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CONSIDERATIONS FOR RURAL PROPERTY ASSESSMENT

Alberta Assessors Association
2024 Fall Symposium



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Presented by:



Greg Plester, Partner
Brownlee LLP, Edmonton



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Farm Land Assessments:

1. Legislative and regulatory background
2. Application



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Legislative and regulatory background: Farm Land properties



Framework

Municipal Government Act, RSA 2000, c M-26

Provides municipalities with the power to assess and tax property

Allows for regulations to be made that further structure this process

Creates some specific definitions, which are subject to further refinement under the regulations



Matters Relating to Assessment and Taxation Regulation, 2018, Alta Reg 203/2017

Further specifies the assessment and taxation process

Creates additional specific definitions



MGA

- **Defines “farm land”** – land used for “farming operations” per MRAT (MGA, section 297(4)(a))
- **Prohibits assessment in certain scenarios** – farm buildings and machinery/equipment are not assessed, except if permitted in MRAT (MGA, sections 298(1)(y)-(z))
- **Prohibits taxation in certain scenarios** – those scenarios listed in MGA section 298 (MGA section 351(1)(a))



MRAT

- **Defines “farm building”** – any improvement other than a residence, to the extent it is used for “farming operations” (MRAT section 2(1)(e))
- **Defines “farming operation”** – the raising, production and sale of agricultural products and includes the following (MRAT section 2(1)(f))
 - horticulture, aviculture, apiculture and aquaculture,
 - the raising, production and sale of livestock and fur-bearing animals
 - planting, growing and sale of sod
 - a registered woodlot operationbut does not include any operation or activity on land that has been stripped for the purposes of, or in a manner that leaves the land more suitable for, future development



MRAT

- **Sets the valuation standard** – either the market value or, if the parcel is used for “farming operation,” the agricultural use value (MRAT section 7(1))
- **Defines “agricultural use value”** – the value of a parcel of land based exclusively on its use for “farming operations” (MRAT section 1(b))



MRAT

- **Qualifies the applicability of the “agricultural use standard”** – Even if the parcel is used as a “farming operation,” market value shall be used in the following situations (MRAT section 7(3))
 - Assessed parcel is less than 1 acre
 - Assessed parcel contains between 1-3 acres and residential (though not necessarily occupied)
 - Assessed parcel contains between 1-3 acres and it can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel



MRAT

- **Continued. Qualifies the applicability of the “agricultural use standard”** – Even if the parcel is used as a “farming operation,” market value shall be used in the following situations (MRAT section 7(3))
 - Assessed parcel is 3 acres located within a larger parcel of land where any part of the larger parcel is residential (though not necessarily occupied)
 - Assessed parcel is 3 acres located within a larger parcel of land and the assessed parcel can be serviced by using water and sewer distribution lines located in the larger parcel
 - Assessed parcel is located within a larger parcel and is used for commercial or industrial purposes

Furthermore, for the second set of exceptions (i.e. those listed on the prior slide), the parcel must be assessed as if it is a parcel of land (MRAT 7(4))

