

Advisory Aspects

SPECIAL ISSUE

There are two topics included in this special issue of Advisory Aspects. They concern three new regulations and a revised copy of the Minister's Guidelines. The next Advisory Aspects is scheduled to be sent out in April, but we felt that these two issues were too important to wait until then.

NEW REGULATIONS

******The following regulations have been signed and become effective in 1999. (except the Assessor Qualification Regulation-effective January, 2000) If you have any questions or concerns regarding the regulations, please contact our office at 422-1377.***

54/99 QUALIFICATIONS OF ASSESSOR REGULATION

The regulation outlines the qualifications for an assessor as defined in section 284(1)(d) of the Municipal Government Act. It also includes accredited members of the Appraisal Institute of Canada and the International Association of Assessing Officers. ******Please note the transitional period and the effective date at the end of the regulation.***

55/99 ASSESSMENT COMPLAINTS AND APPEALS REGULATION

The regulation outlines the procedure and provisions to be followed in the complaint and appeal process. It was felt that the administration of the process could be more efficient. Another concern was the lack of a timely full disclosure of evidence and information pertaining to a complaint or appeal. This regulation has addressed those issues and provided a more effective process for the complaints and appeals process.

56/99 ONE-MEMBER ASSESSMENT REVIEW BOARD AND MUNICIPAL GOVERNMENT BOARD REGULATION

This regulation outlines the conditions when establishing a panel of one for the Assessment Review Board or the Municipal Government Board. The provision may be for one or more matters such as the following: procedural, dismissal of a complaint, filing of an issue statement, an assessment below a specified value, a farmland assessment or any other matter where consent of all parties is given.

MINISTER'S GUIDELINES

Last year, Alberta Municipal Affairs developed the Minister's Guidelines to assist assessors in preparing assessments for regulated properties. The guidelines describe the calculation process to determine assessments for farmland, linear property and machinery and equipment.

The department is introducing updated rates for machinery and equipment. The 1994 base costs are included in the 1998 Alberta Machinery & Equipment Assessment Manual. The 1998 Alberta Machinery & Equipment Assessment Manual (October 1998) that was sent out with Issue No. 2 of Advisory Aspects (Dec. 21/98), had a number of typing errors. The 1998 Alberta Machinery & Equipment Assessment Manual (January 1999) has been corrected and passed under Ministerial Order No. L:018/99.

The manuals containing the 1994 rates for linear property and machinery and equipment property are available through the Queen's Printer. In 1999, all municipalities will be required to prepare assessments for 2000 taxation using the 1998 Alberta Machinery & Equipment Assessment Manual (printed January 1999).

A copy of the 1998 Alberta Machinery & Equipment Assessment Manual (printed January 1999) is attached.

ALBERTA REGULATION 54/99
Municipal Government Act

QUALIFICATIONS OF ASSESSOR REGULATION

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Definitions	1	In this Regulation, "Act" means the Municipal Government Act.		
Qualifications of assessors	2	No person is eligible to be an assessor within the meaning of section 284(1)(d) of the Act unless the person		
		(a) is registered as an accredited municipal assessor of Alberta (AMAA) under the Municipal Assessor Regulation (AR 84/94),		
		(b) holds the designation Certified Assessment Evaluator (CAE) issued by the International Association of Assessing Officers,		
		(c) holds the designation Accredited Appraiser Canadian Institute (AACI) issued by the Appraisal Institute of Canada, or		
		(d) has qualifications or experience or a combination of qualifications and experience that, in the opinion of the Minister, is equivalent to one or more of the qualifications referred to in clauses (a) to (c).		
Report by municipality	3	Each municipality shall, not later than April 1 each year, provide to the Minister a list showing the names of all persons carrying out the duties and responsibilities of an assessor under the Act on behalf of the municipality, together with the qualifications held by each such person.		
Transitional	4	Where, on the coming into force of this Regulation, a person is carrying out the duties and responsibilities of an assessor under the Act and does not meet the requirements of section 2, that section does not apply in respect of that person until January 1, 2001.		
Expiry	5	For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be re-passed in its present or an amended form following a review, this Regulation expires on January 31, 2006.		
Coming into	6	This Regulation comes into force on January 1, 2000.		

force

**ALBERTA REGULATION 55/99
Municipal Government Act**

ASSESSMENT COMPLAINTS AND APPEALS REGULATION

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Definitions	1 (1) In this Regulation,	
	(a) "Act" means the Municipal Government Act;	
	(b) "appeal" means an appeal under section 488(1)(c) of the Act;	
	(c) "complaint" means a complaint made under Part 11 of the Act;	
	(d) "issue statement" means the document referred to in section 4(2);	

(e) "statement of issues heard" means the list referred to in section 7(2)(g).

