

**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS****CARB - 0203-0004/2013**

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:

Mo-Tires Ltd - Complainant

- a n d -

City of Lethbridge - Respondent

BEFORE:

Members:

Paul Petry, Presiding Officer

Arlene Driscoll, Member

Wayne Stewart, Member

A hearing was held on Wednesday, July 17, 2013 in the City of Lethbridge in the Province of Alberta to consider complaints about the assessment of the following property tax roll number:

Roll No./ Property Identifier	Assessed Value	Owner
4-2-050-2910-0001 2910 5 Avenue N	\$643,000	Mo-Tires Ltd/Brian Roelofs

Appeared on behalf of the Complainant:

- Brian Roelofs - Owner

Appeared on behalf of the Respondent:

- Gord Petrunik, Assessor, City of Lethbridge

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

The subject property was originally part of the Dresser Rand lands and is a 2.99 acre rectangular shaped vacant land property located in the industrial park in north Lethbridge. The property has I-H zoning.

The subject is assessed using the Direct Sales Comparison Approach to value using a rate of \$187,000 per acre with an additional 15% positive influence because it is on a major arterial roadway bringing the total rate of assessment to \$215,000 per acre. This property is encumbered by an abandoned gas line, owned by ATCO Gas. This line runs along the east side of the lot.

**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS****CARB - 0203-0004/2013****PART B: JURISDICTIONAL MATTERS**

The CARB derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

PART C: ISSUES

The CARB considered the complaint form together with the representations and materials presented by the parties. The matters or issues raised on the complaint are as follows:

- Issue 1: Does the Gas Line owned by Atco Gas have any discernable negative impact on the subject property's market value?
- Issue 2: Does the assessment rate of \$215,050 per acre result in an assessment that is inequitable and overvalued?
- Issue 3: Is the 24% increase in assessed value from the prior year without merit?

ISSUE 1: Impact of Gas Line on Market Value**Complainant's Position**

The Complainant argued that the existence of the ATCO gas line on the subject property restricts development and therefore reduces its market value. The Complainant referred to recent experience respecting a fence required by the City of Lethbridge Fire Department and the difficulty with ATCO Gas in getting their permission to construct the fence. ATCO Gas require a 5 – 30 meter set back which would make it impossible to complete the fence. This matter has only recently been cleared up but only after tires stored on the property, which were the reason the fence was required, had been relocated at significant cost the owner.

Respondent's Position

The Respondent argued that its evidence shows that ATCO Gas have given permission to construct the fence and that this is no longer an issue. Further, the gas line is an abandoned line running along the east boundary and therefore is not an impediment to potential development of the subject property.

CARB Finding and Reasons

The CARB has considered the arguments and evidence of both parties and has decided that there is no quantifiable evidence before the Board on which to base a decision respecting any potential negative impact this gas line may have. The complainant did not know how close the gas line is to the property line. It is possible that typical set backs would remove the gas line from any interference with future development. Without knowing the specific area of land that



ASSESSMENT REVIEW BOARD DECISION WITH REASONS

CARB - 0203-0004/2013

may be restricted from development one cannot presume to make any allowance for the presence of this line. The Respondent suggested that because the line is abandoned there is no restriction on development, however no evidence was introduced to prove this point. Also even if the line reduces the available land on which a building could be constructed, there may be alternative uses for the restricted land such as parking.

Considerably more factual and market evidence is required to properly decide this matter and the onus rests with the Complainant to introduce such evidence. It is insufficient to simply raise a logical challenge respecting factors concerning a property's assessment. The Complainant bears the onus to lead factual and quantifiable evidence, which is more compelling than that of the Assessor to allow the CARB to alter a market value assessment.

Decision: Issue 1

In view of the above considerations, the CARB makes no reduction to the current assessment base on the presence of the ATCO gas line.

ISSUE 2: Assessed Value Per Acre

Complainant's Position

The Complainant argued that it is not logical to assume that smaller parcels have greater value per acre than larger parcels. Considerable information was shared respecting the history of the subject parcel and the Dresser Rand currently the Varsteel property. The Complainant's disclosure cited two nearby properties, which were argued as evidence that the City of Lethbridge is not fair nor is it equitable in determining assessments. One of these comparisons was the Varsteel vacant land parcel of 5.49 acres that the Assessor had valued at \$100,728 per acre. The second property was a 5.71 acre parcel at 2905 5 Avenue North valued at \$109,982 per acre. The average of these values is \$105,356 per acre but does not allow for any mitigation attributable to the gas line. The Complainant suggested that the value should be set at the original selling price of \$62,333 per acre or \$186,321.