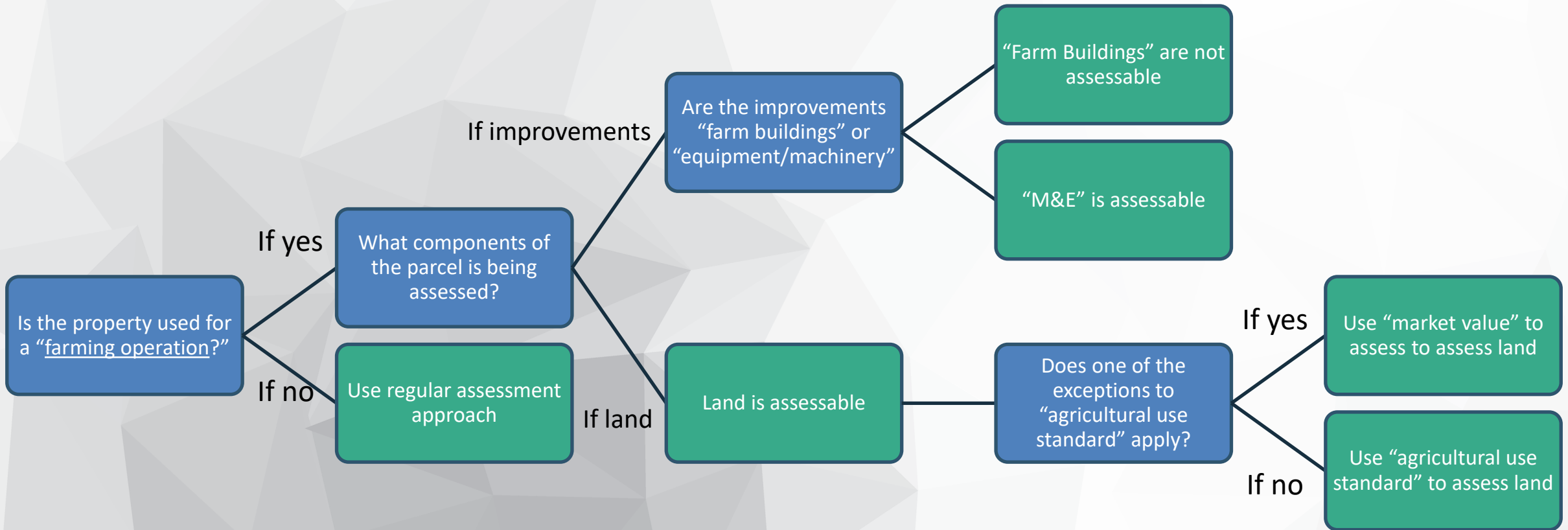


MRAT

- **Defines “machinery and equipment”** – materials, devices, fittings, installations, appliances, apparatus and tanks... intended for or used in manufacturing, processing, the production/transmission by pipeline of natural resources or products or by-products of that production, the excavation or transportation of coal or oil sands, a telecommunications system, or an electric power system, (except a micro-generation generating unit), whether or not the materials, devices, fittings, installations, appliances, apparatus, tanks, foundations, footings or other things are affixed to land in such a manner that they would be transferred without special mention by a transfer or sale of the land (MRAT s 2(1)(g))
- **Allows partial assessment of “machinery and equipment”** (MRAT s 12)



Overview





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Case Study:

Determining whether to assess
properties as residential, agricultural,
or non-residential



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Vacant lots intended for residential development



Case Study #1

- A rural property is treed and bushy, appearing to exist in the same state as it has in prior years.
- However, the property has recently been subdivided into 24 lots and the owner has already begun to sell some of these lots. Some of these lots are less than 1 acre in size.
- The properties that have sold are assessed based on their market value. The owner states that some of the parcels may never be sold.
- There has been no physical change to the parcel – no fences have been put up to delineate the subdivided properties.