(2) A word that is defined in Parts 9 to 12 of the Act and is used in this Regulation has the same meaning.

**PART 1
PROCEDURE AND EVIDENCE**

Application 2 (1) Subject to subsections (3) and (4) and section 3, this Part does not apply to

(a) a complaint, supplementary complaint or appeal concerning any taxation year except the 1999 taxation year or a subsequent taxation year,

(b) a complaint or appeal concerning

(i) a farm land assessment class of property,

(ii) a single family residential property in the residential assessment class of property, if the complaint or appeal

(A) relates to not more than 4 tax roll numbers of single family residential properties filed collectively by one assessed person or one agent of an assessed person, and

(B) will be heard as one hearing by an assessment review board or the Municipal Government Board, as the case may be,

(iii) a local improvement tax,

(iv) a special tax,

(v) a well drilling equipment tax, or

(vi) an issue that is solely procedural in nature including, without limitation, an issue concerning jurisdiction or abridgement or enlargement of time,

and

(c) a complaint where the only issue is the assessment value

(i) in respect of a total property assessment of \$250 000 or less, or

(ii) in respect of a total business assessment of \$50 000 or less.

(2) Subject to subsection (4), this Part does not apply to a complaint, supplementary complaint or appeal that is filed before this

Regulation comes into effect.

- (3)** Notwithstanding subsection (1), the requirements of section 4(2) apply to a complaint concerning any non-residential property that has an assessment value of \$250 000 or less, and the complainant must file the issue statement with the clerk of the assessment review board and the assessor of the municipality at least 7 days before the hearing of the complaint.
- (4)** Notwithstanding subsections (1) and (2), a complainant and respondent must, within a reasonable time before the hearing date of the complaint, disclose to each other and the assessment review board the nature of the evidence that the person intends to present, in sufficient detail to allow the other person to respond to the evidence at the hearing.

Application to
1999 taxation
year

- 3** This Part applies to a complaint, supplementary complaint or appeal concerning the 1999 taxation year only where the municipality
 - (a) passes a bylaw providing that this Part applies to those complaints and appeals in place of Part 2 of this Regulation, and
 - (b) gives notice of that bylaw to the Minister, the assessment review board and the Municipal Government Board.

Documents to
be filed by
complainant

- 4 (1)** If a complaint is to be heard by an assessment review board, the complainant must
 - (a) file the complaint in accordance with the Act,
 - (b) pay the appropriate complaint fee at the time the complaint is filed, if a fee is required by the council, and
 - (c) file an issue statement with the clerk of the assessment review board and the assessor of the municipality at least 21 days before the hearing date of the complaint.
- (2)** An issue statement must be in the form set by the municipality and must
 - (a) be in writing,
 - (b) set out in detail the grounds of complaint, the particular facts supporting each ground of complaint and the change to the assessment roll or tax roll that is requested by the complainant,
 - (c) include a statement that the complainant and the respondent have discussed the complaint, specifying the date and outcome of that discussion, including the details of any facts

or issues agreed to by the parties,

- (d) include a statement, if the complainant and the respondent have not discussed the complaint, specifying why no discussion was held, and
- (e) estimate the amount of time the complainant needs to present evidence in support of the complaint to the assessment review board.

- (3) If the clerk of the assessment review board sends a notice of hearing to a complainant on a date that is less than 45 days before the hearing date, the complainant is not required to comply with subsection (1)(c).
- (4) Subject to subsection (3), if a complainant does not comply with subsection (1), the complaint is invalid and the assessment review board must not hear the matter and the clerk of the assessment review board must so notify the complainant.
- (5) If a complainant who files an issue statement does not comply with subsection (2), the clerk of the assessment review board may refuse to file the issue statement.
- (6) A complainant may appeal a refusal under subsection (5) to an assessment review board.