Respondent's Position

The Respondent argued that, as is the case in many other commodities, land values are affected by economies of scale. The Complainant has ignored this fact and made comparisons with segments of much larger parcels of land that are not similar to the subject's size. The Respondent presented a list of eight sales comparables, which produced an average of \$242,450 per acre. The Respondent argued that this value supports the \$215,050 per acre value, which is the basis of the subject property's assessment. This value includes 15% to recognize the positive influence of exposure to 5th Avenue North.



ASSESSMENT REVIEW BOARD DECISION WITH REASONS

CARB - 0203-0004/2013

CARB Finding and Reasons

The CARB finds that the Complainant has not produced evidence to prove its theory that smaller parcels are valued less than that of larger parcels. The Board therefore rejects the larger parcel comparisons used by the Complainant to derive an alternate value for the subject property. In the end the Complainant does not rely on these comparisons but rather recommends that the CARB adopt a value based on the original purchase price of this property. This approach has also been found by the CARB as invalid because there is no evidence to suggest that this value reflects market value for the subject property as of July 1, 2012. There is insufficient detail regarding the sales used by the Respondent in support of the assessment to allow the CARB to determine the degree of similarity between these sales and the subject property. However, again the onus is on the Complainant to produce details and compelling evidence of similar properties if this is the basis for either an inequity challenge or a market value challenge respecting the assessment. Section 293 (2) of the Municipal Government Act sets out the following:

*"If there are no procedures set out in the regulations for preparing assessments, the Assessor must take into consideration assessments of **similar property** in the same municipality in which the property that is being assessed is located"*

Further section 2 (c) of Matter Relating to Assessment and Taxation Regulation (MRAT) sets out that an assessment based on market value:

"must reflect typical conditions for properties similar to that property"

The term "similar" must take into consideration all property attributes such as size, topography, access, location, and details respecting any improvements.

Decision: Issue 2

The CARB concludes that there is insufficient evidence on which to base any change to the \$215,050 value per acre that has been applied by the Respondent.

ISSUE 3: Increase in Assessment

Complainant's Position

The Complainant argued that the Assessor's sales evidence shows that property values decreased by \$60,164 per acre or by 25% from 2010 to 2011. Therefore, the actual increase of 24% in assessed value over the previous year cannot be supported. It was argued that there should be a 25% reduction in value.

**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS****CARB - 0203-0004/2013****Respondent's Position**

The Respondent indicated that it analyses sales over a rolling three-year period to determine the basis for the current assessment. The Complainant, it argued has not considered more recent sales, which actually reflect higher values than the current assessment.

CARB Findings and Reasons

The Complainant has not disclosed the detailed analysis leading to the assertion that property values declined by 25% from 2010 to 2011. The important valuation date for the assessment under appeal is July 1, 2012 and therefore the most reliable data reflecting market value for this date would arise from sales in the preceding six to twelve month period. In circumstances where there are too few sales to complete a valid analysis it is often necessary to go back one to three years in time as the Respondent has done in this case. Matters Relating to Assessment and Taxation Regulation (MRAT) section 3 reads as follows:

"any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year"

For purposes of this assessment the valuation date is July 1, 2012. It appears that the Complainant has not considered more recent sales data but rather has considered 2010 and 2011 data.

Decision: Issue 3

The CARB has concluded for the reasons above that the Complainant's argument concerning the year over year increase of 24% is without merit.

FINAL DISPOSITION OF COMPLAINT

The complaint is denied and the assessment is confirmed as follows:

Roll No./Property Identifier	Value as set by the CARB	Owner
4-2-050-2910-0001 2910 5 Avenue N	\$643,000	Mo-Tires Ltd/Brian Roelofs

It is so ordered.

Dated at the City of Lethbridge in the Province of Alberta, this 29th day of July, 2013



Paul Petry, Presiding Office



**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB - 0203-0004/2013

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

NO. ITEM

1. C-1 Complainant's Disclosure
2. C-2 Complainant's Rebuttal
3. R-1 Respondent's Disclosure

APPENDIX 'B'

ORAL REPRESENTATIONS

PERSON APPEARING CAPACITY

1. Brian Roelofs - Owner
2. Gord Petrunik, Assessor, City of Lethbridge

CARB - 0203-0004/2013 Roll # 4-2-050-2910-0001 (For MGB Office Only)

Subject	Type	Sub-type	Issue	Sub-issue
CARB	Industrial	Vacant land	Direct Sales Approach	Gas Line Impact