

IN THE MATTER OF A COMPLAINT filed with the Town of Okotoks Assessment Review Board (CARB) pursuant to the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the *Act*)

BETWEEN:

E. J. W. Adkins and J. D. Adkins – Complainant

- and -

Town of Okotoks – Respondent

BEFORE:

H. Kim, Presiding Officer
D. Mullen, Panel Member
D. Onerheim, Panel Member

This is a complaint to the Town of Okotoks Composite Assessment Review Board (the Board) in respect of a property assessment prepared by the Assessor of the Town of Okotoks as follows:

Roll Number	Address	Assessment
1726056	354064 48 Street East	\$1,257,000

This complaint was heard on the 14th day of July 2020 at the Town of Okotoks Council Chamber at 5 Elizabeth Street, Okotoks, Alberta.

Appearing on behalf of the Complainant:

- Brenda MacFarland Property Tax Consulting
 - N. Laird, Agent
 - E. J. W. Adkins, land owner

Appearing on behalf of the Respondent:

- Town of Okotoks
 - D. Genereux, Assessor

Attending for the Assessment Review Board:

- P. Huber, Clerk

COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/10/2020

Procedural Matters

- [1] The subject property and the adjacent property to the north are owned by the same land owner and were scheduled for two separate hearings. The Complainant requested they be heard together, and provided disclosure and rebuttal for both properties in consolidated documents. The Respondent had provided separate disclosure documents, but agreed to have the two complaints proceed as one hearing. With the agreement of the parties, the Board proceeded with one hearing but determined that a decision would be issued separately for each complaint.
- [2] The two properties were the subject of complaints in 2019. They were heard on September 12, 2019 and the decisions for both complaints were to confirm the assessment. At the outset of the hearing, the Complainant noted that the composition of the panel in the subject hearing was identical to that in the 2019 hearing, and this gave him pause. It was noted by the Assessment Review Board clerk that it was only by chance that the same members had been assigned, and, upon questioning, the Complainant stated that he was not objecting to the composition of the panel. The hearing proceeded without further submission on this matter.

Property Description and Background

- [3] The subject property is an irregularly shaped 53.99 acre parcel on the east boundary of the Town, which was annexed into the Town from the Municipal District of Foothills, now renamed Foothills County (County) on July 1, 2017 by Order in Council OC199/2017 (OC) which stated:
 - 5(1) For the purpose of taxation in 2018 and subsequent years, the assessor for the Town of Okotoks must assess the annexed land and the assessable improvements to it.
 - (2) For the purpose of taxation in 2018 and in each subsequent year up to and including 2046, the annexed land and assessable improvements to it, other than linear property,
 - (a) must be assessed by the Town of Okotoks on the same basis as if they had remained in the Municipal District of Foothills, No. 31, and
 - (b) must be taxed by the Town of Okotoks in respect of each assessment class that applies to the annexed land and the assessable improvements to it using
 - (i) the tax rate established by the Municipal District of Foothills, No. 31, or
 - (ii) the tax rate established by the Town of Okotoks,whichever is lower, for property of the same assessment class.

COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/10/2020

The OC had provision for circumstances under which Section 5(2) would cease to apply prior to 2046, none of which apply for the subject property.

- [4] The parcel is unserviced and districted Agriculture (A) under the Town's Land Use Bylaw. It consists of farm land fronting onto 48th St E with a gravelled RV storage lot accessed from the parcel to the north, which is also owned by the Complainant. The balance of the lot to the east of the RV storage is also farm land. The assessment under complaint is based on the RV storage land assessed at market value and the farm land assessed at the regulated rate prescribed by the *Alberta Farm Land Assessment Minister's Guidelines* as follows:

Vacant farm land (acres)	43.99	7,330
Non-residential land with 342 RV stalls	10.00	<u>1,250,000</u>
Assessment	53.99	1,257,330

Issues

- [5] The Complaint form identified a number of reasons for complaint, but at the hearing and in disclosure, the only issue argued was that the non-residential land rate is unfair and inequitable.

Requested Assessment

- [6] The only portion of the assessment under dispute is the land rate for the RV storage portion of the parcel. The requested assessment is based on \$50,000 per acre as follows:

Vacant farm land	43.99	7,330
RV Storage land	10.00	<u>500,000</u>
Requested Assessment		507,330

Complainant's Position

- [7] The Complainant submitted assessment notices from the County and the Town from 2015 to 2020, and noted that in 2017, the final year in which the subject property was assessed by the County, the total assessment was \$9,740 compared to the current assessment of \$1,257,330. OC 199/2017 states that the annexed property must be assessed by the Town on the same basis as if they had remained in the County. There have been no physical or legal changes since annexation; therefore, this requirement still applies. Based on the significant increase to the properties' assessments since annexation, it would be expected that there would have been corresponding increases to the assessments of similar properties in the County, but such an increase has not occurred.

COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/10/2020

- [8] The Complainant provided assessments for five (5) RV storage parcels in the County, numbered F1 to F5, and one in the Town, O1. The Complainant was unable to obtain the assessed land areas, and used the measuring tool on Google Maps to estimate the RV lot sizes, and compared them to the non-residential portion of the assessment to arrive at the assessment per acre, which ranged from \$21,772 to \$52,925. The \$125,000 per acre rate applied to the subject parcel is inequitable with other RV storage property in the County.
- [9] The best comparable is F1, Alberta South Storage, located 3 miles east of the subject on the west side of Highway 2. It has a total parcel area of 8.81 acres, and its land assessment consists of \$350 Farmland, \$113,990 Residential, and \$308,190 Commercial – Other. The Google Maps measurement tool indicated the area used for RV storage was 5.99 acres; therefore, the assessment per acre is \$51,441. Its total 2020 assessment, including improvements, was \$918,570. This property sold in October 2018 for \$2,350,000; however, this included farm land and the value of the business. The Complainant disputed the Respondent's position that this comparable should be dismissed due to the "strong urban influence" of the subject. There is no evidence that being closer to the Town would significantly increase the non-residential land value of the subject. The only non-residential, nonfarming use permitted on the subject is 5 acres of RV storage, which does not benefit from increased traffic and visibility.
- [10] The comparable property in the Town, O1, is also within the annexed area, and the Google Maps measurement of its RV lot 6.14 acres. Its non-residential land assessment is \$313,800 which is \$51,071 per acre. The Complainant argued that this is also inequitable, and further supports the requested \$50,000 per acre rate for the RV storage portion of the subject parcel.
- [11] The \$125,000 per acre rate for the RV storage land was carried forward from the decision in the 2019 complaint; however, different arguments and evidence were presented in that hearing. In the subject hearing, the change in value is based on establishing equity with other RV storage properties in the County and the Town.

Respondent's Position

- [12] The assessment was based on the regulated rate for farm land and \$125,000 per acre for the RV storage. The evidence for the RV storage portion of the parcel was carried forward from the evidence for the 2019 complaint, and was set at \$125,000 based on the decision in CARB 0238/03/2019 to confirm the assessment.
- [13] The Respondent agreed that the Complainant's best comparisons were F1 and O1, but F1 is three miles away and does not have any of the strong urban influence of bordering the Town, as the subject did prior to annexation. O1 is a 108.94 acre parcel of mostly farm land, and the assessment data obtained from the County

COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/10/2020

indicated 2.51 acres of RV storage, which was also assessed at \$125,000 per acre. The Respondent did not re-measure that parcel. The Respondent argued that it is only one comparison and should not be the basis on which to change the rate applied.

Decision

- [14] The rate applied to the RV storage is inequitable with similar property in the County and should be set at \$64,000 per acre.

Reasons

- [15] The Board notes that the 2017 assessment notice from the County showed the entire parcel as farm land. If the expanded RV storage facility on the subject parcel had been complete in 2016, this is clearly incorrect and a significant increase from the last year of assessment in the County is reasonable.
- [16] With respect to the value of the RV storage land, the Board considered the impact of “urban influence” and determined that any RV storage business would require such influence, as RV owners on rural or acreage sites would have no need to store their RVs off site. Accordingly, for the purposes of determining the value of the RV storage land, the Board considered F1 to be very comparable to the subject. The subject is close to the Town, but F1 is located at Highway 2, and the Board was of the opinion that the characteristics would be offsetting.
- [17] The commercial land component of F1 was assessed at \$308,190. The Complainant could not ascertain the assessed area of RV storage land and based his requested land rate using Google Maps. The Board does not consider this to be reliable, and determined that it would be more reasonable to infer the land area from the statutory requirements: The farm land is assessed at \$350 which is the regulated rate for one acre, and the *Matters Relating to Assessment and Taxation Regulation* requires three acres to be assessed as residential. This totals four acres, which, deducted from the parcel size of 8.81 acres leaves 4.81 acres of RV storage land, assessed at \$308,190 or \$64,072 per acre. The Board considered this to be the best evidence of RV storage rates used by the County for comparable property, and that the rounded value of \$64,000 per acre would be appropriate for the value of the subject RV storage land. The Board notes that the Respondent could have obtained the actual land rates from the County pursuant to the OC.
- [18] With respect to equity with the land rate for the comparable RV storage property within the Town, the Board was of the opinion that if the RV storage area is in fact twice as large as the assessed area, it was likely an error. It is not reasonable to set the rate based on a single example, since the *Act* allows for the assessor to issue amended assessments within the tax year to correct errors.

COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/10/2020

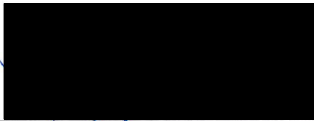
CARB's Decision

For the reasons detailed above, the assessment is reduced to \$647,330 as follows:

Vacant farm land (acres)	43.99	7,330
Non-residential land with 342 RV stalls	10.00	640,000
Total Assessment	53.99	647,330

It is so ordered.

Dated at the Town of Okotoks in the Province of Alberta this 11th day of August 2020.



H. Kim
Presiding Officer

for

COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/10/2020

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure for subject and Roll #1726051
2. R1	Respondent Disclosure
3. C2	Complainant Rebuttal for subject and Roll #1726051

An application for Judicial Review may be made to the Court of Queen's Bench with respect to a decision of an assessment review board.

An application for Judicial Review must be filed with the Court of Queen's Bench and served not more than 60 days after the date of the decision, and notice of the application must be given to

- (a) the assessment review board*
- (b) the Complainant, other than an applicant for the judicial review*
- (c) an assessed person who is directly affected by the decision, other than the Complainant,*
- (d) the municipality, and*
- (e) the Minister.*