



Alberta Assessors' Association



E-Clipboard
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*To be leaders
and experts in
property
assessment
in Canada.*

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This Calgary home located on Range Road 32 is one of Canada's 10 most expensive properties with an asking price of \$30Million according to BNN
<http://www.bnn.ca/canada-s-10-most-expensive-homes-in-2017-1.695157>

Taking Charge of Change... late registration fees apply April 14!

Stakeholder Advisory Committee

The Stakeholder Advisory Committee meeting(s) have been postponed until after regulations are released for review.

Coming into force...when are MMGA changes coming on page 2.

Conference Update on page 8

Reminder: Contact Brian Lutz if you're thinking about playing hockey this year. According to Brian "numbers are thin" but the challenge remains...

Brian.lutz@reddeer.ca

2016-17 COMMITTEE CHAIRS

- Executive Committee:** John Lindsay, AMAA, President
- Nominating Committee:** Wayne Kelly, AMAA
- Registration Committee:** Nathalie Thibeault, AMAA
- Practice Review Committee:** Jeff McKinnon, AMAA
- Examination Sub-Committee:** Bonnie Lantz, AMAA
- Legislative Policy Committee:** Angel Svennes, AMAA
- MC&PR Committee:** Executive Administrator, AMAA
- Discipline Committee:** Rob Ballhorn, AMAA
- 2017 Conference Committee:** Gail Butz, AMAA/Rene Boutin, AMAA

MC&PR COMMITTEE

- Marcia Barker, AMAA; Sahar Gasman, Vasily Kim, AMAA; Michael Krieger; Mike Minard, AMAA; Amy Murphy, AMAA; Tally Quaschnick, AMAA; Melissa Zayac-Smith, AMAA; Denise Ziegler-Handel, AMAA; Scott Powell, AMAA

Regulations

Posting and Review Timeline

The Association has asked for an update on the timing of when draft regulations will be available for review and received the following official comment:

Municipal Affairs just finished the first round of regulation consultations. The next round is anticipated to be posted online in late-Spring. For more information, please contact Sheila Young at 780 422 8078.

Collection of Municipal Taxes - the Crown

By Shauna Finlay

Reynolds Mirth Richards & Farmer LLP

Section 348 of the *Municipal Government Act*, RSA 2000, c. M-26, as amended, is an important section when it comes to the collection of municipal taxes because it provides the municipality with special priority rights to collect municipal taxes. Section 348 provides:

Taxes due to a municipality (a) are an amount owing to the municipality, (b) are recoverable as a debt due to the municipality, (c) take priority over the claims of every person except the Crown, and (d) are a special lien (i) on land and any improvements to the land, if the tax is a property tax, a community revitalization levy, a special tax, a local improvement tax or a community aggregate payment levy, or (ii) on goods, if the tax is a business tax, a community revitalization levy, a well drilling equipment tax, a community aggregate payment levy or a property tax imposed in respect of a designated manufactured home in a manufactured home community.

One aspect of this section to take note of is the provision that tax claims take priority over the claims of every person *except the Crown*. The “Crown” in this provision is defined in s. 284(1)(f) as the Crown in right of Alberta, and includes a Provincial agency as defined in the *Financial Administration Act* and an agent of the Crown in right of Alberta.

Provincial agency, as defined in the *Financial Administration Act*, RSA 2000, c. F-12, as amended:

(p) “**Provincial agency**” means a Provincial corporation or a Provincial committee;

(q) “**Provincial committee**” means an unincorporated board, commission, council, or other body that is not a department or part of a department, all or a majority of whose members are appointed or designated, either by their personal names or by their names of office, by an Act of the Legislature or regulations under an Act of the Legislature, by an order of the Lieutenant Governor in Council or of a Minister of the Crown or by any combination of those methods;

[Policy Options with Alberta Farmland](#)

Jeff Nutting, AACI, P.App, AMAA. has been involved in the appraisal profession for over 20 years, a member of the AAA for 12 years and is currently a lecturer at Grande Prairie Regional College in Alberta.

