



Composite Assessment Review Board

REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 002-2014-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:

Imperial Oil Resources Ventures Limited and ExxonMobil Canada Properties assessed as Imperial Oil Resources Limited (IOR) represented by Wilson Laycraft - Complainant

- and -

Regional Municipality of Wood Buffalo (RMWB) represented by Brownlee LLP - Respondent

Roll Number:	8992004731
Legal Description:	4-07-096-19NE, MSL 072949
Assessment Value	\$4,847,536,740
Assessment Year	2013
Tax Year:	2014

BEFORE:

Members:

Robert Mowbrey, Presiding Officer

Board Counsel:

G. Stewart-Palmer, Barrister & Solicitor

A preliminary hearing was held on July 24, 2014 via teleconference to consider preliminary matters in relation to a complaint about the assessment of the following property tax roll number:

8992004731 Assessment: \$4,847,536,740

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[1] The complaint is about the machinery and equipment assessment at IOR's Kearl Project. The roll number being considered in this preliminary hearing is the machinery and equipment (M&E) assessment. The assessment of \$4,847,536,740 was sent to the property owner on February 28, 2014. The Complainant has raised the issues in its Reasons for Complaint document.

PART B: PROCEDURAL OR JURISDICTIONAL MATTERS

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

Municipal Government Act

454.2(3) *Despite subsections (1) and (2) but subject to the conditions prescribed by the regulations, a council may establish a composite assessment review board consisting of only a provincial member appointed by the Minister.*

Matters Relating to Assessment and Taxation Regulation 310/2009

36(2) *A one-member composite assessment review board may hear and decide one or more of the following matters:*

(b) a procedural matter, including, without limitation, the scheduling of a hearing, the granting or refusal of a postponement or adjournment, an expansion of time and an issue involving the disclosure of evidence;

[3] The parties did not have any objection to the matter being heard by a single member CARB panel as established by council pursuant to s. 454.2(3) of the *Municipal Government Act* (Act). The jurisdiction of the CARB panel is provided by s. 36(2)(b) of the *Matters Relating to Assessment and Taxation Regulation 310/2009* (Regulation) relating to procedural matters regarding the scheduling of a hearing and the disclosure of evidence.

[4] The CARB had no bias in relation to this matter.

[5] The CARB conducted a preliminary hearing on July 24, 2014. During the course of the hearing, the parties discussed the following procedural matters, which are addressed below.

Preliminary Matter 1: Scheduling of Hearings;

Preliminary Matter 2: Evidence Disclosure Timelines.

Position of the Parties

[6] The Respondent indicated that the parties had had discussion in relation to the dates and duration for the hearing. The parties agreed to a start date of February 2, 2015. The Respondent argued that the complaint could be completed in 4 weeks, but that the Complainant argued it would be completed in 6 weeks. If the hearing is scheduled to start February 2, 2015, the parties agreed to the following disclosure dates:

Complainant Disclosure	September 30, 2014
Respondent Disclosure	December 1, 2014
Complainant Rebuttal	January 9, 2015

[7] The Respondent argued that even though the assessment value was high, the issues were not complex. Of the approximately 20 exclusion claims, many of them overlap and have common issues. The Respondent argued that if the hearing was set for 6 weeks, it would fill the entire time set for the hearing.

[8] The parties agreed the hearing location would be in Edmonton.

[9] The Complainant indicated that it agreed to the February timeframe, but from its perspective, it could accommodate a hearing date between February to June. However, it understood that if the hearing did not proceed in February 2015, the Respondent's next available time was September, 2015.

[10] The Complainant's view was that the issues in dispute were major issues. The Complainant agreed to scheduling 5 weeks for the hearing, on the understanding that the parties will work out between themselves if they can find efficiencies to reduce the issues or deal with the case in 5 weeks, or, alternatively, to find other dates near to the main hearing dates.

[11] The Complainant's witnesses will be travelling, some from Houston. Therefore, the hearing times may need to be adjusted to accommodate travel time.

[12] Both parties agreed to Edmonton as the location of the hearing. If the hearing is at the MGB offices, both parties requested break out space.

