



**ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

CARB - 0203-0008/2012

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:

Brian Roelofs – Mo-Tires Ltd - Complainant

- a n d -

City of Lethbridge - Respondent

BEFORE:

Members:

M. Vercillo, Presiding Officer

K. Perry, Member

B. Boora, Member

A hearing was held on Wednesday, June 20, 2012 in the City of Lethbridge in the Province of Alberta to consider complaints about the assessments of the following property tax roll number:

Roll No./ Property Identifier	Assessed Value	Owner
4-1-130-0301-0001 301 13 Street N	\$554,000	Mo-Tires Ltd

Appeared on behalf of the Complainant:

- Brian Roelofs – Mo-Tires Ltd

Appeared on behalf of the Respondent:

- Verle Blazek, 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 for vehicle related activity. 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. 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 and uses assigned lease rates of \$5.50 per SF for the main floor space and \$2.00 per SF for the basement space. With consideration given to vacancy allowance and other expenses, the resulting net operating income is capitalized at 8.00% to achieve the assessed value.



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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. There were a number of points raised on the complaint form; however the following issue remained in dispute during the hearing:

ISSUE 1: The site contains contaminants that were not adequately considered in the assessment of the subject property.

The Complainant provided a four page document including what was submitted with the complaint form entitled "Assessment Review Board Complaint" that was entered as "Exhibit C1" during the hearing. The Complainant along with Exhibit C1 provided the following evidence with respect to this issue:

- That although the gasoline pumps and underground storage tanks were removed in the 1970's, Alberta Environment still considers the site contaminated and the assessment of the subject does adequately reflect this contamination.
- A Phase 2 environmental site diagram was provided along with a table of groundwater analytical results. These two pages appear to be excerpts from a May 26, 2009 Phase 2 Environmental Site Assessment conducted EBA Engineering Consultants. The Complainant suggested that this report contains evidence that contamination was still evident on the property almost 30 years after the gas pumps and storage tanks were removed.
- The Complainant concluded that because of site contamination, the assessment of the property should be zero (the requested value on the complain form).
- In rebuttal to the Respondent's evidence, the Complainant suggested that:
 - The book value of the property was only \$59,488 which is substantially lower than the assessment value.
 - There were no comparable property sales to the subject property and therefore the increase in assessment value from the prior year is baseless and not warranted.
 - There were no comparable properties to the subject property and therefore the assigned assessment lease rates are invalid.

The Respondent provided a 43 page document that was entered as "Exhibit R1" during the hearing. The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- A table of 5 lease rate comparable properties to the subject. The assessor focused on comparable properties of similar utility to that of the subject property. The comparables had building sizes ranging from 1,950 SF to 17,604 SF, with building ages ranging from 1945 to 1980. The comparables' lease rate commencement dates ranged from 2008 to 2011 with lease rates ranging from \$8.25 per SF to \$10.42 per SF, with an average



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lease rate of \$9.63 per SF. The Respondent concluded that based on the lease rates of his comparables, the subject's assigned lease rate of \$5.50 is equitable.

- A table of 27 building sales of comparable properties to the subject. Seven of the properties were of similar vintage to the subject and eight of the properties were in locations near the subject property. The comparables had parcel sizes ranging from 2,500 SF to 78,844 SF, with site coverages ranging from 12% to 89%. The comparables had building sizes ranging from 1,197 SF to 15,270 SF. The sales dates of the comparables ranged from 2001 to 2012, with sales prices per SF ranging from \$44.06 to \$138.88 per SF with an average of \$77.87 per SF. The Respondent concluded that the subject's assessment value of \$62.74 per SF is equitably assessed.
- Three MGB Board Orders were provided that highlighted the following:
 - MGB 150/99. This order dealt with a potential contamination issue where it was found that in spite of an Environmental Remediation Cost Study being present, the Board concluded that the Appellant was unable to provide evidence that a loss in value occurred as a result of the contamination.
 - MGB 120/01. This order concluded that in spite of a contamination issue, there was insufficient evidence as to how the contamination affected the site and moreover, the property was found to be fully useable for the purposes intended.
 - MGB 227/00. Again, this order concluded that the contamination issue lacked evidence to support a reduction in the assessment.
- In rebuttal to the Complainant's evidence of contamination, the Respondent reviewed the table of Groundwater Analytical Results that was provided by the Complainant. The Respondent pointed out that the April 2009 results showed that none of the boreholes contained contamination that exceeded Alberta Environment's Tier 1 Soil Remediation Guidelines and therefore the contamination issue is a moot point.

Decision: Issue 1

In view of the above considerations, the CARB finds as follows with respect to Issue 1:

- The contamination issue is not proven because the Respondent was able to demonstrate that the April, 2009 study, as provided by the Complainant, showed compounds affecting the site were below Alberta Environment's Tier 1 Soil Remediation Guidelines.
- The Complainant's rebuttal of the Respondent's evidence lacked any market evidence to support his assertions.
- The Respondent's lease rate comparables and direct sales comparables sufficiently demonstrated that the subject property is equitably assessed.

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	\$554,000	Mo-Tires Ltd



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The CARB provides the following reasons for the decision:

- There was insufficient evidence provided by the Complainant that the site was contaminated. The Respondent was able to demonstrate through the Complainant's own evidence that all contaminants were below Alberta Environment guidelines as of April 2009. It is likely that the site will continue to self-remediate as was suggested by the Respondent.
- The onus or burden of proof first lies with the Complainant to demonstrate the either the assessment is incorrect, or provide enough information supported by market evidence that may cast doubt on the assessment, or that the Complainant's alternative value more accurately approximates fair market value. The Complainant provided no evidence whatsoever that could be demonstrated in the marketplace that the assessment was unfair or inequitable.

It is so ordered.

Dated at the City of Lethbridge in the Province of Alberta, this 12th day of July, 2012.

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

Michael Vercillo, Presiding Officer



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APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

NO. ITEM

- | | |
|---------------|--------------------------|
| 1. Exhibit C1 | Complainant's Disclosure |
| 2. Exhibit R1 | Respondent's Disclosure |

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Column 1	Column 2	Column 3	Column 4	Column 5
CARB	Retail	Stand Alone	Contamination	Petro-chemical