Property Tax news from other provinces:

In New Brunswick:

[Large property tax hikes defy law...](#)

[Property tax `scandal` in NB continues](#)

In Ontario:

[Farmland assessments in Ontario have increased](#)

[One municipality that's not impressed](#)

as reported by The Review, and eastern Ontario-located news publication.

In Saskatchewan:

[Property owners to pay \\$67M more education tax this year](#)

[Saskatoon Council endorses property tax shift](#)

Alberta Utilities Commission link:

[Consultation for Rule 024—Rules respecting Micro-Generation](#)

When are the *Modernized Municipal Government Act* Changes in Force?

By Carol Zukiwski

Reynolds Mirth Richards & Farmer LLP

STAKEHOLDER ADVISORY COMMITTEE

Mission Statement

The processes used to prepare assessment and property tax notices in Alberta are important to all property owners. Therefore, a committee of knowledgeable individuals is necessary to ensure that Alberta is a leader in the administration of assessment and property tax. These knowledgeable individuals will provide advice and guidance on “best practices”, work towards resolving issues, and continuously improving the assessment and property tax system in Alberta.

Purpose

- To provide a forum for:
- o Developing ideas and options for resolving technical issues
 - o Strategic dialogue and two-way communication on issues
 - o Opportunity for stakeholders to provide input on assessment policy and the administration of property taxes.

NEXT MEETING OF SAC

The next SAC, originally scheduled for April 12, 2017 has been postponed pending the release for comment of the draft regulations.

The *Modernized Municipal Government Act* (“MMGA”) received Royal Assent on December 9, 2016, bringing with it significant changes in certain areas of the Act. The question is, when do those changes come into force?

The following changes came into effect on:

Section 16 of Bill 21 introduces MMGA section 201.1 which puts in place the requirement for mandatory councillor orientation on a specified list of topics within 90 days of the councilor taking the oath of office (effective July 1, 2017);

Section 21(a)(viii.1) and 22 which amends s. 284 by introducing the definition of the Provincial Assessor and empowering the Minister to designate a person as the Provincial Assessor (January 1, 2017);

Section 46(a) which amends s. 317 regarding equalized assessment (deemed effective January 1, 2016);

Section 55 which introduces s. 358.1 regarding the maximum tax ratio of 5:1 between the highest non-residential tax rate and the lowest residential tax rate in the tax rate bylaw (deemed to be in force as of the date the Bill received first reading May 31, 2016);

Sections 64, 65, 66, 67(h), 79, 80, 82(d) which amend the remedy from a decision of the Assessment Review Board and the Municipal Government Board to an application for judicial review in the Court of Queen’s Bench rather than an application for leave to appeal (January 1, 2017);

Section 96 which introduces s. 638.2 a section which requires the listing and publishing of policies related to planning under Part 17 (January 1, 2017);

Section 134 which amends the former ss. 470 and 506, to allow the Court to convert an application for leave to appeal to an application for judicial review with the consent of the parties (January 1, 2017); and

Section 135 which authorizes the Lieutenant Governor in Council to make regulations providing for the transitional application of amendments to the MGA (January 1, 2017).

The balance of the amendments will come into force on proclamation, such as the new provisions for:

Designated industrial property;

Section 295;

Section 299-300;

Section 305;

Creation of sub-classes for non-residential tax rates; and

Limits on the number of councillors who can sit as a panel of the assessment review board.

