

**CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

**between:**

***NAV Canada Inc., (as represented by Wilson Laycraft, Barristers and Solicitors),  
COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***T. Hudson, PRESIDING OFFICER  
D. Steele, MEMBER  
R. Kodak, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

**ROLL NUMBERS: 009020504, 182020404, 182020305, 025026501**

**LOCATION ADDRESS: 8925 Barlow TR NE**

**HEARING NUMBERS: 64679, 64648, 64674, 64677**

**ASSESSMENTS: \$6,810,000, \$6,020, \$5,070, \$25,500**

This complaint was heard on the 7th day of November, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 5.

Appeared on behalf of the Complainant:

- B. Dell                      Solicitor for the Complainant
- R. Mosher                 Senior Real Estate Analyst with NAV Canada
- J. Clark                    Appraiser with the Regional Group of Companies

Appeared on behalf of the Respondent:

- P. Frank                    Solicitor for the Respondent
- A. Mathai                 Assessment Policy Analyst with the City of Calgary

**Board's Decision in Respect of Procedural or Jurisdictional Matters:**

There were no procedural or jurisdictional matters raised by the Parties.

**Property Description:** The subject properties are all located at the Calgary International Airport, at the same municipal address of 8925 Barlow TR NE. Each of the properties has a separate roll number, and consists of land and improvements including a control tower and navigation equipment occupied by NAV Canada Inc. All of the land and improvements are owned by the Federal Crown, and leased to the Calgary Airport Authority. The Crown leased back the control tower and navigation equipment from the Airport Authority, and has assigned the leases to NAV Canada Inc. **The current assessment amounts are not in dispute between the Parties.**

**Issue:**

Does NAV Canada Inc. Qualify for Exemption from Taxation Pursuant to Section 362(1)(n)(iii) of the MGA, and the Community Organization Property Tax Exemption Regulation, Part 2 of AR 281/98 (COPTER)?

**Board's Finding in Respect of the Issue:**

The dispute between the Parties with respect to the issue of exemption can be summarized in a central question. Does the non-profit organization known as NAV Canada Inc. exist primarily for a "charitable or benevolent purpose" as defined in the COPTER Interpretation Section 1(1) (b)?

The definition in COPTER states that a "a charitable or benevolent purpose means the relief of poverty, the advancement of education, the advancement of religion or **any other purpose beneficial to the community**" (emphasis added).

The Complainant observed that in 2010, the decision of the Composite Assessment Review Board (CARB) in CARB 2089/2010 dated December 15, 2010, determined that NAV Canada Inc. meets the requirements necessary to qualify for exemption. (Exhibit C2, Tab 6, Pages 145

to 160). Although the Respondent did not appeal the decision, the Respondent did not carry forward the exemption for 2011. In fact, the Respondent made it clear that if the CARB approves an exemption for NAV Canada Inc. for 2011, that the City of Calgary would pursue passage of a "tax-back" bylaw pursuant to MGA Section 362(2), and designed to ensure the NAV Canada Inc. properties in Calgary remain taxable. (Rebuttal Exhibit C3, Tab 4). For reference, the Respondent submitted the "tax back" bylaw passed by the County of Leduc in June of 2011. The bylaw is specific to the NAV Canada properties at the Edmonton International Airport and would come into force on the date that quote **"a board or court of competent jurisdiction issues a decision declaring the Property to be exempt from taxation under Section 362(1)(n)(iii) of the MGA"** end quote. (Exhibit R2).

While the Board is not bound by its previous decisions, the Board accepts the reasoning expressed in CARB 2089/2010 on the exemption issue. The Board considers the positions, evidence, and argument of the Parties to be essentially the same as they were in 2010. The Board accepts that NAV Canada Inc. is a non-profit organization that exists only to provide safe and efficient air navigation service. This includes air traffic control, flight information, weather reports, airport advisory services, etc. As the sole provider of these services at the Calgary International Airport, the Board accepts that NAV Canada Inc. provides an essential service, and a purpose that is beneficial to the community.

**Board's Decision:**

The Board confirms that NAV Canada Inc., meets the requirements for exemption under the MGA Section 362(1) (n) (iii), and Part 2 of AR 281/98 COPTER and, accordingly, that the subject properties are exempt from taxation.

DATED AT THE CITY OF CALGARY THIS 24 DAY OF November 2011.



**T. B. Hudson**  
Presiding Officer

**APPENDIX "A"****DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Appraisal Report
2. C2	Complainant Disclosure
3. C3	Complainant Rebuttal
4. R1	Respondent Disclosure
5. R2	Leduc County "Tax Back" Bylaw

*An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.*

*Any of the following may appeal the decision of an assessment review board:*

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

*An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to*

- (a) the assessment review board, and*
- (b) any other persons as the judge directs*

**For MGB Administrative Use Only**

<i>Decision No.</i>		<i>Roll No.</i>		
<u>Subject</u>	<u>Type</u>	<u>Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Commercial	Air traffic control tower and facilities	Tax Exemption	NAV Canada Inc. status as non- profit