



**Composite Assessment Review Board**

**REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 009-2011-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 (Act).

**BETWEEN:**

Shell Canada Limited - Complainant

- a n d -

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

**BEFORE:**

Member:

P. Mowbrey, Presiding Officer – in attendance

Board Administration:

N. MacDonald, Clerk of the Assessment Review Board – in attendance

A. Rogers, Senior Legislative Officer – in attendance

Complainant:

R. Matiko, Shell Property Tax Advisor – by teleconference

Respondent:

C. Zukiwski, Legal Counsel – by teleconference

H. Van Waas, Regional Assessor – in attendance

A hearing was held by teleconference, on August 12, 2011, at the Jubilee Centre, 9909 Franklin Avenue, Fort McMurray, in the Regional Municipality of Wood Buffalo in the Province of Alberta to consider a preliminary judicial issue about the assessment of the following property tax roll number:

| Roll No./ Property identifier            | Assessed value  | Owner                 |
|--|-----------------|-----------------------|
| 8992004670<br>S 16 & 21<br>095 – 09 – W4 | \$1,598,204,090 | Shell Canada Limited. |

## **PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

The subject property is a Shell Canada Limited project by the name of Jack Pine Mine. It is a significant project in the RMWB and the assessment is of considerable magnitude.

## **PART B: PROCEDURAL or JURISDICTIONAL MATTERS**

The CARB derives its authority to make this decision under Part 11 of the Act.

### **PROCEDURAL MATTER**

The Presiding Officer questioned the parties if there was any objection to the hearing conducted by teleconference for two participants and if there was any objection to the composition of the one member Board. There were no objections. The Board indicated there was no bias to the file.

### **PRELIMINARY MATTER**

**ISSUE:** Request for Postponement

### **LEGISLATION**

*Municipal Government Act:*

*Assessment Review Board Decisions*

*S468(1) Subject to the regulations, an assessment review board must, in writing, render a decision and provide reasons, including any dissenting reasons, within 30 days from the last day of the hearing, or before the end of the taxation year to which the complaint that is the subject of the hearing applies.*

*Matters Relating to Assessment Complaints Regulation:*

*Postponement or adjournment of a hearing*

S15(1) Except in exceptional circumstances as determined by an assessment review board, an assessment review board may not grant a postponement or adjournment of a hearing. A request for a postponement or an adjournment must be in writing and contain reasons for the postponement or adjournment as the case may be. Subject to the timelines specified in section 468 of the Act, if an assessment review board grants a postponement or adjournment of a hearing, the assessment review board must schedule the date, time and location for the hearing at the time of the postponement or adjournment is granted.

### **Position of the Complainant**

The Complainant requested a postponement for the hearing date and requested a further Preliminary Hearing date be set as detailed in C1. The Complainant explained discussions are

ongoing between the Regional Municipality of Wood Buffalo industrial assessor and the Complainant's property tax advisors to finalize the assessment of the subject property. The Complainant stated both parties are in agreement that these discussions continue in an attempt to resolve outstanding issues, rather than use the time to prepare for a hearing. The Complainant noted it will take an extensive amount of time to review a cost report, provided to the assessor, in order to finalize the assessment.

### **Position of the Respondent**

The Respondent confirmed that the Regional Municipality of Wood Buffalo and Shell Canada Limited have been meeting and exchanging information in an effort to resolve the complaint, or if all the issues cannot be resolved, to narrow the issues under dispute, as noted in R1. The Respondent stated it is a time consuming project for both parties to review a cost report of this magnitude.

The Respondent explained that both parties have committed to a series of document exchanges and meetings over the next two months, and asked the Board to schedule a further Preliminary Hearing in mid October. The Respondent and the Complainant are in agreement to undertake to come prepared with a list of issues outstanding, and will at that time be prepared to schedule a merit hearing, if that is necessary. Alternately, the Respondent and Complainant will come prepared with a joint recommendation.

### **DECISION**

The Decision of the Board is to allow a postponement for a hearing and grant a further Preliminary Hearing to provide the time required for the Complainant and Respondent to move to a resolution of issues or to prepare a joint recommendation for the Board.

The Preliminary Hearing will be held in the Regional Municipality of Wood Buffalo, on October 20, 2011, at 9:00 a.m.

### **REASONS**

The Board is of the opinion that the subject property is complex and the information requires a comprehensive review and discussion by both the Respondent and Complainant to fully understand and resolve issues that were put forward by the Complainant and to prepare for a hearing.

The Board is aware that MRAC S15 (1) states "except in exceptional circumstances as determined by an assessment review board, an assessment review board may not grant a postponement or adjournment of a hearing". However, in the Alberta Court of Queens Bench Decision, Edmonton (City) v. Edmonton (Assessment Review Board), 2010 ABQB 634, at paragraph 35 and following, Germain, J. offers his comments on what constitutes "exceptional circumstances". Exceptional circumstances are dependent upon the circumstances, but can include the ability of the parties to respond to an expert report (at paragraph 43 and 44). Exceptional circumstances can include

having adequate time to prepare for and have a hearing. On these grounds, the submissions of both parties fit within the direction given by Germain, J.  
It is so ordered.

Dated at the City of Edmonton in the Province of Alberta, this 09 day of September, 2011.

  
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P. Mowbrey, Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE MGB:

NO. ITEM

1. C1 Letter, Shell Canada Limited
2. R1 Letter, Reynolds Mirth Richards & Farmer LLP Barristers Solicitors

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| Column 1 | Column 2                      | Column 3                                | Column 4 | Column 5 |
|----------|-------------------------------|---|----------|----------|
| CARB     | Jurisdictional/<br>Procedural | Hearing<br>Postponement/<br>Adjournment |          |          |
|          |                               |   |          |          |
|          |                               |   |          |          |