

**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS****CARB - 0203-0004/2012**

IN THE MATTER OF A COMPLAINT filed with the City of Lethbridge Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

BETWEEN:

Vandeland Inc. - Complainant

- a n d -

City of Lethbridge - Respondent

BEFORE:

Members:

Tom Hudson, Presiding Officer

Hank Louwerse, Member

Wayne Stewart, Member

A hearing was held on Tuesday, June 12, 2012 in the City of Lethbridge in the Province of Alberta, to consider a complainant request for postponement of the CARB merit hearing, with respect to complaints about the current assessments of the following property tax roll numbers:

Roll No./ Property Identifier	Assessed Value	Owner
1-2-240-4301-0001 4301 24 Avenue South	\$453,000	Vandeland Inc. Brian Vandeberg
1-2-240-4403-0001 4403 24 Avenue South	\$573,800	Vandeland Inc. Brian Vandeberg
1-2-240-4505-0001 4505 24 Avenue South	\$562,500	Vandeland Inc. Brian Vandeberg
1-1-430-2325-0001 2325 43 Street South	\$1,333,000	Vandeland Inc. Brian Vandeberg

Appeared on behalf of the Complainant:

- Cameron D. MacLennan – Huckvale Wilde Harvie MacLennan LLP
- Brian Vandeberg – Vandeland Inc.

Appeared on behalf of the Respondent:

- Gord Petrunik, Assessor, City of Lethbridge



**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB - 0203-0004/2012

BACKGROUND:

Legal counsel for the complainant requested a postponement of the CARB complaint hearing scheduled for June 12, 2012, to a date certain in the near future. The complainant requested the adjournment in a letter dated June 8, 2012, on the grounds that the witness and author of environmental assessment reports included in their disclosure evidence would not be available as expected on June 12, 2012.

ISSUE:

Should the CARB hearing scheduled for June 12, 2012, be postponed to a date certain as requested by the complainant?

SUBMISSIONS:

The respondent initially objected to the request for postponement. However, at the hearing, the respondent indicated support for the request to postpone the hearing, but only for the complaint regarding the property located at 2325 43 ST SO, which is the focus of the environmental assessment report. The respondent argued the other three complaint hearings should proceed as scheduled on June 12, 2012.

The complainant acknowledged the cooperation of the respondent with respect to the property at 2325 43 ST SO. However, the complainant also pointed out that all four of the properties have contiguous boundaries, and therefore it would be more efficient for the CARB to consider the assessment complaints at the same hearing.

CARB FINDINGS:

1. *Section 15 of the Matters Relating to Assessment Complaints Regulation(MRAC)directs as follows:*
 - (1) *Except in exceptional circumstances as determined by an assessment review board, an assessment review board may not grant a postponement or adjournment of a hearing.*
 - (2) *A request for a postponement or an adjournment must be in writing and contain reasons for the postponement or adjournment, as the case may be.*
 - (3) *Subject to the timelines specified in Section 468 of the Act, if an assessment review board grants a postponement or adjournment of a hearing, the assessment review board must schedule the date, time, and location for the hearing at the time the postponement or adjournment is granted.*



**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB - 0203-0004/2012

2. The CARB finds that the complexity and technical nature of environmental assessment reports, normally require explanation by the author in order for both the parties and the adjudicating panel to understand and determine the evidentiary weight of the information. The CARB accepts that the absence of the expert witness could prejudice the submissions of the complainant, at least with respect to the complaint affecting the property at 2325 43 ST NO. The CARB therefore finds that an "exceptional circumstance" as required by the MRAC regulation does exist in this regard.

3. The CARB further finds that given their location and close proximity it would be more efficient to consider the assessment complaints for the four roll numbers at the same hearing.

DECISION:

In view of the above considerations, the CARB grants the postponement and sets the hearing for Tuesday June 26, 2012 at 9:00 am in Lethbridge City Council Chambers, as agreed by the parties.

It is so ordered.

Dated at the City of Lethbridge in the Province of Alberta, this 29th day of June, 2012.

A handwritten signature in blue ink, appearing to read "Tom Hudson", written over a horizontal line.

Tom Hudson, Presiding Officer



**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB - 0203-0004/2012

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

Exhibit C1 Complainant Submission re the Administrative Procedures and Jurisdiction Act

Exhibit C2 Complainant Submission re Section 468 of the Act, and Section 15 of MRAC.

Exhibit C3 Complainant Submission re Letter of Request for Adjournment, Prior Tribunal Decisions, and E-mail between the parties.

APPENDIX 'B'

ORAL REPRESENTATIONS

PERSON APPEARING CAPACITY

1. Cameron D. MacLennan - Counsel to the Complainant
2. Tim Waters – WA Environmental Services Ltd.
3. Brian Vandenberg - Complainant
4. Gordon Petrunik - Assessor City of Lethbridge

CARB - 0203-0004/2012 (For MGB Office Only)

Subject	Type	Sub-type	Issue	Sub-issue
CARB	Jurisdictional/Procedural	Hearing Postponement	Absence Witness	Environmental Assessment