[13] In response to comments from the CARB, both parties agreed to ensure their exhibits are consecutively page numbered and agreed that the exchanges could and would occur electronically. The Respondent did not have instructions in relation to sharing the cost of a court reporter, but both parties committed to discussing the sharing of the cost of a court reporter, a proposed list of exhibits, and other details.

Decision

[14] The merit hearing for the 2014 tax year is set for five weeks, commencing February 2, 2015 to March 6, 2015 in Edmonton.

[15] The hearing will commence at 10:00 am on February 2, 2014 to permit witnesses to travel to the hearing. The merit panel will determine the length of the hearing days and the number of days each week during which the CARB will sit.

[16] The disclosure dates for the parties will be as follows:

Complainant Disclosure	September 30, 2014
Respondent Disclosure	December 1, 2014
Complainant Rebuttal	January 9, 2015

[17] The hearing will be in Edmonton, but the specific location will be confirmed and sent to the parties in advance of the hearing.

[18] The submissions may be sent electronically to the parties and to the CARB Clerk and CARB Counsel on the dates set out in paragraph 16 of this Order. Paper copies of the materials may be then sent the next day.

[19] The parties must send 5 paper copies of their paper submissions to CARB Counsel, not to the CARB Clerk. The CARB would appreciate receiving from the parties an electronic copy of

their submissions on USB drives (3 – one for each CARB member), which can be sent to CARB Counsel along with the paper copies.

[20] The submissions for each party must have consecutively page numbers, starting at page 1 at the beginning of the report, then increasing for each page, to the end of the report, including any tabs. For greater clarity, each page of every submission must have a unique page number. Failure to comply with this direction may result in the CARB directing the party who fails to file appropriately numbered materials to reproduce its materials to the satisfaction of the CARB.

[21] The CARB reminds the parties that they are to file all evidence upon which they wish to rely. This includes any Power Point presentations, graphs, charts, diagrams, etc.

[22] The CARB also directs that any charts or tables which are contained within any witness report must be of a sufficient font size to be legible without the need for reading aides, such as magnifying glasses, etc. The CARB recommends a font size of at least 8 point. This may require that tables be reproduced on paper larger than 8 1/2" x 11". Failure to comply with this direction may result in the CARB directing the party who fails to file legible materials to reproduce its materials to the satisfaction of the CARB.

Reasons

[23] The CARB recognizes that this merit hearing will be lengthy. The Complainant has indicated that it will be a 6 week hearing, while the Respondent argued that it could be completed in 4 weeks. The CARB notes that both parties agreed that the matter could be scheduled for February 2, 2015, and both parties agreed to the five week duration of the hearing. In light of that agreement, the CARB is prepared to schedule a 5 week hearing for the dates above.

[24] The CARB notes the agreement of the parties to the exchange dates and orders disclosure in accordance with that agreement.

[25] The CARB has directed appropriate pagination due to the issues which have arisen in other lengthy hearings. The CARB wishes to streamline the hearing and to reduce the number of applications to admit what may amount to new evidence, or new iterations of filed evidence (for example, Power Point presentations, diagrams, etc.). There is sufficient time for the parties to put their minds to whether the witnesses require diagrams or other pictorial versions of their evidence. The parties should present all such evidence on their filing dates. This will ensure that no party is taken by surprise, and will ensure that the CARB will have such evidence before the hearing, and in electronic form.

[26] The CARB would like to have a court reporter present at the hearing, but notes that the Respondent did not have instructions on this point. The CARB urges the parties to work together to see if they can agree to sharing the cost of the reporter, as well as any other steps which might shorten the hearing, including an agreed exhibit list, or agreed statement of facts.

[27] The parties agreed the hearing would occur in Edmonton. At this time, the CARB is not aware of where the hearing will be held, but will advise the parties prior to the start of the hearing.

[28] It is so ordered.

Dated at the City of Edmonton, in the Province of Alberta, this 25th day of July, 2014.


Robert Mowbrey, Presiding Officer

APPENDIX "A" REPRESENTATIONS

PERSON APPEARING	CAPACITY
1. G. Ludwig, Q.C.	Wilson Laycraft LLP
2. J. Laycraft, Q.C.	Wilson Laycraft LLP
3. B. Wickerson	Imperial Oil
4. A. Kosak	Brownlee LLP
5. B. Sjolie, Q.C.	Brownlee LLP