arthur Batty, Mr. William Williams, Mr. Leonard Herring, Mr. James Avenier, and Mr. Milt Creasey, representative for Larry and Elnora Slywka

The improvements under appeal are part of the Paradise Canyon development which consists of a golf course, and housing developments known as the Upper Bench and Lower Bench. This appeal concerns improvements in the Lower Bench area. Paradise Canyon is serviced by infrastructure installed by the developer, and residents pay a fee to the developer or receiver. The ARB ruled that property owners who do not receive full infrastructure service should not be taxed at the same rates as those who do. The issues of the appeal were whether legislation recognizes that assessment is related to the level of service a property owner receives from a municipality, and if the reduction granted by the ARB meets the test of fairness and equity.

The City appealed the ARB decision on three points. First, the ARB did not have data to establish market value for the properties. Secondly, the ARB reduced the assessments on the basis that the property owners are providing their own infrastructure servicing and should not be assessed the same as other properties. Third, the decision produced assessments that are not fair or equitable in comparison with other properties in Lethbridge.

The appeal was allowed. The use of municipal services provided to a property is inconsistent with the MTA and the Fair Actual Value regulation 398/85. Neither recognizes the level of municipal services as a direct variable in assessment calculation.

MGB 160-98

**Bryce Kipp Nelson Ltd. on behalf of Pinnable Resources Ltd.
and
M.D. of Westlock No. 92**

The roll numbers subject to this appeal represent various gas well sites. Each contain equipment such as meters, scrubbers, fittings, piping chemical injectors, chemical tanks, etc., which are the issue of the appeal, the separators and buildings housing the equipment are not.

The appellant argued that the equipment should have been assessed as linear property and not machinery & equipment. The equipment is included in the standardized wellhead assessment as per the Assessment Commissioner's Bulletin 2/86.

The appeal was denied. The Board referred to MGB 114/98 for an overview of the use and nature of various equipment. They found that the equipment falls to the not including portion of the definition of linear property.

MGB 161-98

**R.J. Heaslip Enterprises Ltd. represented by Property Tax Appeal Services
and
County of Camrose No. 22**

The property, is a provincial park and campground at Miquelon Lake. The County passed a bylaw requiring a fee for filing with the ARB. The complainant filed a complaint, but the fee did not accompany it. The issue was whether the MGB has jurisdiction to hear an assessment appeal that has not been dealt with by an assessment review board.

The appellant argued that a valid complaint was filed, and he was not aware of the fee at the time of filing. After being made aware of it, he was prepared to pay, but the county did not acknowledge the complaint as valid.

The representatives for the County argued that the MGB lacks jurisdiction to deal with the complaint because there was no hearing before the ARB, and a challenge to the filing fee must be argued at the Court of Queen's Bench.

The Board found that it does not have jurisdiction to hear the appeal.

MGB 162-98

**Henry and Diana Satchwell
and
Mountain View County**

The property under appeal consists of a quarter section of land. The assessment includes farm and industrial land. The appellant withdrew the appeal on the farmland assessment.

The industrial land is a leased site used for a gas processing facility. Following are a few of the arguments the appellants used in support of the appeal:

- They do not have the right of access to the land.
- They should not be assessed or taxed for the land.
- The land should be assessed at the same rate used for the farm land.
- They have no financial interest in the facilities.

The appeal was denied.

MGB 163-98
Donald Luft and Janice Luft and Dixie Mackenzie
and
Mountain View County

The property under appeal consists of a quarter section of land. The assessment includes farm and industrial land. The subject of the appeal was the industrial portion.

The industrial land is a leased site used for a gas processing facility. Following are a few of the arguments the appellants used in support of the appeal:

- They do not have the right of access to the land.
- They should not be assessed or taxed for the land.
- The land should be assessed at the same rate used for the farm land.
- They have no financial interest in the facilities.

The appeal was denied.

MGB 164-98
Paralee Property Tax Consultants Ltd. on behalf of Met Test Inc.
and
City of Edmonton

The property under appeal was a manufacturing facility built in 1955 with additions made in 1980. The property had been vacant for three years until it sold in 1994.