Collection...Continued

(r) “**Provincial corporation**” means

(i) a corporation, other than a corporation incorporated by or under a local or private Act, all or a majority of whose members or directors are appointed or designated, either by their personal names or by their names of office, by an Act of the Legislature or regulations under an Act of the Legislature, by an order of the Lieutenant Governor in Council or of a Minister of the Crown or by any combination of those methods,

(ii) a corporation all of whose issued voting shares of every class are owned by the Crown or held in trust for the Crown or are partly owned by the Crown and partly held in trust for the Crown, or

(iii) a corporation that is a subsidiary of a corporation referred to in subclause (i) or (ii) or that is controlled by a corporation referred to in subclause (i) or (ii) directly or indirectly through one or more intermediary corporations, but does not include a housing authority incorporated under section 42 of the Alberta Mortgage and Housing Corporation Act, SA 1984 cA-32.5, or a management body within the meaning of the Alberta Housing Act or a regional health authority or subsidiary health corporation under the Regional Health Authorities Act.

Where a taxpayer owes money to an entity that falls within the definition of “Crown”, the municipality’s ability to collect unpaid taxes may be at risk. Entities that fall within the definition of “Crown” would include the Alberta Energy Regulator, the Agricultural Financial Services Corporation and other agencies of the Province that may lend or provide financial funding to corporations and individuals. Working with tax payers that are delinquent in their taxes, and seeking legal advice can help municipalities avoid issues and losses from tax payers that may owe funds to a variety of creditors, including the Crown.

Changes to Rule 024 respecting Micro-Generation

Among proposed changes, Rule 024 increases micro-gen from 1 megawatt to 5 megawatts. The Association has been advised there have been too few for assessment consideration (market valuation) at this time; however, the changes to regulations and other considerations may encourage growth in micro-generation capacity. The Alberta Utilities Commission invites comments on changes to rules respecting micro-generation (see link in sidebar).



A Lesson in Procedural Fairness

By Breanne Schwanak and Carol Zukiwski
Reynolds Mirth Richards & Farmer LLP

Decision Database

The Decision Database is a repository tribunal/court decisions deemed to be of possible interest to the members of the Alberta Assessors Association.

To access the database, login to the Secure Members' Site using your email and password and choose the "Documents" option along the top banner.

When opened, the Documents page shows a list Headings. Click on "Decision Database" to be taken directly to the listing of CARB, MGB and Court Decisions that have been collected and saved here for information.

If you have, or know of, a decision that may be of interest, please forward to the Association (info@assessor.ab.ca) and we will post it.

In a recent decision of the Alberta Court of Queen's Bench, the Court held the process utilized by a CARB to receive evidence and argument "fell short of its duty to provide procedural fairness" (*Calgary (City) v Renfrew Chrysler Inc.* 2017 ABQB 197).

The land at issue was leased by the municipality to a corporation operating as a car dealership. The dealership was responsible for the payment of municipal taxes. The land was designated as a Direct Control district, with Urban Reserve guidelines, and additional Permitted and Discretionary Uses of automobile sales and rentals.

In 2015, the assessed value of the land increased 160% from the prior year. The taxpayer complained, citing ten grounds for its complaint. One of the grounds was the absence of an adjustment in market value to account for the restrictions on land use. In support of its complaint, the taxpayer filed written submissions and evidence with the CARB. The submissions did *not* advocate a reduction of the assessment due to land use restrictions. The municipality also filed detailed submissions, arguing the market value evidence provided by the taxpayer was not based on appropriate sales comparables.

In its decision, the CARB reduced the assessment. The CARB agreed that the sales comparables relied upon by the taxpayer were not compelling; however, a 20% downward adjustment was warranted to reflect the extreme land use restrictions in place.

The municipality appealed, arguing that in reaching its decision, the CARB acted unfairly and relied upon a new issue, without allowing the municipality to properly respond. The municipality did not dispute the land use restriction adjustment was raised in the initial complaint, but stressed it was not raised within the evidence of the taxpayer. As a result, the municipality's assessors were taken by surprise when the CARB asked questions of them on this issue at the hearing.

The Court determined that based upon the evidence on the record, the questions posed to the municipality's assessors by the CARB ought to have been expected. However, it was clear the municipality's assessors were caught by surprise, which resulted, in part, from the failure of the taxpayer to raise the issue in its evidence. While it was open for the assessors to seek an adjournment to provide a reasoned response, they did not do so.

