



REGIONAL MUNICIPALITY
OF WOOD BUFFALO

Composite Assessment Review Board

REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 007/2012-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:

Wayne Kipp, Presiding Officer

Board Counsel:

G. Stewart-Palmer, Barrister & Solicitor

Staff:

N. MacDonald, Assessment Review Board Clerk

A preliminary hearing was held on August 14, 2012 in Edmonton to consider a preliminary matter in relation to a complaint about the assessment of the following property tax roll number:

8992004911

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

RMWB File 12-032

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[1] Construction of the Canadian Natural Resources oilsands project was completed in 2009. The roll number being considered in this preliminary hearing is an amended machinery and equipment (M&E) assessment. The amended assessment of \$3,410,553,820 was sent to the property owner on March 9, 2012. The Complainant has raised the issues in its Reasons for Complaint document.

PART B: PROCEDURAL OR JURISDICTIONAL MATTERS

[2] The Board derives its authority to make decisions under Part 11 of the *Municipal Government Act*.

[3] The Board conducted a preliminary hearing on August 14, 2012. During the course of the hearing, the parties raised the following procedural matters, which are addressed below.

Preliminary Matter 1: Scheduling of Hearings;

Preliminary Matter 2: Evidence Disclosure Timelines.

Position of the Complainant

[4] The Complainant indicated that it would prefer not to schedule the merit hearing for the 2012 complaint or the disclosure dates until it received direction from the Court in the appeal relating to its 2010 complaint. This appeal is scheduled to be heard by the Court of Queen's Bench on January 23 and 24, 2013. It stated that, in its view, the natural order would be to have the hearing for the 2010 complaint, then the hearing for the 2011 complaint, and finally the hearing for the 2012 complaint. The Complainant had made an application of this nature in the 2011 appeal, but was not successful in having the 2011 complaint deferred until the appeal of the 2010 complaint was decided by the Court. As a result, the hearing for the 2011 complaint is scheduled to occur in October 2012.

[5] The position of the Complainant is that what happened in 2010 created a change to the assessment and has affected the assessment for the 2012 tax year.

[6] Recognizing that a hearing of this magnitude will require maintenance, if fall 2013 is a reasonable time, then there should be direction from the Board so that the hearing in September or October of 2013 could be set. If the hearing is scheduled, the hearing might include a consolidation of the appeals for a number of years, provided that the parties reach agreement on the point. The Complainant indicated that if the Board wished to pick six weeks starting in October, 2013, it had no objections to that and would agree to come back in February, 2013 to discuss the disclosure filing dates.

Position of the Respondent

[7] The Respondent indicated that it takes the same position for the 2012 tax year as it has in the 2011 tax year. Its position is that the issues upon which leave was granted in the appeal filed relating to the 2010 complaint are solely in relation to the facts of the 2010 tax year and do not have a bearing on either the 2011 tax year or the 2012 tax year. The decision which will assist the parties is the decision on the merits of the 2011 appeal: namely, CCRG and excluded costs.

[8] The complaint form for the 2012 tax year is very similar to that filed in the 2011 tax year. The Respondent's witnesses are the same. Mr. Elzinga and Mr. Thompson are retired and wish to take vacations and are not available for a hearing in March and April of 2013. The Respondents submitted that the Complainant may wish to see the result of the 2011 tax year complaint merit hearing and therefore suggested the fall of 2013 for hearing the 2012 tax year complaint.

[9] The Respondent denied that there was any natural order to having the appeals heard 2010, 2011 and then 2012. On the issue of a consolidated hearing, this would need to be discussed and agreed between the parties. The Respondent indicated that if tentative dates were set for a fall hearing, there would need to be a preliminary hearing set about three weeks after the release of the Board's decision for the 2011 tax year. The municipality suggested that if the

Board's decision was to be released mid-January 2013, then a hearing should be set for mid to early February of 2013 to determine what issues are going forward and what will be required for the fall.

Decision

[10] The merit hearing for the 2012 tax year is set for October 15 to November 22, 2013.

[11] A preliminary hearing will be set for the week of February 4, 2013 on the assumption that the 2011 Board decision will be issued in the middle of January.

[12] The Board will provide notice to the parties of the specific date of that preliminary hearing. The preliminary hearing will be in Edmonton commencing at 9 o'clock in the morning of the hearing date.

Reasons

[13] The Board recognizes that this merit hearing is likely to be lengthy. The merit hearing for the 2011 appeal is scheduled for six weeks, starting in October 2012. Due to the timing of that appeal, the parties are not available until after the end of 2012. The Board heard that certain witnesses are not available during the early part of 2013. The Board notes that both parties agreed that the matter could be scheduled for the fall of 2013.

[14] Although the hearing might not be concluded before the end of the year, the Board believes that it is best to schedule the hearing to ensure that the parties are working to a specified date for a hearing. Should the decision from the 2011 merit hearing provide assistance to the parties to reach a resolution or partial resolution of the issues, the parties can seek further direction or clarification from the Board for changes to the hearing dates.

[15] A hearing of this nature will be a lengthy hearing, and if not scheduled early, the various parties and their witnesses may not be available until some time after the fall of 2013. To ensure the appeal proceeds expeditiously, the hearing dates are set as provided above.

[16] The Board recognizes that the scope of the hearing may change following the release of the 2011 tax year merit decision. Accordingly, the Board has decided that a preliminary hearing will be held at some time during the week of February 4, 2013 with a specific date to be sent from the Board to the parties. The purpose of this second preliminary hearing will be to hear from the parties as to what issues remain outstanding and to set disclosure dates.

[17] It is so ordered.

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this 5th day of September, 2012.


Wayne Kipp, Presiding Officer

APPENDIX "A"

ORAL SUBMISSIONS:

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| 1. | G. Ludwig | Counsel for the Complainant |
| 2. | C. Zukiwski | Counsel for the Respondent |
| 3. | C. Killick-Dzinick | Counsel for the Respondent |
| 4. | B. Moore | Regional Assessor, Regional Municipality of Wood Buffalo |
| 5. | A. Athwal | Student-at-Law, Shores Jardine LLP (observer) |