The appellant's representative explained that the property is an obsolete warehouse/manufacturing complex. Using the income and direct comparison approaches, the representative illustrated that the assessment was too high. In addition, the cranes in the buildings are machinery and equipment and not taxable.

The appeal against the land assessment was denied. The appeal on the improvement assessment was allowed. The Board concluded that the sale price of the property was the best indicator of its value.

MGB 165-98
Paralee Property Tax Consultants Ltd. on behalf of Voice Construction Ltd.
and
City of Edmonton

The property under appeal was a warehouse built in 1960 with additions made in 1981. The issues of the appeal were whether the assessment fair and equitable and should the assessment be at fair actual value or market value?

The appellant's representative submitted a recommendation from city council for reducing commercial/industrial assessments. The document indicated a 30% loss in value since 1991, but only 5% was applied to this property. Several approaches to value were used to illustrate that the assessment was too high.

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

MGB 166-98
Victor and Elsie Jean Leonhardt
and
County of Wetaskiwin No. 10

The property under appeal is a farm located on the west bank of Pigeon Lake. A double wide mobile home is located on the southwest corner. The issue of the appeal was whether the three acre site was assessed correctly.

The appellant's opinion was that all farm property owners are not treated the same. Small landowners who generate less income pay more residential assessment than larger ones who generate more income. The appellant argued that the assessment on three acres for residential purposes is not correct, the residence and area associated for use is one acre, the rest of it is used for farm purposes.

The appeal was denied.

MGB 167-98
Rickard Realty Advisors Inc. on behalf of 391675 Alberta Ltd.
and
City of Calgary

The property under appeal was an older two storey commercial office building. At the start of the appeal, the respondent objected to the appellant's appraisal report being brought into evidence. The author of the report was not in attendance, and the respondent not be able to verify aspects of the report to determine it's accuracy. They also requested audited income statements from the appellant.

The appellant stated that if the appraiser is required, the cost would seriously affect any savings if the appeal was successful, and added that they have no audited income statements.

The Board decided that they could not make a ruling on these two issues without knowing the merits of the appeal. The hearing continued.

The appellant stated that the City built a 17 foot road widening setback on the site, reducing it's size from 7,000 to 4,620 square feet. The improvement is inefficiently designed and certain areas are difficult or impossible to lease. The appraisal report was submitted which indicated the market value of the property.

The Board allowed the appeal against the land assessment, and denied the appeal on the improvement assessment. They found that the street widening setback affected the value of the land.

MGB 168-98
Derbyshire Consultants Ltd. on behalf of Gentra Western Retail Investments Inc.
and
City of Edmonton

This was an appeal from decisions by the 1993 and 1994 Court of Revision and the 1995 and 1996 Assessment Review Board. The property under appeal was Londonderry Mall. The mall was originally constructed in 1972 with renovations made in 1991/92. Four anchor tenants occupy almost half of the leasable area. The issues of the appeal include:

1. Is the mall's common area excessive in comparison to similar centres?

2. Were the rental values used by the assessor equal to market rent?
3. Is depreciation greater than the 10% allowed?
4. Is the assessment fair and equitable when compared with other malls?

The appellant argued that the assessor did not give full consideration to loss in value due to all causes. The obsolescence allowed by the assessor did not recognize higher than average vacancy, an unusually large common area, and negative market conditions. The appellant used the income approach to calculate a fair indication of actual value.

The appeal was allowed in part. The Board found that the mall has common area greater than comparable centres. The value loss is considered incurable functional obsolescence and was not given fair consideration in the assessments.

MGB 169-98**City of Calgary
and****Tizirsands Property Tax Consultants on behalf of Jan and Daniele Sovak**

In this appeal, the ARB confirmed the land assessment and reduced the improvement assessment. When the ARB decision was appealed to the MGB, the City of Calgary filed a cross appeal. Dr. Martin Bik represented the appellants and requested that the appeal by the Sovaks and the cross appeal by the City be dealt with separately. This Board Order addresses the issue of jurisdiction as it applies to section 508 of the MGA. The issues were:

1. Whether the City has proper status to this cross appeal when it did not comply with section 508 of the Act.
2. Whether the solicitor for the city has authority to appear before the MGB when the city did not comply with section 508 of the Act.
3. If the City did not comply with section 508 of the Act, does the MGB have jurisdiction to hear the merits of the cross appeal?

