
RECORD OF DECISION

CITY OF PRINCE ALBERT – BOARD OF REVISION

Appeal No.: 2022-14
Roll No.: 020022910
Hearing Date: May 11, 2022, at 11:00 a.m.
Location: 2nd Floor, Main Boardroom, City Hall
1084 Central Avenue, Prince Albert, SK

Appellant Louis Joseph Boyer
Marilyn G. Boyer

Respondent City of Prince Albert

Board of Revision Jackie Packet, Chair
Ralph Boychuk, Member
Dan Christakos, Member

Stacey Slater, Acting Secretary

Representation

Appellant Marilyn Boyer
Louis Boyer

Respondent Vanessa Vaughan (City Assessor)
Darcy Lees (Observer, Assessment Department)

Property Appealed

Civic Address 3600 Highway 55 East
Prince Albert, Saskatchewan

Legal Description SE Section 19, Township 49, Range 25, West 2 Extension 6

Assessed Value \$567,600

Tax Class Commercial Tier 1 - Improved (85% of value)

Taxable Assessment \$482,400

Role of the Board of Revision

[1] The Board of Revision (Board) is an appeal board that rules on the assessment valuations for both land and buildings that are under appeal. The basic principle to be applied by the Board in all cases is set out in *The Cities Act*, which states the dominant and controlling factor in the assessment of property is equity. The Board's priority is to ensure that all parties to an appeal receive a fair hearing and that the rules of natural justice come into play.

[2] The Board may also hear appeals pertaining to the tax classification of property or the tax status of property (exempt or taxable). This does not mean the Board can hear issues relating to the taxes owed on property.

[3] Upon hearing an appeal the Board is empowered to:

- (a) confirm the assessment; or,
- (b) change the assessment and direct a revision of the assessment roll by:
 - a. increasing or decreasing the assessment;
 - b. changing the liability to taxation or the classification of the subject; or,
 - c. changing both the assessment and the liability to taxation and the classification of the subject.

Legislation

[4] Property assessments in Saskatchewan are governed by *The Cities Act*, *The Cities Act Regulations* and/or by board order of the Saskatchewan Assessment Management Agency (SAMA).

[5] The dominant and controlling factor in assessment is equity. (*The Cities Act*, 165(3))

[6] Equity is achieved by applying the market valuation standard. (*The Cities Act*, 165(5))

[7] The market valuation standard is achieved when the assessed value of property:

- (a) is prepared using mass appraisal;
 - (b) is an estimate of the market value of the estate in fee simple in the property;
 - (c) reflects typical market conditions for similar properties; and,
 - (d) meets quality assurance standards established by order of the agency.
- (*The Cities Act*, 163(f.1))

[8] Mass appraisal means preparing assessments for a group of properties as of the base date using standard appraisal methods, employing common data and allowing for statistical testing. (*The Cities Act*, 163(f.3))

Preliminary Matters

[9] With respect to the Board's internal process, this hearing will be recorded for use of the Board only in rendering its decision.

[10] Since the Appellant did not submit their 20-day submission or a rebuttal document, verbal submissions will be heard and considered.

Exhibits

[11] The following material was filed with the Secretary of the Board of Revision:

- a) Exhibit A-1 – Notice of Appeal received February 11, 2022
- b) Exhibit B-1 – Acknowledgement Letter dated February 17, 2022
- c) Exhibit B-2 – Notice of Hearing Letter dated March 30, 2022
- d) Exhibit R-1 – Respondent's 10 day written submission received April 29, 2022

Appeal

[12] Pursuant to *The Cities Act*, section 197(1), an appeal has been filed against the property valuation of the subject property. This property is 41.34 acres with a one-story family dwelling of 1,345 square feet, greenhouses totally 8,078 square feet and storage buildings totally 1,118 square feet.

[13] The Appellant's ground states:

Unfairly classed and amount of tax increase. Classification change from Agriculture to Commercial.

Appellant

[14] In the Appellant's written submission and testimony to the Board, the Appellant states:

- Their property had an agreement with the City to be classified as agricultural – a Fixed Farm Agreement. The first agreement happened when their homestead and land was classified as being in City limits rather than the RM of Buckland.
- Their greenhouse operation is a hand-plant, nurture business with a percentage of their sales being custom orders and the remaining being walk-up customers. The custom orders are delivered off the property.