Ultimately, the Court held that the CARB was entitled to raise the land use restriction adjustment at the hearing, but, in the circumstances, it should not have waited until questioning of the municipality's assessors to do so. Rather, it should have noted the interest in hearing evidence and argument on the issue at the outset, or at the conclusion of the taxpayer's evidence, and sought submissions on the readiness of the parties to proceed. This would have increased the quality of the evidence and argument on what was ultimately an important issue. Improving the quality of the record is one of the two broad objectives of procedural fairness in administrative hearings. Accordingly, the Court allowed the appeal and referred the matter back to the CARB.

An Appeal to Members re Profiles

Please can your colleagues see faces? Members are kindly asked to upload photos to their profiles in the Members' Secure site. Volunteers and leaders (and member to member) would like to be able to put faces to names and have asked that Administration encourage members on this. It is especially helpful when on conference calls or at any other time a member is trying to identify someone. While it's not mandatory, a face is definitely better than "PHOTO N/A."

Association Bylaws

The Executive Committee recently considered amendments to the Association Bylaws and has prepared and placed a Notice of Motion on the Members' Secure Site (Documents) that will be considered at the Annual General Meeting. These changes, for the most part, are intended to "refresh" and update some outdated terminology and practices. One significant change proposes moving the financial year end date from February 28 to November 30. This will have no affect on the membership, the membership year, or any reporting other than the date the financial review report (audit) is prepared on the Association's finances. For the full motion and background information, click here.

Strategic Planning

The Executive Committee approved its Corporate Plan and year 1 of a three year tactical plan recently. The main objectives approved by the EC are:

- **Advance High Quality Educational Opportunities** for our members and the public.
- **Grow Our Membership** within the industry and municipalities to enhance our influence and recognition with government and advocacy groups.
- **Strengthen Our External Relationships and Develop Collaborative Partnerships** to ensure that we are acknowledged as experts and relied upon for our input on policy, legislation and implementation.
- **Advocate on behalf of the membership** to facilitate understanding of our profession and how we use our expertise to advance the field of property assessment.

More information will be made available to the membership at the Annual General Meeting.

AAA Bylaws

Amendments To Bylaws

- 42(1) The bylaws may be amended at any Annual General Meeting or Special Meeting of the Association as follows:
- (a) an amendment to the bylaws may be proposed by the Executive Committee provided that a draft of the proposed changes, in the form of a notice of motion, is submitted to the regulated members at least 30 days before the Annual General Meeting or Special Meeting at which the amendment is to be considered;
 - (b) an amendment to the bylaws of the Association may be proposed by any 10 regulated members provided that
 - (i) a draft of any the proposed change is submitted to the Executive Administrator at least 60 days before the Annual General Meeting or Special Meeting at which the amendment is to be considered, and
 - (ii) a draft of the proposed change in the form of a notice of motion is sent by the Executive Administrator to the Executive Committee and the regulated members at least 30 days before that Annual General Meeting or Special Meeting;
 - (c) a vote of the majority of the regulated members present and voting is required to carry any motion to amend the bylaws.
- (2) An amendment to the bylaws is effective upon
- (a) passage by the Executive Committee, and
 - (b) approval by a majority of the regulated members voting unless a later date is specified in the bylaw as the effective date.

On a road, near Creston, BC



2016 Newly Accredited Members



Newly Accredited Members for 2017 will be recognized as part of the Annual General Meeting.

Finding Cap Rates

Recently googled the above and found the following excerpt of a forum discussion "Cap Rates on the Internet" in an October 1997 Appraisal Institute newsletter (appraisaltoday.com/humor/):

....Many developers are getting far more clever and even devious about where they hide the cap rate. Once, I found it stamped on the plywood sheathing of the roof, covered by three layers of roofing materials. Another time, it was cleverly hidden under the flange of one of the porcelain fixtures in the women's restroom. The moral is that sometimes the cap rates can go through the roof, and other times it can be in the toilet.