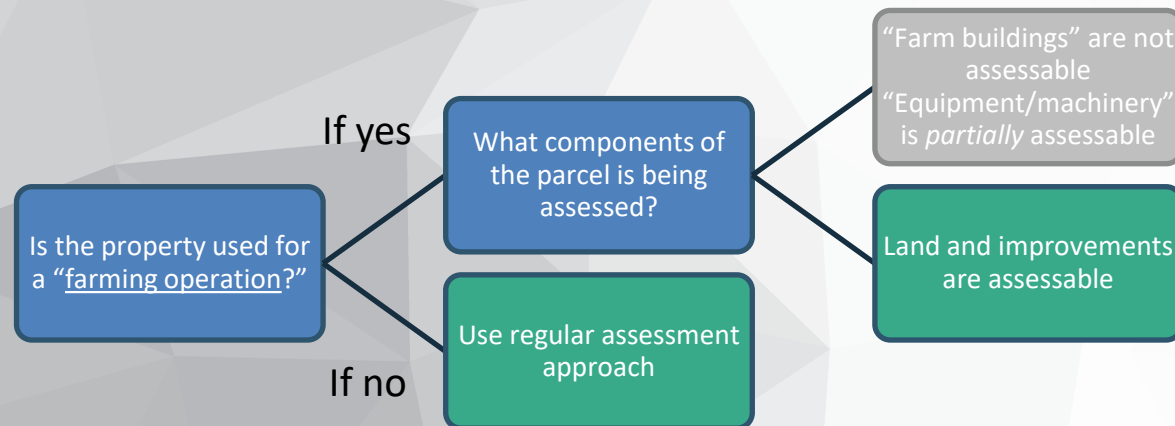
Case Study #1

- The Municipality zoned the subdivided properties and surrounding area “Country Residential,” which does not list “farming” as a permitted or discretionary use.
- Road access and servicing to the site has been developed.
- The owner registered a restrictive covenant on title that restricted livestock from being kept on the property and included architectural guidelines for development. But, the owner allows horses to graze on the subdivided properties. Those who have bought the properties so far signed acknowledgements that the area may be used for grazing.



Case Study #1

- First question, is the property used for a “farming operation?”
- If it is, does one of the exceptions to “agricultural use standard” apply because the lots are being marketed as residential?
- Improvements are not in question.





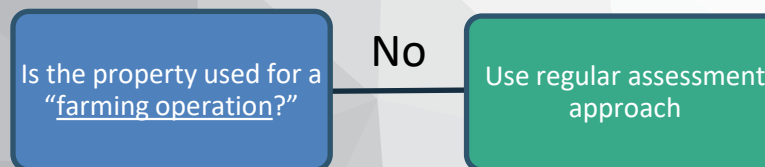
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This is a real scenario!



Athabasca CARB 1753116

- The Board confirmed the assessor's decision that the properties should be assessed as residential.
- The Board determined that no actual use through operation is required to conclude that a property is residential.
- They found that the owners efforts to sell the properties, register restrictive covenants, and develop road access/services indicate that the properties have been made available for immediate residential development.





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Multiple properties used for different agricultural and processing purposes



Case Study #2

- Two rural properties are owned by the same owner.
 - On the first property, there are several silos, warehouses, maintenance shops, and an office. There is also machinery and equipment to process hay/alfalfa into pellets. Portions of the parcel are also used to store baled hay.
 - On the second property, the owner raises crops and stores baled hay.
- The landowners have a joint-venture agreement with an operator who runs a company that processes hay, turning it into small pellets which can be easily transported. The operator runs this company on these sites.



