

Central Alberta

Regional Assessment Review Board

CARB 0262-704/2016

Complaint ID 704

Roll No. 30009700635

COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: July 28, 2016

ADJOURNED HEARING DATE: October 6, 2016

PRESIDING OFFICER: B. Hisey

BOARD MEMBER: A. Gamble

BOARD MEMBER: A. Knight

BETWEEN:

R&S RESOURCES LTD. – QUALITY TUBING

Complainant

-and-

CITY OF RED DEER

Revenue & Assessment Services

Respondent

This decision pertains to a property assessment complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by an Assessor of The City of Red Deer as follows:

ROLL NUMBER: 30009700635

MUNICIPAL ADDRESS: 27216 TWP Rd 391, Red Deer, Alberta

ASSESSMENT AMOUNT: \$4,796,600

The complaint was heard by the Composite Assessment Review Board on the 28th day of July, 2016, at The City of Red Deer, in the province of Alberta, and was adjourned to the 6th day of October, 2016, at the same location.

Appeared on behalf of the Complainant:

Terry O'Connor – Owner of the subject property

Lavinia Olar – Legal assistant

Kevin Jones – General Manager of 2A Technology

David Horn – President of Truepoint Appraisals

Chris Fargues - Solicitor

Appeared on behalf of the Respondent:

Jason Miller – Property Assessor

Anna Meckling – Assessment Coordinator & Analyst

DECISION: The assessed value of the subject property is confirmed.

JURISDICTION

- [1] The Central Alberta Regional Assessment Review Board [“the Board”] has been established in accordance with section 456 of the *Municipal Government Act*, RSA 2000, c M-26 [“MGA”], and City of Red Deer Bylaw No. 3474/2011, *Regional Assessment Review Board Bylaw*.

PROPERTY DESCRIPTION AND BACKGROUND

- [2] The subject property is a non-residential industrial facility located at 27216 Township Road 391, within Red Deer, Alberta. The parcel is 20.58 acres zoned I1-Industrial (Business Service) District.
- [3] Quality Tubing submitted a complaint to the Regional Assessment Review Board on March 18, 2016, and checked box #3 on the complaint form, indicating that the complaint regarded an assessment amount.

PRELIMINARY MATTERS

- [4] The Board Chair confirmed that no Board member raised any conflicts of interest with regard to matters before them.
- [5] Neither party raised any objection to the panel hearing the complaint.

Preliminary Matter #1

- [6] A preliminary matter was identified by the Chair regarding clarification on the submission of two roll numbers, 30009700635 (Quality Tubing) and 30009700630 (Terroco Industries Ltd.), both disclosed in one document package and intended for one hearing.
- [7] After questioning of the parties, the Board understood that although the properties had clear differences, the assessment reduction for Quality Tubing was contingent on the outcome and evidence provided for the Terroco Industries Ltd. property. Both properties are owned by R & S Resources Ltd. It was also noted that the time and complexity to separate the document would be onerous on all witnesses and parties present.
- [8] The Board recessed to deliberate and confirmed the process could be managed to accommodate both parties. It was confirmed that evidence and argument would be provided on both files at one hearing but written as two separate decisions. This decision pertains to the subject property, Quality Tubing Canada Ltd.
- [9] As most of the evidence and argument will be directed to roll number 30009700630 (Terroco Industries Ltd.), it will be referred to as the lead file.

Preliminary Matter #2

- [10] A second preliminary matter was brought forward by the Respondent, regarding appropriate disclosure on the land value component of the assessment for Terroco Industries Ltd., roll 30009700630. The Respondent stated that the Complainant did not indicate that the land value was under appeal, and therefore this matter could not be

brought as new evidence by the Complainant in Rebuttal documents or verbal testimony. Both parties spoke to this matter:

- a. The Respondent referred to *Matters Relating to Assessment Complaints Regulation, AR 310/2009* ["MRAC"] section 8.2 to request that portions of the Rebuttal document be removed from evidence, stating it did not respond to the documents provided by the Respondent. It was suggested that the information was intended to pad the Complainant's initial disclosure.
- b. The Complainant stated the information was to support the Howard & Company appraisal in the original disclosure. It was also provided in response to discussions with the City regarding the sale of the property adjacent to the subject.

[11] The Board recessed to deliberate, then reconvened and concluded the Rebuttal documents were not properly disclosed as required by MRAC 8(2)(a), and that new evidence could not be accepted under MRAC 9(2). The Rebuttal document was entered as Exhibit CR.1 with pages 1 to 7 and excluded pages 8 to 16.

Preliminary Matter #3

[12] The third preliminary matter presented by the Respondent questioned the admissibility of new evidence through verbal testimony of witnesses not listed as agents within the disclosure documents. The witness sheet was reviewed by the Board, and clarification was provided regarding information that would be accepted under *Matters Relating to Assessment and Taxation Regulation, Alta Reg 220/2004* ["MRAT"], section 8(2)(a)(i).