Disclosure of
evidence

- 5 (1) The complainant must at least 21 days before the hearing date of the complaint disclose to the respondent and the assessment review board the documentary evidence, a summary of the testimonial evidence and any written argument that the complainant intends to present at the hearing.
- (2) The respondent must at least 7 days before the hearing date of the complaint disclose to the complainant and the assessment review board the documentary evidence, a summary of the testimonial evidence and any written argument that the respondent intends to present at the hearing.
- (3) The complainant must at least 3 days before the hearing date of the complaint disclose to the respondent and the assessment review board the documentary evidence, a summary of the testimonial evidence and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under subsection (2).
- (4) If the clerk of the assessment review board sends a notice of hearing to a complainant on a date that is less than 45 days before the hearing date, the complainant and the respondent are not required to comply with subsections (1) to (3) but must instead, within a reasonable time before the hearing date, disclose to each other and the assessment review board the nature of the evidence that the person intends to present, in

- sufficient detail to allow the other person to respond to the evidence at the hearing.
- Failure to disclose **6** The assessment review board must not hear any evidence that has not been disclosed in accordance with section 5.
- Record **7 (1)** An assessment review board must make and keep a record of each hearing in accordance with subsection (2).
- (2)** A record of a hearing must include
- (a)** the complaint,
- (b)** the issue statement,
- (c)** all documentary evidence filed in the matter,
- (d)** a list of witnesses who gave evidence at the hearing,
- (e)** a summary of all testimonial evidence given at the hearing,
- (f)** all written arguments presented at the hearing,
- (g)** a written list that is prepared at the end of the hearing and identifies those issues from the issue statement about which evidence was given or argument was made at the hearing, and
- (h)** any written reasons for the decision of the assessment review board.
- (3)** The assessment review board must provide to the Municipal Government Board the record of a specified hearing within 14 days of being notified by the Municipal Government Board that an appeal has been filed in the matter.
- (4)** If evidence given at a hearing is recorded by means of a sound-recording machine, a party may request a copy of the sound-recording or the transcript of the sound-recording, if the party pays for the cost of preparing the copy or transcript.
- Personal attendance not required **8 (1)** Parties to a hearing before an assessment review board may attend the hearing in person or may, instead of attending in person, file a written presentation with the clerk of the assessment review board.
- (2)** A party who files a written presentation under subsection (1) must provide a copy of it before the hearing to the other parties.
- New issues on appeal **9 (1)** Unless all parties to an appeal consent, the Municipal Government Board must not on appeal hear and decide an issue that is not disclosed in that matter's statement of issues heard.
- (2)** Notwithstanding subsection (1), the Municipal Government Board may on its own initiative hear and decide an issue that is not disclosed in that matter's statement of issues heard if, in the opinion of the Municipal Government Board, it is necessary for

determining a question of law or a question of jurisdiction.

- (3) The Municipal Government Board must allow a reasonable amount of time for the parties to prepare to address any new issues heard on appeal under this section.
- New evidence on appeal 10 (1) Unless all parties to an appeal consent, the Municipal Government Board must not on appeal hear any evidence that was not heard by the assessment review board.
- (2) Notwithstanding subsection (1), the Municipal Government Board
- (a) must on appeal hear evidence that was not heard by the assessment review board if
- (i) the evidence is disclosed by the party raising it to the other party and the Municipal Government Board at least 30 days before the appeal is heard,
- (ii) any related evidence is disclosed by the other party to the first party and the Municipal Government Board at least 14 days before the appeal is heard, and
- (iii) any evidence in rebuttal to the disclosure made under subclause (ii) is disclosed by the first party to the other party and the Municipal Government Board at least 7 days before the appeal is heard,
- and
- (b) may on appeal hear any evidence necessary to decide an issue before it.

- Abridgement or expansion of time 11 (1) An assessment review board may at any time, by written order, abridge or expand the time specified in sections 4(1)(c) and 5(1), (2) and (3) for the doing of any thing provided by those sections in respect of a complaint.
- (2) The Municipal Government Board may, by written order, abridge or expand the time specified in section 10(2) for the doing of any thing provided by that section in respect of an appeal.

PART 2 EVIDENTIARY MATTERS

- Application 12 This Part applies where
- (a) the complaint, supplementary complaint or appeal to which the proceedings relate
- (i) concerns the 1999 taxation year, and
- (ii) is made after the coming into force of this

Regulation,

and

- (b) the municipality has not passed a bylaw making Part 1 apply to those complaints and appeals.