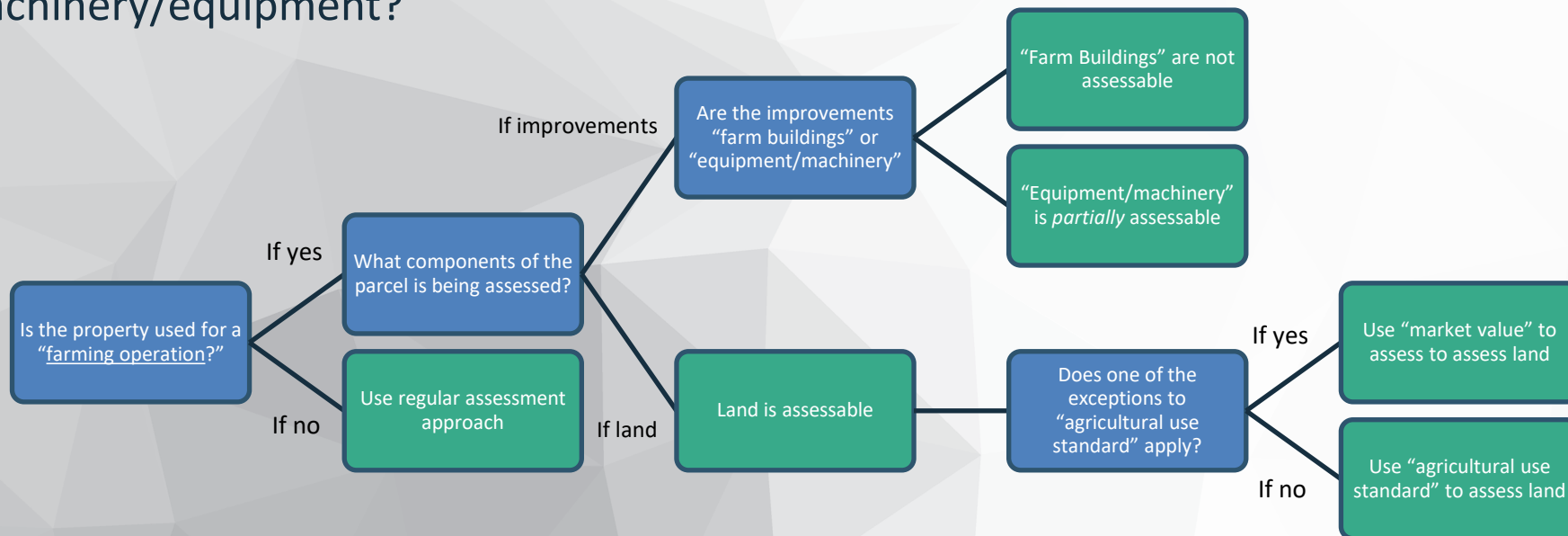
Case Study#2

- The operators purchase baled hay from the open market to be processed on the first property.
- The Municipality has assessed properties in the past that grow and process peas into pea butter.
 - Some of these properties have been assessed as farmland (for the portions used to produce peas).
 - Some other properties have been assessed as residential land with improvements (for portions used to process peas in pea butter).



Case Study #2

- Let's consider this property by property, we first ask whether each property is used for a "farming operation?"
- Then we ask whether the structures on that property are considered "farm building and/or machinery/equipment?"





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Again, this is a real
scenario!



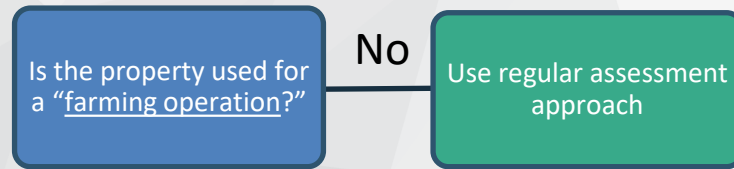
Legal Alfalfa decision

- The assessor had determined that both properties were being used for non-agricultural purposes. The Board confirmed the assessor’s decision for one property and reversed it for another.
- The Board determined that the first property should be assessed as non-agricultural and the structures on site were therefore “equipment/machinery.”
 - The processing resulted in a significant alteration of the hay into a different products, departing from a “farming operation.”
- The Board determined that the second property is a “farming operation. “
 - There was no evidence that the hay on this property was being transported to the other property for processing.
 - The board noted that if there was evidence of this, that the property would no longer be considered a “farming operation.”