- Comparing them to a Walmart or Rona greenhouse commercial operations is not fair as all these “box-store” plants are brought in from offsite locations.
- Canada Revenue Agency taxes them as agricultural and they fill in Government of Canada statistical information concerning the square footage of plant types (particularly vegetables) planted and sold.
- A portion of the subject property is alfalfa and hayed by a neighbour.
- A stand of trees was forested, sold, and replanted to be forested again.

[15] Questions posed to the appellants and the subsequent answers:

- The board queried if the appellants had a City license to operate the greenhouse and if the greenhouses could be taken down at the end of the season? The appellants have a business license to operate and as the green houses are not cemented in, they could be taken down each year. The work involved in this process would be difficult considering the age and the health of the owners.
- When asked what percentage of their sales are custom orders the answer was a large part of the business with Mr Boyer and his son-in-law delivering off site.

Assessor

[16] In the Assessor’s written submission and testimony to the Board, the Assessor states:

- An assessment of the property was completed in October of 2020; this property has two components of valuation, a residential variable, and a greenhouse variable.
- The sales comparison approach was used to determine the assessment value of the residence. This being a revaluation year, 1627 sales from 2015-2018 were used to determine an overall decrease of 10.23% sale adjustment factor. The Coefficient of Determination of the model is 92.7% indicating that the model explains 92.7% of the sales population. Land to residence ratio was taken into consideration when calculating the assessment. The City relied on five acreage sales to develop the land-to-residence model.
- The assessment of the country residence is not in dispute.

- A modified Cost Approach to Value was used to determine the assessment value of the greenhouses. Through commercial land analysis, the City determined the base land rate of \$6.51 from three vacant land sales and a standard parcel size of 47,045 square feet. By expanding the sales dates from Jan. 1, 2014, to Dec. 31, 2018, the City could use 59 improved property sales to determine comparable MAF groupings. A MAF of 0.38 (North Industrial Warehouse) was applied to these greenhouses which are north of the river. Of note, a MAF of 1.10 is applied to greenhouses south of the river. Various physical characteristics, including depreciation, were taken into consideration prior to a final costing assessment. A ‘Low-Cost’ quality was determined for these buildings which resulted in a lower rate per square foot applied; the City greenhouses had an ‘Average’ quality determined, translating into a higher rate per square foot.
- This property does not meet the requirement of an agricultural assessment as the land is not used exclusively for farming purposes and the owner’s principal occupation is not farming (168 subsection 2 of *The Cities Act*).
- Research was done as to how other cities, (Regina, Saskatoon, and Swift Current), and how SAMA regard privately-owned greenhouse operations within their limits. Municipalities largely regard them as agricultural businesses and cities consider them commercial/retail properties. These discussions helped to ensure that the City was correct in changing the classification of the subject property to commercial.
- Smaller municipalities maintain an agricultural classification for greenhouses as their plants are largely shipped off location for sale.
- The assessment would be different if the green houses were taken down after each retail season. The structures remain up year-round.
- Why the property previously received a Fixed Farm Agreement is unknown and based on discussions with the City Solicitor it would no longer receive such an agreement. The property has a business licence to operate as a greenhouse retail business. To the assessor’s knowledge this is the only privately-owned greenhouse with permanent structures within City limits.

[17] Questions posed to the assessor and the subsequent answers:

- The Board queried if the appellant had a hen house, or a few cattle, could the assessment fit that of agriculture? The assessor’s response was “no” as the primary occupation is not that of farming, referencing 168 of *The Cities Act*. Also, *The Cities Act* is clear in that primary income must come from the land.