Disclosure of evidence **13** Where a complaint is made to an assessment review board under Part 11 of the Act, a person who receives notice under section 462(1)(b) of the Act of the date, time and location of the hearing and intends to present evidence at the hearing must, within a reasonable time before the hearing is held, disclose to all other persons who have received such a notice the nature of the evidence the person intends to present, in sufficient detail to allow the other persons to respond to the evidence at the hearing.

New evidence **14** If at the hearing of an appeal from an assessment review board under section 488(1)(c) of the Act, the Municipal Government Board is presented with new evidence that was not before the assessment review board, the Municipal Government Board

- (a) must not consider the new evidence, and
- (b) may refer the matter back to the assessment review board for further consideration, subject to any terms and conditions the Municipal Government Board considers necessary.

**PART 3
HEARING BY CONSENT BY
MUNICIPAL GOVERNMENT BOARD**

MGB hearing by consent **15** In any matter to which Part 1 or Part 2 applies, the Municipal Government Board may, instead of an assessment review board, hear and decide at first instance any complaint or supplementary complaint where

- (a) the parties consent to a hearing by the Municipal Government Board, and
- (b) the assessment review board, on application by the parties,
 - (i) is satisfied that the complaint or supplementary complaint should be heard by the Municipal Government Board due to time considerations, the complexity of the issues or other compelling reasons, and
 - (ii) directs that the complaint or supplementary complaint be heard by the Municipal Government Board.

**PART 4
EXPIRY AND COMING INTO FORCE**

Expiry **16** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on February 29, 2004.

Coming into **17** This Regulation comes into force on March 5, 1999.
force

**ALBERTA REGULATION 56/99
Municipal Government Act**

**ONE-MEMBER ASSESSMENT REVIEW BOARD
AND MUNICIPAL GOVERNMENT BOARD
PANEL REGULATION**

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- Definitions **1 (1)** In this Regulation,
- (a) "Act" means the Municipal Government Act;
- (b) "complaint" means a complaint made under Part 11 of the Act.
- (2)** A word that is defined in Part 9 or 12 of the Act and is used in this Regulation has the same meaning.
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- One-member ARB **2** For the purposes of section 454(2.1) of the Act, a council may appoint an assessment review board consisting of only one member to hear and decide one or more of the following matters:
- (a) a procedural matter including, without limitation, the scheduling of a hearing, the granting or refusal of an adjournment and an issue involving disclosure of evidence;
- (b) a decision under section 467(1)(a) of the Act;
- (c) a decision concerning the filing of an issue statement, where the clerk of the assessment review board has refused filing under Part 1 of the Assessment Complaints and Appeals Regulation (AR 55/99);
- (d) a hearing related to a class or subclass of a property that has an assessed value of \$250 000 or less;
- (e) a hearing related to a business tax where the business assessment is \$ 50 000 or less;
- (f) a hearing related to a farm land property assessment;
- (g) any matter where all parties have consented to a hearing before a one- member assessment review board.

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| Personal attendance not required | 3 | (1) Parties to a hearing before a one-member assessment review board may attend the hearing in person or may, instead of attending in person, file a written presentation with the clerk of the assessment review board.

(2) A party who files a written presentation under subsection (1) must provide a copy of it before the hearing to the other parties. |
| One-member MGB panel | 4 | For the purposes of section 527.1 of the Act, one member of the Municipal Government Board may sit as a panel of the Board to hear and decide one or more of the following matters:

(a) a procedural matter including, without limitation, the scheduling of a hearing or an appeal, an application to abridge or expand time, the granting or refusal of an adjournment, the awarding of costs and an issue involving disclosure of evidence;

(b) a decision under section 499(1)(a) of the Act;

(c) an assessment complaint or appeal related to a property that has an assessed value of \$250 000 or less;

(d) an appeal related to a farm land property assessment;

(e) an appeal related to a business tax where the business assessment is \$ 50 000 or less;

(f) any matter where all parties have consented to a hearing or appeal before a one-member panel. |
| Expiry | 5 | For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on February 29, 2004. |
| Coming into force | 6 | This Regulation comes into force on March 5, 1999. |