And from another quarter.... I learned from a fellow in Alaska that the real way to get a cap rate is to look at the "regular" gas price in your area and use the numbers to the right of the decimal point! Works for me!!!!

Welcome New Members

The following members have met all the requirements for accreditation and have been approved by the Registration Committee as Accredited Municipal Assessors of Alberta (AMAA):

- ⇒ Becky Burke, AMAA, Strathcona County
- ⇒ Kent Smith, AMAA, Accurate Assessment Group
- ⇒ Karolyn Kelly, AMAA, Saddle Hills County

Having submitted an application for membership as required by policy, including obtaining the support of an accredited member, the following individuals have been accepted as regulated Candidate members:

New Candidates

- ⇒ Devin Palmer, City of Edmonton
- ⇒ Daniel Graziano, Powers and Associates

Returning Candidates

- ⇒ Travis Larder, City of Red Deer

Having obtained sponsorship of an accredited member and submitted an application meeting the following individuals have been accepted as unregulated members:

Municipal Property Tax Administrator

- ⇒ Katrina Kocielska, Town of Strathmore
- ⇒ Jill Speer, MD of Taber

Student

- ⇒ Grant Shyian, Lakeland College

Notice of Annual General Meeting

The Association Bylaws state:

A written notice stating the day, hour and place of an Annual General Meeting or Special Meeting, shall be served either personally or by sending such notice to each regulated member at the last address of that member known to the Association Registrar through the post, by facsimile or by email, at least ten days before the date of a meeting.

Additional written notice and direction to receive your packages will follow for the planned May 4, 2017 Annual General Meeting. If you have not already done so, please update your contact information. As most of our messages are sent via email, **a current email address is critical** for AAA communications.

2017 Conference Update

Distinguished Service Award

From Policy 80-8, Membership Categories:

- All Association members having a Life Member status as of June 9, 2009 will remain Life Members and become the first recipients recognized on the Distinguished Service Award
- An Association member selected for recognition on the Distinguished Service Award must be an Accredited Member of the Alberta Assessors' Association with a minimum continuous membership of at least 10 years as an AMAA;
- Nominated by another Accredited Member
- Considered as contributing a life-long or milestone contribution to the Association's operation
- Selected by majority vote of the Executive Committee of the day.

The Distinguished Service Award need not be awarded every year.

In the event of two or more nominations in any given year, the Executive Committee will make a final decision based on the nomination submissions. Nomination submissions for the Distinguished Service Award must be received in the Association office by December 31st prior to the following year's Annual General Meeting



At publication time, around 150 members have registered for the 2017 Conference and Annual General Meeting. Members are encouraged to register before late penalties are applied (April 14). Legal Hot Topics is full; however, there's still lots of room in all other break-out sessions.

We have cancelled two sessions and will be in touch with delegates for their alternatives. And, due to the late release of the proposed regulations, the MRAT and CCRG break-out session is currently under review. Again, we will be on touch with delegates pending a final decision.

Members and non-members have responded well to the pre-conference selection. We have, however, cancelled Your Court Rules and will be in touch with those who registered to substitute (or refund).

Additional Guest Rooms have been added to the block and lunch is included in the pre-conference fees for the first time as a test.

We are again pleased with the response to the MPTA (Municipal Property Tax Administrator) Pre-Conference 2-day workshop. We are pleased to have this group of municipal employees attend and are confident our long-time regulated professional members will welcome them and detail the value of membership. This membership category is growing and we are encouraged by the response in 2017.

Distinguished Service Award

The Executive Committee has made a selection for the 2017 recipient of the Distinguished Service Award. The distinguished member received three nominations and has been a member of the AAA for 40 years (since February 1977, in fact); accredited since 1981; an active Association volunteer in a variety of capacities for more than 20 years, and adding more to the list would give away the surprise.

The Award will be announced at the Annual Association Banquet on May 4, 2017.