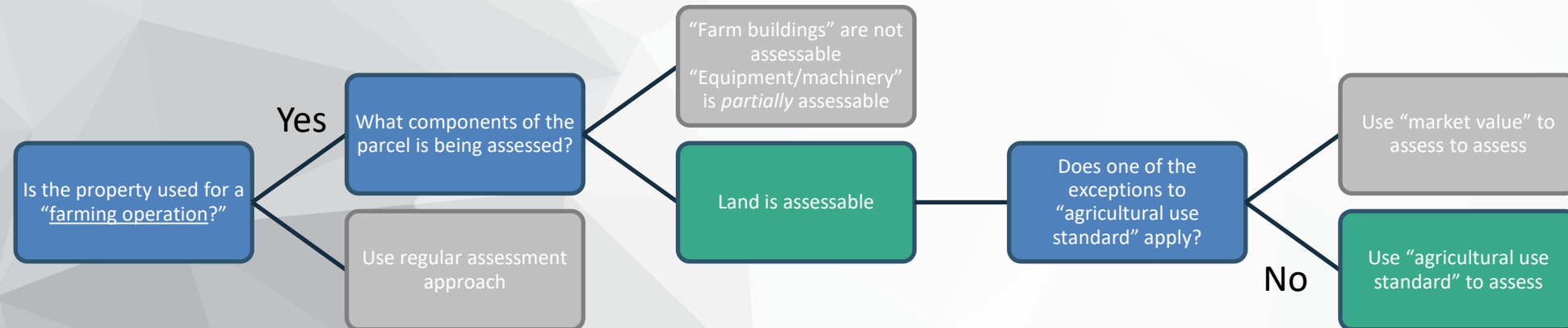


Legal Alfalfa decision

Property where the hay is being grown AND processed is not a “farming operation”



Property where the hay is ONLY being grown is “farming operation” and no exceptions apply (no improvements)





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**Note: this decision has
been judicially reviewed**



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A vacant, treed lot



Case Study#3

- A rural property is vacant and covered in trees.
- From 1998-2019, the property was classified under an provincial order as farmland used to graze horses on an occasional basis.
- The assessor reviewed the property recently and based on its analysis, it determined that the property should be assessed under Vacant Residential.



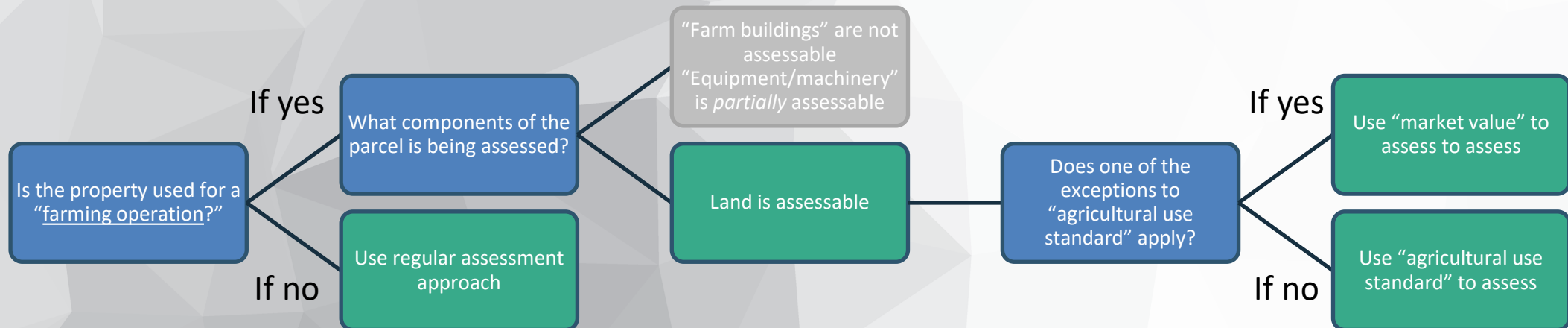
Case Study#3

- The property owner appeals this assessment classification.
- He contends that he is occasionally harvesting trees/sod from the lot and should therefore fall under the definition of “farmland.”
- He admits he is not currently using the land to graze horses.



Case Study#3

- First question, is the property used for a “farming operation?”
- If it is, does one of the exceptions to “agricultural use standard” apply?
- Improvements are not in question.





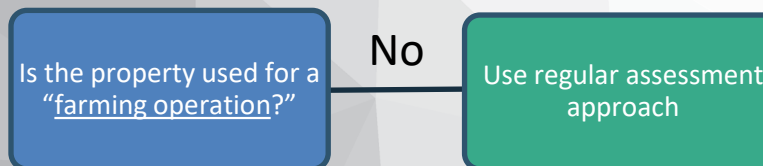
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Yet again, this is a real
scenario!