[13] The Respondent requested confirmation that disclosure regulations be followed in regards to information provided by the Complainant. There was no abridgment of time granted for additional information regarding land sales by the Respondent.

[14] The Board determined that verbal testimony would be heard from witnesses that had been identified in the disclosure package. It was clarified that Mr. David Horne was representing Howard & Company but has since changed jobs.

[15] The Board confirmed the disclosure submissions and presented the parties with the following chart outlining the Exhibits as follows:

C.1 *Witness Report, 1 page*

C.2 *Complainant Disclosure exhibits 1-12, letter dated June 13, 2016, 2 pages*

(1) *Appraisal Report from Howard & Company conducted by Mr. David Horn, 76 pages*

(2) *City of Red Deer 2015 tax assessment details for both properties, 12 pages*

(3) *Alberta Land Compensation Board Decision, 16 pages*

(4) *R&S Resource Services – Tax Amounts Chart, 1 page*

(5) *R&S Resource Services – Property Valuations Chart, 1 page*

(6) *Bylaw 3554/2015 – 11A MASP Figures (x4), 4 pages*

- (7) *Utility Bylaw 3570/2016 – Schedules, 17 pages*
- (8) *Letter–Petroleum Tank Management Association (March 9, 2016), 5 pages*
- (9) *Witness Report – Table of Contents & Witness Report, 10 pages*
- (10) *Witness Report – Tubing Technology Canada – Terry O’Connor, 5 pages*
- (11) *Witness Report – Summary Letter dated June 10, 2016, D. Horn, 2 pages*
- (12) *Relevant Case Law – Summary and Excerpts (5 pages) + excerpt from MGA part 9 (4 pages) + excerpt starting at MGA 298 (5 pages) + costs to be excluded – Ministerial Order (2 pages) = 16 pages*
 - (12.1) *CARB 0262/2015, 24 pages*
 - (12.2) *CARB 0262 670/2015, 23 pages*
 - (12.3) *CARB 0262 673/2015, 23 pages*

TOTAL PAGES (C.2)...237 pages

C.3 *Complainant Witness Report*

Exhibits 1-20 Cover Page – List of Exhibits numbered 1-20

- (1) *Red Deer Storage Facility Tank List, 6 pages*
- (2) *Red Deer Storage Facility Tank List – Original Schedule, 1 page*
- (3) *Storage Facility Cost in 2007, 3 pages*
- (4) *Storage Tank Facility Depreciation Schedule, 1 page*
- (5) *Storage Tank Facility Invoices, 33 pages*
- (6) *Storage Facility Pad – Depreciation Schedule, 1 page*
- (7) *PTMAA Correspondence – dated March 9, 2016, 1 page*
- (8) *Terroco - IT Technical Narrative Report, 2 pages*
- (9) *Terroco - Bottled Water Costs, 3 pages*
- (10) *Bottled Water Invoices, 79 pages*
- (11) *Terroco – Commercial Water Usage (2013 & 2014), 2 pages*
- (12) *Commercial Water Invoices, 124 pages*
- (13) *Gallagher Water Protection Correspondence, 1 page*
- (14) *Gallagher Insurance Premium Correspondence, 1 page*
- (15) *Terroco – Septic Removal Costs, 1 page*
- (16) *Clearwater Waste Management Ltd. – Septic Removal Invoices, 40 pages*
- (17) *Directions to Terroco, 2 pages*
- (18) *Annual Property Taxes – spreadsheet, 1 page*
- (19) *Tax Assessments, 30 pages*
- (20) *3rd Party Email & Attachment, 3 pages*

TOTAL PAGES (C.3)...336 pages

- CR.1 *Complainant Rebuttal - Rebuttal of Evidence (see preliminary matters paragraph 8), 7 pages*
- R1 *Respondent Disclosure - Disclosure of Evidence for Terroco Industries Ltd. and Quality Tubing, 227 pages*

ISSUES

- [16] The Board considered the position of the Parties and determined that the question of whether the subject property has been properly assessed at market value is to be addressed within this decision.

