



**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB - 0203-0006/2013

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
4-1-130-0301-0001 301 13 Street N	\$552,000	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 is a rectangular shaped corner lot. The subject is a former service station that is currently being used as a tire shop. The property contains one building that was built between 1948 and 1951 and is approximately 8,830 square feet (SF) in size with an approximate basement space of 1,202 SF and a mezzanine space of 1102 SF. The basement space has no added value with respect to the current assessment. The building is situated on an assessable land area of approximately 17,039 SF with a building to site coverage ratio of approximately 52%. The subject is assessed using the Income Approach to value.



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The parties described an initial issue whereby the City of Lethbridge had assessed land that it owned to the owner of 301 – 13 Street N. This issue has been addressed and corrections to the record have been made, therefore the CARB has determined that this problem and its correction do not affect the complainant concerning the subject property for 2013.

PART B: PROCEDURAL or 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 form are as follows:

Issue 1: Does the contamination of this site have a quantifiable impact on the market value for the property?

Issue 2: What is the correct market value for the subject property?

ISSUE 1 Contamination Consideration

Complainant's Position

The Complainant explained that the previous CARB decision on this matter concluded that no relief could be determined as the Board did not have sufficient evidence with respect to the contamination and further the contamination according to the Respondent was below Alberta Environment guidelines at that point in time. The Complainant disclosure now includes the full phase II Environmental Site Assessment as completed by EBA Engineering Consultants Ltd. This report confirms that the site is contaminated and therefore this fact should be taken into account when arriving at the assessment for the subject property and the assessment should be reduced to \$0.00. Work had previously been done on this site and the cleanup met the standards then but now further investigations show more remediation is required, the cost of which can only be determined through further work or a Phase III Evaluation. The Complainant said that he was led to believe that this cost would be approximately \$150,000.

Respondent's Position

The Respondent argued that the present contamination appears not to pose any problems for the current use of this property and would not be a problem for someone else using the property for the same purposes. Also this type of contamination can cure itself over a period of time and the current owner has not gone any further to address this issue since the EBA report completed in August 2009. In any case the issue of contamination can only be addressed in an assessment once the costs of remediation are known.



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CARB Findings and Reasons

The CARB does not accept the Respondent's argument that because the contamination does not affect the current use of this property it is not important. Current use is not a relevant consideration as any informed potential buyer would take the contamination into account in deciding the price it may be willing to pay. Also the argument that this problem may cure itself is irrelevant as the Assessor is obligated under section 289(2)(a) of the Municipal Government Act (ACT) to consider the property's physical condition and characteristics as of December 31 of the assessment year. Any characteristic or physical condition that is presenting itself on that date must be considered and there is no authority for the Assessor to set aside such considerations.

The primary issue in this case, however, is the fact that there is no quantifiable evidence on which to base a decision respecting the value to cure the contamination problem. The Complainant has only provided a second hand guesstimate as to potential cost. The CARB concludes that without the Phase III report the negative value that could be considered respecting the contamination of this site cannot be determined.

Decision: Issue 1

In view of the above considerations, the CARB cannot quantify the potential impact contamination may have on the market value of the subject site.

Issue 2 Market Value of the Subject Property

Complainant's Position

The Complainant argued that the comparisons referred to by the Respondent are not even close to age, size or location of the subject property. Further the Respondent's argument concerning the mortgage registered on the title for the subject property is secured by other properties and inventories; therefore there is absolutely no reflection as to the value the lender may place on the subject. The subject property is not leased and the Respondent has not drawn its lease rates from similar properties even though there are approximately a dozen tire shops or vehicle repair shops that may have been used. The Complainant also argued that the basement has water problems and this is not known or has not been taken into account by the Assessor.

Respondent's Position

The Respondent provided 10 sales comparables showing an average per sq. ft. selling price of \$100.83. The Subject's assessment is currently at \$62.51 per sq. ft. The Respondent also provided 4 lease rate comparables indicating an average rate of \$8.83 while the subject has been assessed using a lease rate of \$5.50 per sq. ft. The Respondent requested that the CARB confirm the subject's assessment.



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CARB Findings and Reasons

The Complainant has argued that some of the Respondent comparables for both lease rates and sales are not comparable to the subject. The Complainant, however, has failed to bring forward its own study of comparable and similar properties, despite indicating that there are perhaps as many as 12 properties that would be more comparable than those brought forward by the Respondent. It is not enough to simply raise a logical challenge respecting factors concerning a property's assessment or the comparables used by the other party. 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. For this reason the CARB finds there is no compelling evidence to support a reduction in value based on the limited evidence brought by the Complainant.

Decision: Issue 2

In view of the above considerations, the CARB has not altered the assessment of the subject property.

PART D: 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
4-1-130-0301-0001 301 13 Street N	\$552,000	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 Officer



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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	Market and Contamination	Income Approach	