

Alta. Gaz. Sept. 29/79

THE LOCAL AUTHORITIES BOARD

ORDER No. 10644

File No. 10(A)J

Before:

The Local Authorities Board
for the Province of Alberta

In the matter of The Local Authorities
Board Act:

And in the matter of The Municipal
Government Act:

And in the matter of an application by the
City of Edmonton for variation of the terms
and conditions of Order No. 24581 being an
Order of the Board of Public Utility Com-
missioners, dated the 22nd day of April,
1960.

Pursuant to an application by the City of Edmonton for variation of the conditions detailed in Order No. 24581 of the Board of Public Utility Commissioners, dated the 22nd day of April, 1960, which Order annexed to the City of Edmonton certain territories, subject to conditions outlined in the above noted Board Order, the Local Authorities Board being the successor Board under section 132 of The Local Authorities Board Act, conducted a public hearing of the matter in the Council Chambers of the City of Edmonton, commencing on Wednesday, February 8, 1978.

The position of the City of Edmonton was put forth by Bruce Barrington of the Legal Department of the city, Stuart Scott, the City Assessor, A. Cooper and D. Kazakewich of the City Assessor's Department and Ms. Chris Goldburn, a Planner with the Edmonton Planning Department.

Appearing at the hearing were some of the owners who would be affected by a variation of the terms of the Board Order. Counsel, representing owners, included: Mr. Neeland appearing for Donald Love; D. Thomas for Stewart Green Properties Ltd.; J. McGhie for E. Wakowitch; and Wayne Uhrychuk for Allarco Developments.

Mr. Barrington outlined the requests of the City of Edmonton and in particular indicated that the city wished to have a time limit placed on certain conditions outlined in Board Order No. 24581. In particular the city requested limiting of the time during which the City of Edmonton must observe conditions numbered 1, 2, 3, 4 and 7.

Mr. Barrington pointed out the inconsistencies of certain conditions contained in Clauses 2 and 3 with the current requirements of The Municipal Taxation Act of Alberta. He argued that the application of Clause 7 in Board Order No. 24581 caused an inconsistency and inequity relative to people with similar lands in different areas of the City who are being taxed and assessed in different ways. People owning land which qualify and which are located in the area covered by Board Order No. 24581, he argued, are getting a tax benefit that others in similar circumstances are not receiving. Other tax payers in the City of Edmonton are, as a result, paying more.

Ms. C. Goldburn provided the hearing with planning data and a projection of the timing of servicing of various sectors of the territory. Ms. Goldburn indicated that some portions would likely be serviced within the next 5 years while others would be later.

Mr. S. Scott indicated the effect that the various conditions have on taxation and assessment in the City of Edmonton. Condition 1 which applied to the Veteran's Land Act holdings had a ten-year term which had expired, thus avoiding the need to vary it. He reviewed the amended legislation which currently affects conditions 2 and 3. Mr. Scott further indicated that there are other parcels of land which have subsequently been annexed to the City of Edmonton and, although not served with water and sewer, do not receive the advantages afforded under Board Order No. 24581, Clause 7.

A property owner, Mr. Ketchum, brought argument in opposition to any amendment to this Board Order as did Mr. Prosser, both of whom are residents in the area subject to Board Order No. 24581.

The Board having considered the evidence presented to it at the hearing has reached the following conclusions:

1. That Clause 1 of the conditions contained in Board of Public Utility Commissioners' Order No. 24581 as amended by Public Utilities Board Order No. 24926 regarding small holdings occupied by veterans, the term of ten years having expired, the condition has lapsed and has no further application.
2. That the conditions contained in Clause 2 of the said Order as amended established terms and conditions for farm land assessments and mill rates for territories within the said Board Order which differ from those set forth in The Municipal Taxation Act as it applies in both the City of Edmonton and the County of Strathcona No. 20, creating certain inequities to comparable farm lands within both municipalities. Legislation pertaining to taxation should be permitted to apply fully to the said territory and Clause 2 of the Board of Public Utility Commissioners' Order No. 24581 should be struck out.
3. That the conditions contained in Clause 3 of the said Order while similar to the conditions contained in Clause 2 differ in applying to farms of different types. This permits certain lands to retain a farm land assessment under certain conditions. The Municipal

Taxation Act provides similar conditions for corresponding situations and provides the advantage in a manner consistent with other parcels throughout the City and the County of Strathcona. Condition No. 3 therefore, is exceptional and Clause 3 should be struck out.

4. That the conditions contained in Clause 4 of the said Order pertaining to business taxation and the livelihood of persons engaged in farming are confusing because of the variance in the meaning of terms as used in the Order and as they apply in current taxation legislation. The provisions of The Municipal Taxation Act should be permitted to apply and therefore Clause 4 of the said Order should be struck out.

5. That the conditions contained in Clause 7 of the said Order as amended established as condition precedent that water and sanitary sewer be first made available to the lands affected prior to normal City of Edmonton assessments and taxes applying thereto. No time limit was established nor were limits in extent established to lands which might never be provided with water and sanitary sewer services by the City. As Clauses 1, 2, 3 and 4 are subject to Clause 7 and as they are deemed no longer applicable to lands within the territory annexed by the Order, Clause 7 therefore should be deleted from the said Order.

6. In order to provide a time period for adjustment to the application of ordinary statutory rules of assessment and taxation in the areas affected by the said Order, the Local Authorities Board would provide certain protection in the form of a temporary continuation of the residual provisions of Clause 7 of the said Order.

THEREFORE subject to the Lieutenant Governor in Council approving this Order or prescribing conditions that the Order is subject to, and approving the Order subject to those conditions, or varying the Order and approving the Order as varied, IT IS ORDERED THAT:

Board of Public Utility Commissioners' Order No. 24581 as amended by Public Utilities Board Order No. 24926, be amended as follows:

I. The "conditions" set out in the Order following the description of the lands being annexed to the City and identified as Clauses 1 to 11 are amended (a) by striking out Clauses 2, 3 and 4, and (b) by striking out Clause No. 7 and substituting the following, therefor:

"7. Until December 31, 1980 all of the foregoing is subject to the general condition that, exclusive of any rate necessary to raise the cost of local improvements abutting any parcels of land in the said area, the property, improvement and business taxes charged in respect of parcels of land in the said area to which the City has not made water and sewer available will not represent an increase over the taxes that the parcel would be liable for had the area remained in the Municipal District. As soon as the City has made water and sewer available to any parcel of land within the said area, or commencing January 1, 1981, whichever occurs sooner, the normal City taxes, subject to the foregoing conditions, will apply to that parcel."

II. Notwithstanding the provisions of this Order, Order No. 24581 of the Board of Public Utility Commissioners as amended by Order No. 24926 of the Public Utilities Board shall remain in full force and effect except as hereby amended.

III. The effective date of this Order shall be the 1st day of January, 1979.

Dated and signed at the City of Edmonton, in the Province of Alberta, this 11th day of August, 1978.

Certified a true copy,
R. MYRONIUK, Acting Secretary.

LOCAL AUTHORITIES BOARD
D.A. BANCROFT, Chairman.
T. LAUDER, Member.
J.A. HAMMOND, Member.