County of St Paul

- We argued that the occasional harvesting of trees/sod does not qualify as a “farming operation.”
 - The conjunction “and” within the definition of “farming operation” means that all activities included **must** be exhibited (i.e. the raising, producing, AND selling of agricultural products). There was no evidence all these activities were occurring.
 - In order for a product to be “saleable,” it must meet market and consumer quality and selection standards. There was no evidence of that the wood met this standard.
 - The property was also not a registered woodlot, as outlined in the MRAT.





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Property used for different agricultural and processing purposes



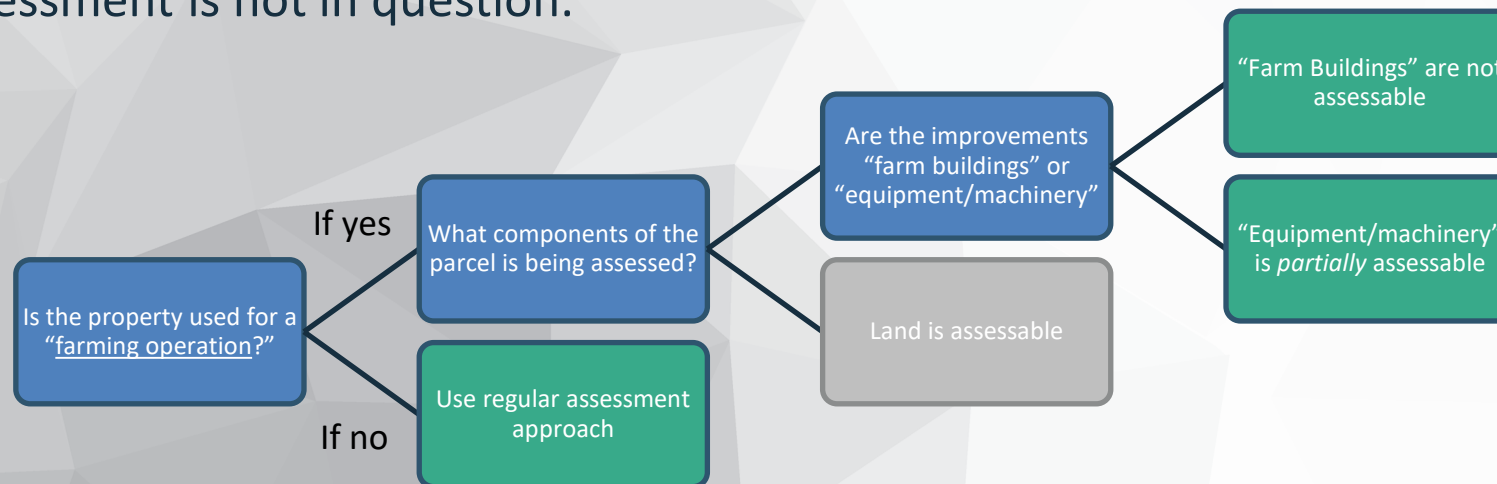
Case Study#4

- A property is used to grow and process a “herb.”
- The assessor had assessed the whole operation as an agricultural use until 2015. Therefore, it was all exempt from property taxes.
- After 2015, upon further review, the assessor determined that where the “herb” was grown should be agricultural and where the “herb” began to get processed should be considered a non-agricultural.



Case Study#4

- Which parts of the property are considered a “farming operation?” Is it the entire property?
- Based on this determination, should the structures be considered “farm buildings” and exempt from taxation OR “equipment/machinery” and partially exempt from taxation?
- Land assessment is not in question.





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You'll never guess what!



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**This is based on a real
scenario.**



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The “herb” in question was



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The “herb” in question was
“mint.”



Quattro Farms Ltd v County of Forty Mile No. 8, 2019 ABQB 135

- The Court returned the decision to the CARB for final determination based on the Court’s reasoning.
 - The phrase “agricultural product” includes the plant that is grown and the plant product.
 - An improvement that is used for processing, and that is otherwise considered assessable machinery and equipment, may nonetheless qualify as a farm building so long as it is used for “farming operations.” If so, it is exempt from taxation.
 - A CARB cannot rely on the assumption that if structures could be defined as “machinery and equipment,” then they cannot be defined as a “farm building.”
 - Another way to say this is, if a structure could be defined as “machinery and equipment,” that does not mean it cannot also be defined as a “farm building.” Any structure is entitled to exemption *to the extent* it is used for “farming operations.”