Dr. Bik argued that the City of Calgary has no status at this hearing and the City's lawyer has no status to speak on its behalf. He took the position that the city assessor was the proper party to appeal, not the City. He referred to section 470(2)(c) of the Act which authorizes an assessor appeal a decision of the ARB. In his view, under section 284(1)(d) the assessor must perform the duties designated to him by the municipality, and according to section 508, the city can only be heard if council authorizes the city to be joined as a complainant or an intervenor. Dr. Bik concluded by saying that the City of Calgary did not have status before the Board and it would not be a violation of natural justice to prevent the City from being represented by legal counsel.

The Board determined that the City of Calgary was a proper party to the cross appeal and is entitled to be represented by its lawyer.

MGB 170-98**City of Calgary
and****The Minister of Municipal Affairs**

This board order concerns the City of Calgary's appeal of their 1997 equalized assessment. Both the appellant and respondent requested that the dates for written submissions and rebuttals, as established in board order 147/98 be extended for one month, and that the

hearing dates be set one month from the dates currently scheduled. The Board granted the requests.

MGB 171-98**VTR Industrial Ltd. on behalf of Pembina Resource Ltd.****and****M.D. of Foothills No. 31**

The properties under appeal were the Diamond Valley Gas plant and a gas/liquid separator unit known as the Lockhart Separator. Both parties agreed that evidence and information provided would be used for both properties. The issues of the appeal were whether the machinery and equipment conforms to the definition of M&E and if so, is it assessable?

The appellant stated that the Diamond Valley Gas Plant was shut down in November 1996. In December 1996, only about 20% of the plant's equipment remained on site. The M&E was not connected and not operational and was only at the plant for temporary storage. The Lockhart Separator is located about three kilometers from the Diamond Valley Gas Plant, and was used to remove liquids from natural gas delivered by pipeline to the Diamond Valley Gas Plant. The unit was taken out of service when the gas plant was shut down. The appellant requested that the equipment not be considered as machinery & equipment and be stricken from the roll.

The Board was satisfied that the machinery & equipment was non-operational and therefore does not conform with the definition of M&E in regulation 365/94. The assessments were reduced.

MGB 172-98**Last Hill Golf and RV Park Ltd.****and****Lacombe County**

The property under appeal was the Last Hill Golf and RV Park. It is a public 18-hole golf course northwest of Eckville and besides the golf course, contains a driving range, a clubhouse, and a metal quonset for storage. The course was built in 1981-82, the clubhouse in 1984. The issues of the appeal were:

1. Does the land assessment fairly represent market value?
2. Does the income approach fairly represent market value?
3. Is the assessment fair and equitable in comparison with other courses?

The appellant stated that new legislation results in an assessment that is too high. They argued that there is not a market value for golf courses as there are so few sales. Depreciated replacement cost is also inequitable because some courses have high building costs because of topography, location, access to water etc. The appellant suggested that the income approach was the most fair and equitable way to establish value and presented information in support of this argument.

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

MGB 178-98**Correcting Board Order**

Corrects Board Order 165/98. The appellant is incorrectly identified as the respondent.

MGB 179-98
Correcting Board Order

Corrects Board Order 155/98. Failed to address the quantum of the exemption.

MGB 180-98
Pamela Barrie
and
Town of Canmore

The property under appeal was a two-storey residential home. The issue of the appeal was whether the property was assessed the same as other properties in the area.

The appellant argued that the assessed value ignores the fact that only part of the home is finished. Comparable properties were presented to illustrate that the assessment was too high.

The appeal was allowed.

MGB 182-98
Newell Group on behalf of Brookfield Homes Ltd.
and
City of Lethbridge

The property under appeal is known as the College Value Mall. It was constructed in 1967 with additions in 1979, 1988, and 1992. The issue was whether the assessment was fair, correct and equitable.