POSITION OF THE PARTIES

Position of the Complainant

- [17] The complaint was filed in conjunction with roll number 30009700630 (Terroco Industries Ltd.), an adjacent property also owned by R & S Services. It was the Complainant's contention that if the lead file (Terroco) was granted a reduction, it should follow that the subject property, with similar attributes, be granted a similar concession.
- [18] The Complainant requested a ratio be calculated based on the reduction sought on the lead file. The improvement component assessed by the City on the Terroco property was \$3,587,470. The improvement amount provided in the Howard & Company appraisal was \$2,300,000 for the Terroco property. The Complainant suggested the overstated ratio of 56% should be applied to the subject property's improvements.
- [19] Applying the requested 56% reduction to the assessed improvements (\$1,647,900) on the subject property, the Complainant suggested the appropriate assessed value would be \$1,056,346. When that amount is added to the subject property's assessed land value (\$3,148,700), a total market value amount of \$4,205,026 would be realized.
- [20] The Complainant called several witnesses to address the assessment and valuation of the lead file (Terroco). It was the Complainant's contention that if the Board approved a reduction to that file, it should support the requested reduction to the subject property.
- [21] The primary witness for the subject property was Kevin Jones, representing Quality Tubing Canada. Mr. Jones, General Manager of 2A Technology, presented Exhibit C.2 #10 of the disclosure package. This document outlined locational issues for the subject property (i.e. lack of access and services) and stated that the assessment of the machinery and equipment was incorrect.
- [22] The Complainant referred to the subject property intermittently throughout the hearing, suggesting the level of taxation was excessive and that the appraisal on the Terroco property should reflect a reduction for the subject property (Quality Tubing).
- [23] In closing, the Complainant requested the subject property's assessment be reduced from \$4,796,600 to \$4,205,026.

Position of the Respondent

- [24] Respondent confirmed that legislative requirements had been followed to assess the subject property.
- [25] The Respondent stated that the Complainant's requested assessed valuation confirms the assessed land value of \$3,148,700.
- [26] It was asserted that a fabricated percentage of the assessed improvement value, based on an appraisal of the adjacent property owned and occupied by the Complainant, is unreliable and not a fair representation of market value.
- [27] The Respondent contends the Complainant has not met the burden of proof with respect to the complaint filed on the subject property.
- [28] In closing, the Respondent requested the Board confirm the subject property assessment at \$4,796,600.

BOARD FINDINGS and DECISION

- [29] The Board finds the Complainant's appeal is based on the reduction of an assessment request that was unsuccessful. Therefore, it follows that the reduction requested for the subject property also fails.
- [30] Section 467(3) of the *Municipal Government Act*, RSA 2000, c M-26 states that an assessment review board must not alter any assessment that is fair and equitable. Proving the incorrectness of an assessment is the responsibility of the individual alleging it. The Board was not presented with sufficiently compelling evidence on which a change to the assessment could be based.

DECISION SUMMARY

- [31] The Board finds that the Respondent values are confirmed.
- [32] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 7th day of November, 2016 and signed by the Presiding Officer on behalf of all the panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



Brenda Hisey
Presiding Officer

This decision can be appealed to the Court of Queen's Bench on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for leave to appeal to be filed and served within 30 days of being notified of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Exhibit	Document Name	Document Description	# Pages
C.1	Witness Report	Single page	1
C.2	Complainant Disclosure 1-12	2- page letter dated June 13, 2016	2
		(1) Appraisal Report from Howard & Company conducted by Mr. David Horn	76
		(2) City of Red Deer 2015 tax assessment details for both properties (9 pages + 3 pages = 12 pages)	12
		(3) Alberta Land Compensation Board Decision	16
		(4) R&S Resource Services – Tax Amounts Chart	1
		(5) R&S Resource Services – Property Valuations Chart	1
		(6) Bylaw 3554/2015 – 11A MASP Figures (x4)	4
		(7) Utility Bylaw 3570/2016 - Schedules	17
		(8) Letter–Petroleum Tank Management Association (March 9, 2016)	5
	Witness Report & Document	(9) Witness Report – Table of Contents & Witness Report (1 cover page + 9 page document with 18 items = 10 pages)	10
		(10) Witness Report – Tubing Technology Canada – Terry O'Connor	5
		(11) Witness Report – Summary Letter dated June 10, 2016, D. Horn	2
	(4 Documents)	(12) Relevant Case Law – Summary and Excerpts (5 pages) + excerpt from MGA part 9 (4 pages) + excerpt starting at MGA 298 (5 pages) + costs to be excluded – Ministerial Order (2 pages) = 16 pages	16
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		(8) Terroco - IT Technical Narrative Report	2
		(9) Terroco - Bottled Water Costs	3
		(10) Bottled Water Invoices	79
		(11) Terroco – Commercial Water Usage (2013 & 2014)	2
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		(13) Gallagher Water Protection Correspondence	1
		(14) Gallagher Insurance Premium Correspondence	1
		(15) Terroco – Septic Removal Costs	1
		(16) Clearwater Waste Management Ltd. – Septic Removal Invoices	40
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		TOTAL PAGES (C.3 only)	336
CR.1	Complainant Rebuttal	Rebuttal of Evidence (13 letter size pages + 3 legal size pages)	16
R1	Respondent Disclosure	Disclosure of Evidence for Terroco Industries and Quality Tubing. Total Pages in one document.	227