

Composite Assessment Review Board

REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 002-2013-P

IN THE MATTER OF A COMPLAINT filed with the Regional Municipality of Wood Buffalo 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

BETWEEN:

Canadian Natural Resources Limited (CNRL) represented by Wilson Laycraft - Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) represented by Reynolds Mirth Richards & Farmer LLP - Respondent

BEFORE:

Members: W. Kipp, Presiding Officer

Board Counsel: G. Stewart-Palmer, Barrister & Solicitor

A preliminary hearing was held February 26, 2013 in Edmonton in relation to a complaint filed in April 2012 relating to the 2012 amended assessment notice (2011 assessment for 2012 tax year) of the following property tax roll number:

8992004911

Revised Assessment: \$3,410,553,820

File 12-032

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[1] This preliminary hearing is in regard to the Phase 1 of the Canadian Natural Resources Ltd. (CNRL) Horizon oil sands project. This preliminary hearing related specifically to the 2011 machinery and equipment assessment for the 2012 tax year.

[2] At a preliminary hearing in 2012, the merit hearing for the 2012 tax year was scheduled for October 15 – November 22, 2013. However, the CARB had not set any disclosure dates. The parties had requested that the setting of disclosure dates be deferred until after they had had an opportunity to review the decision of the CARB in the 2011 tax year complaint. That decision has been issued and the CARB Clerk scheduled a preliminary hearing to address the disclosure dates and any preliminary matters.

PART B: PROCEDURAL OR JURISDICTIONAL MATTERS

[3] The CARB derives its authority to make decisions under Part 11 of the *Municipal Government Act*, R.S.A. 2000, c.M-26 (the MGA).

Position of the Parties

Complainant

[4] The Complainant had initially requested that the parties be given sufficient time to review the decision of the CARB from the 2011 tax year complaint and had also proposed that the merit hearings for the 2010 tax year and the 2012 year be consolidated into one hearing. Based on that submission, the Complainant had suggested that this preliminary hearing should be adjourned until March, 2013. However, having heard from the Municipality that a consolidation is not practical because the Municipality will be calling different witnesses and that the Municipality does not wish to lose the October 2013 hearing dates, the Complainant agreed that this preliminary hearing should proceed so that the parties can obtain directions from the CARB.

[5] The Complainant stated that it could not make submissions to the CARB until it heard from the Municipality about what issues remained in play for the 2012 tax year complaint, following the decision from the 2011 tax year. Its position was that if the same issues were in play, it would be seeking to file the whole record from the 2011 hearing.

[6] The Complainant wished to address the location of future preliminary hearings, arguing that Calgary was a more convenient location.

[7] The Complainant was not ready to discuss disclosure dates, but suggested that it would be suggesting to the CARB that it required a longer rebuttal period than the typical one or two week period granted.

Respondent

[8] The Municipality indicated that both parties would benefit from more time to consider the decision of the CARB in the 2011 tax year appeal that was recently issued. The Municipality is concerned about combining the two hearings (2010 and 2012) not only because it will be calling different witnesses, but also because the arguments in the two years are different. The Municipality wishes to keep the October 2013 dates due to the effort required to have a significant hearing of this nature and to get dates agreeable to all parties. The Municipality is currently analyzing the 2011 decision, but due to the workload of the assessors during January and February, it has not been able to complete that analysis, so all issues remain live.

[9] In response to the argument in relation to the location of future preliminary hearings, the Municipality suggested that Ft. McMurray was the most appropriate location.

[10] The Municipality argued that in an annual assessment regime, a board's decision in one year doesn't mean the board will hear the same evidence in the next year. The Municipality is reviewing the 2011 decision, particularly in light of that decision's comments in relation to the evidence.

Decision and Reasons

[11] This decision should be read in conjunction with the Board Order CARB 003-2013-P.

[12] The CARB makes the following rulings in relation to the above preliminary matters.

[13] The CARB will convene preliminary hearings approximately once per month as an opportunity for the parties to advise the CARB on progress made, and as an opportunity for the parties to obtain further rulings from the CARB, should it be necessary. The next scheduled hearing is set for March 21, 2013 starting at 9:00 AM in the MGB offices in Edmonton. The next scheduled hearing is set for April 29, 2013. The location of that hearing is to be determined. Further hearing dates will be scheduled at the preliminary hearings.

[14] The April 29th and subsequent hearings may occur via teleconference, depending upon the nature of the hearing and the agenda. The CARB clerk will send out notices for the hearings and the parties can request that items be placed on the agendas, as needed.

[15] The agenda for the March 21 hearing is to be:

- a) a report from the Municipality about its review of the 2011 decision and what issues remain in dispute for the 2012 complaint hearing.
- b) the timing for disclosure for the 2012 hearing.
- c) If the parties are able, the CARB would like to hear submissions in relation to the number of hearing days per week, and hours for the CARB to sit.

[16] The Municipality has agreed to provide its position regarding the issues in dispute by March 15, 2013 and the CARB so orders.

[17] At this time, the CARB does not foresee the need to have a court reporter for the March 21 hearing. However, the CARB may require the parties to provide a court reporter for future preliminary hearings, depending upon the agenda.

[18] The CARB notes that the parties may not have had sufficient time to review the 2011 decision prior to this March 21, 2013 preliminary hearing. However, the CARB wishes to ensure that the dates for the 2012 merit hearing are preserved given the difficulty of scheduling such a lengthy hearing. The CARB wishes to ensure that the parties have sufficient opportunity to bring issues to the CARB for direction, well in advance of the 2012 merit hearing and believes that such monthly preliminary hearings is the venue in which to do so. Further, these hearings will provide the CARB with an opportunity to provide direction in relation to matters that the CARB might feel should be addressed to make the merit hearing proceed efficiently and effectively.

[19] The CARB has noted that the parties are not in agreement about the location of future preliminary hearings. This matter is in relation to the Regional Municipality of Wood Buffalo and hearings are generally held in the municipality in question. However, the CARB believes

that having the hearings in Edmonton is the "middle ground", and therefore directs that the in person preliminary hearings to be held in Edmonton.

[20] It is so ordered.

Dated at the City of Calgary in the Province of Alberta, this 4th day of March, 2013.

W. Kipp
W. Kipp, Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

NO. ITEM

Exhibit #	Document	Filed
PC1	Letter of Wilson Laycraft LLP and attachment	February 19, 2013
PR2	Letter of Reynolds Mirth Richards and Farmer LLP	February 21, 2013
PC3	Letter of Wilson Laycraft LLP	February 26, 2013

APPENDIX "B"

REPRESENTATIONS

PERSON APPEARING CAPACITY

- | | | |
|----|--------------------|--|
| 1. | G. Ludwig | Counsel for the Complainant |
| 2. | J. Laycraft | Counsel for the Complainant |
| 3. | K. Minter | Supervisor of Operations Accounting, CNRL |
| 4. | B. Balog | Manager, Legal Corporate Operations, Legal Counsel, CNRL |
| 5. | C. M. Zukiwski | Counsel for the Respondent |
| 6. | C. Killick-Dzenick | Counsel for the Respondent |
| 7. | B. Moore | Regional Assessor, Regional Municipality of Wood Buffalo |

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Subject	Type	Sub-type	Issue	Sub-issue
CARB	Other	Machinery & Equipment	Evidence Disclosure	