The appellant stated that the current assessment is in excess of its fair market value and is in error. The mall has performed poorly for years and the net operating income is the best indicator of that. The respondent agreed that there has been some serious vacancy problems and recommended a reduced assessment calculated using the income approach.

The appeal was allowed.

MGB 183-98
City of Calgary
and
Providence Child Development Society

The property under appeal is licensed under the School Act. The Society offers child care and pre-school services. About 40% of the users are special needs children. The City of Calgary appealed the ARB decision which granted an exemption to the property. The issues of the appeal were whether the property falls within the provisions of section 362(n) of the MGA or regulation 125/95, and whether the fees charged makes the facility unavailable to the general public.

The appellant argued that the property should not be exempt because it is not used for a charitable or benevolent purpose for the benefit of the general public. They acknowledged that the facility provides services for special needs children, but the majority are ordinarily developing children. The city presented comparable properties that are taxable and argued that these facilities compete with the respondent.

The respondent stated that the Society is a non-profit organization, has no shareholders and the Board of Directors operates on a voluntary basis. The facility serves 91 special needs children and 141 normally developing children, but the focus of the programs is to benefit special

needs children. Most of the funding comes from the United Way, Alberta Education and Family Services. The balance is through monthly fees paid by individual users. These fees do not restrict a child from using the services because where necessary, partial or full funding is available through provincial government programs.

The appeal was denied. The Board found that the property is entitled to full exemption.

MGB 184-98
City of Airdrie
and
The Minister of Municipal Affairs

This board order concerns the City of Airdrie's 1997 equalized assessment appeal. Both the appellant and respondent requested that the dates for written submissions and rebuttals, as established in board order 146/98 be extended for one month, and that the hearing dates be set one month from the dates currently scheduled. The Board granted the requests.

MGB 185-98
Versacold Canada Corporation, represented by Property Tax Appeal Services
and
City of Calgary

The property under appeal was an industrial warehouse used for storing and shipping refrigerated and frozen products. The issue of the appeal was whether the assessment was correct considering age life of special building components and market data comparisons.

The appellant stated that the building was constructed in 1991 and classified as a warehouse with an 80 year age life. The building has separate areas for cold storage and refrigeration. The special equipment and features used for cooling and freezing are not typical warehouse construction and do not have an 80 year age life. Depreciation should be calculated for the cost of the refrigeration components based on a twenty year life, the same way that walk-in coolers are depreciated in grocery stores. Eight sales comparables were presented.

The improvement assessment was reduced.

MGB 186-98
Versatile Canada Corporation, represented by Property Tax Appeal Services
and
City of Calgary

This was an appeal by both the property owner and the City of Calgary. The property under appeal was an industrial warehouse used for storing and shipping refrigerated and frozen products. The issue of the appeal was whether the assessment was correct considering age life of special building components and market data comparisons.

The appellant stated that the building is classified as a warehouse with an 80 year age life. The building has separate areas for cold storage and refrigeration. The special equipment and features used for cooling and freezing are not typical warehouse construction and do not have an 80 year age life. Depreciation should be calculated for the cost of the refrigeration components based on a twenty year life, the same way that walk-in coolers are depreciated in grocery stores.

The improvement assessment was reduced.

**MGB 204-98
Campside Operations (North) Ltd.
and
County of Barrhead No. 11**

Thunder Lake provincial Park is located about 12 miles west of Barrhead. The issues of the appeal were:

1. Is the portion of Thunder Lake Provincial Park defined in the Service Agreement assessable under the MGA?
2. If assessable, is Campside Operations (North) Ltd. the assessed owner, and is the assessment fair, equitable and correct?

The appellant stated that they are a contractor and do not set policy or determine control over any aspect of the operation of the facilities. All areas remain under the ownership and control of the province. The service agreement indicates that only the province has the right to make changes to facilities, programs, standards, fees, etc. The appellant concluded by saying that the service agreement is not a lease and section 304(1) of the MGA does not apply.

The Board found that the operator is not the holder of a lease, license, or permit and that under section 304(1)(c) of the MGA, is not subject to property assessment. Thunder Lake Provincial Park is held by the Crown and under section 298(1)(k) of the MGA, is not assessable.

Brad Pickering, Executive Director
Assessment Services Branch



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