- The Board discovered through further questioning that the City had three (3) Fixed Farming Agreements and none of them fit the parameters outlined in *The Cities Act*.
- When questioned by the Board how Revenue Canada regards rural green houses, the assessors explained that *The Cities Act* (168) is clear that an agricultural classification means that there is cultivated lands or farming operations such as livestock which are the primary source of income for the owners.
- The Board asked if the City looked at Revenue Canada Income Tax Folio classification of nurseries and greenhouses listed as other farming income. The assessor's response was that they required documentation from appellants of agricultural status to request City Council grant a Fixed Farming Agreement. Also, greenhouses in other jurisdictions ship products for sale elsewhere, and do not have a full retail business on site. Greenhouses which operate in city limits are considered commercial / retail businesses.

[18] Final Questions, Arguments, and Discussions:

- Appellants questioned the request for further documentation and were referred to the letter of assessment and Exhibit B-2, the Notice of Appeal Letter which outlines that additional written material used as evidence had to be submitted by April 20, 2022. The Appellant's reaction to this was they had no idea of what could be used as evidence.
- The Appellant's emphasized that they file income tax with the CRA as famers and they fill out all Canada Statistical information requiring what they plant and the square footage of each species in the greenhouse.
- Appellant's questioned whether their classification would change if they took down their greenhouses each fall or if they ceased to operate as greenhouse all together. Planning and Development with the City would have to look at the change in structures on the property and ceasing to operate as a business would have a bearing on assessment classification.
- The Appellants feel that they are a service to the community in which they live and truly consider themselves in the farming business as they prepare soils, plant seeds, nurture plant growth, and provide plants for purchase-both custom orders and walk-up sales.
- Appellants showed on ariel map where the alfalfa field is and the area where a stand of trees was once harvested. The city was not aware of either of these when conducting their inspection. Known harvesting of trees would create a third dimension of assessment.

Board Analysis

[19] After careful deliberation and reviewing *The Cities Act* and other referenced material, the Board considered:

- The Appellants have been operating under a Fixed Farming Agreement for several years, filing income tax as farmers for years, and filling out greenhouse reports for agriculture Canada for years. It is unfortunate that documentation was not available to the assessment office when the revelation process began. Also, unfortunate that the City doesn't have information on original Fixed-Farm Agreement.
- Correspondence of agreements to maintain agricultural classification were referenced, but not available as evidence. Appellants recalled discussions with mayor and council at the time of their homestead becoming part of City limits.
- Appellant did not understand what type of documentation/information would be of benefit to their appeal.
- Revenue Canada does consider greenhouses as a class of "other farming" in its income tax folio.
- 168 (1) of *The Cities Act* states that for a property to be classed as farmlands within the city there needs to be land used exclusively for farming purposes, and a person whose principal occupation is farming and 168 (2) goes on to say that this is the case unless a bylaw indicates otherwise, the land mass cannot be less than 8 hectares, or is subdivided into lots.
- The Appellants principal income comes from the greenhouse business which they consider farming. Some of their farmland is alfalfa and hayed and some land was harvested for trees.
- The Appellants land mass is 41.34 acres (16.73 hectares), it is not subdivided, their principal occupation is a greenhouse which the CRA regards as farming.
- They are not comparable to "box Store" green houses as "box store" green houses are used year-round for other retail products or for storage. These provide space for potential for year-round sales, whereas the Appellant's green house space is used for 3-4 months.

[20] The Board reviewed the evidence submitted and determined that the classification of the property should be agriculture.

Decision

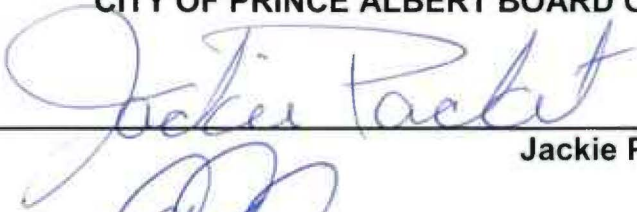
[21] The City Assessor erred in changing the classification from agricultural to commercial and the Board requests that an agricultural classification be reinstated on this property.

[22] The assessed value of the property be recalculated.

[23] The filing fee shall be refunded.

DATED AT PRINCE ALBERT, SASKATCHEWAN THIS 29 DAY OF JUNE, 2022.

CITY OF PRINCE ALBERT BOARD OF REVISION



Jackie Packet, Chair

I concur:



Ralph Boychuk, Member

I concur:



Dan Christakos, Member