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Property used to process agricultural products



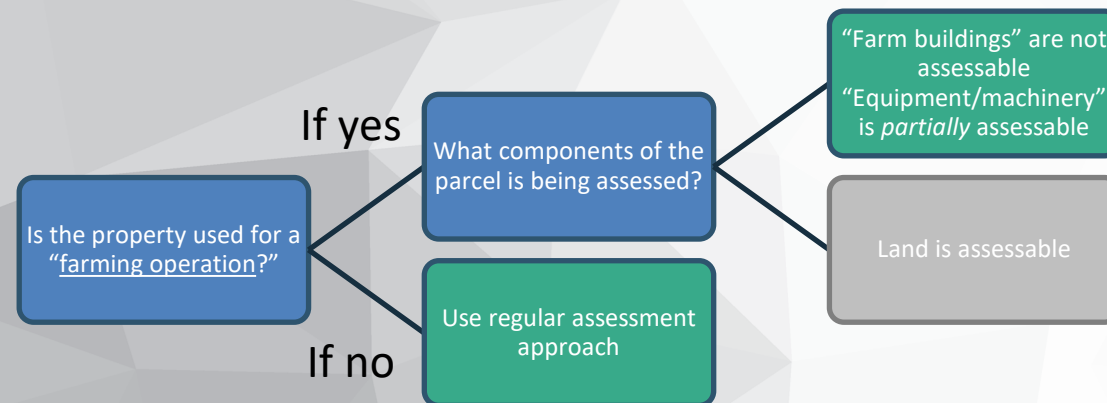
Case Study#5

- The owner uses the property to compress hay bales by 50% and wrap them in plastic for overseas transportation.
- The owner produces the hay used for this process on other leased properties.
- The assessor assessed the property as non-agricultural.
- The owner then appealed the assessor's decision to the appeal board, who allowed the appeal and assessed the property as agricultural.
- The municipality appealed the appeal board's decision...



Case Study#5

- Is the process of compressing hay still connected to a “farming operation?”
- If so, are the structures on site considered “farm buildings” even if they have uses unrelated to agricultural production?
- We do not need to consider land assessment.





Nampa (Village of) v. Municipal Government Board, 1998 ABQB 478

- The Court denied the appeal, upholding the appeal board’s decision to assess the property as agricultural. The compression process was part of a “farming operation.”
 - A building need only be used for an aspect, not all aspects, of a “farming operation” in order to be considered a farm building.
 - Buildings that are used for purposes such as storing seed, machinery and equipment and even for some aspects of preparing a product for sale *may* be considered a part of a “farming operation.”



Takeaways

- “Farming operations” may no longer be occurring on a vacant property even if there are limited physical changes to properties.
 - Per Athabasca CARB, if the land is being prepared for development (via subdivision, registering restrictive covenants, development of road access/services, and sale), its categorization may change.
 - Per County of St Paul, if trees/sod are not actually being raised, produced, and sold, then it is not a “farming operation.” Remember, this case was never argued.
- “Farming operations” may no longer be occurring if a product is being processed. If the product’s characteristics are being significantly altered, then it the product may be processed and the activity is no longer a “farming operation.”



Takeaways

- When it comes to determining an activity is or is not a “farming operation,” we need to consider whether the facts are more like Legal Alfalfa, Quattro, and Nampa.
 - Legal Alfalfa – Turning hay into pellets (which is a form of saleable product that can be derived from hay): NOT a “farming operation.”” But remember, this decision is under appeal.
 - Quattro – Extracting oil (which is the only saleable product): a “farming operation.”
 - Nampa – Compressing hay by 50%: a “farming operation.”