BOARD ORDER: MGB 149/08

IN THE MATTER OF THE *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

AND IN THE MATTER OF AN APPEAL from decisions of the 2007 Assessment Review Board (ARB) of the City of Calgary.

BETWEEN:

The Great West Life Assurance Company et al - Appellants

- a n d -

City of Calgary - Respondent

BEFORE:

Members:

S. Cook, Presiding Officer
W. Kipp, Member
D. Thomas, Member

Case Manager:

K. Lilly

Upon notice being given to the affected parties, a preliminary hearing was held in the City of Calgary, in the Province of Alberta on February 12, 13, March 13, 14, April 8, 17, June 24, 25, July 22, 23, 29 and September 16, 2008.

The hearing concerns matters arising on appeal to the Municipal Government Board (MGB) from decisions of the 2007 Assessment Review Board (ARB) of the City of Calgary with respect to property assessments entered in the assessment roll of the Respondent municipality as shown in Appendix "D".

OVERVIEW

This preliminary hearing concerns whether additional disclosure from the City of Calgary (Respondent) is required in order to have full and fair hearings before the MGB. The Appellants state that they have not received sufficient information to determine how their assessments have been prepared, and that this information is necessary both for the Appellants and for the MGB. Specifically they are requesting the mathematical formula that is the model used by the

Respondent to prepare the assessments. The Respondent argues that it has already provided the Appellants with sufficient information about their assessments; further, it says that its model is intellectual property that it is not willing to disclose.

BACKGROUND

The owners of as many as 900 warehouse properties appealed their 2007 property tax assessments. The MGB therefore set about identifying an effective process to manage the numerous warehouse appeals. To this end, it held a preliminary hearing on December 20, 2007 before a five member panel. Prior to the hearing, the MGB administration wrote a letter to the Respondent and the agents representing the warehouse owners. The letter identified a number of case management issues and objectives that would need to be addressed at the hearing. In particular, the MGB indicated that it wished to determine "what preliminary matters, if any, may be required to be decided", including any issues relating to disclosure.

Representatives for the Respondent and all of the Appellants' tax agents involved (except Rickard Realty) appeared on December 20, 2007. The discussion that took place suggested disagreement between the parties as to the scope of disclosure that should be made by the Respondent concerning the preparation of the Appellants' assessments. Similar concerns, it appeared, had arisen at the ARB level for at least some roll numbers. In light of these circumstances, all of the parties present at the December 20 hearing agreed to dates for a further preliminary hearing concerning the scope of disclosure that would be required. These dates are reflected in MGB DL 191/07. Subsequently, at various stages during these proceedings, all of the Agents except Altus Group indicated that they would go to merit hearings on the basis of disclosure already received, or otherwise withdrew from this disclosure hearing. Therefore, the current order applies only to the assessments for those owners represented by Altus Group and their counsel. Although the City of Calgary is a cross appellant in some instances, for the sake of expediency this order refers to the property owners throughout as the Appellants and the City of Calgary as the Respondent.

Part A of this order deals with the main issues surrounding disclosure, as contemplated in DL 191/07. Part B outlines a number of further preliminary issues and contains a more detailed history of this proceeding.

PART A - DISCLOSURE

FURTHER BACKGROUND

The Mass Appraisal Process

An understanding of the Respondent's mass appraisal assessment process is necessary to appreciate the issues raised in relation to disclosure.

In 2007 the City switched from the income approach to the direct sales comparison approach to assess warehouse properties. In the context of mass appraisal, the direct sales comparison approach involves analyzing sales of properties within a municipality to develop a mathematical formula or model that uses statistically relevant characteristics to calculate market value estimates for all properties, whether sold or unsold.

The Respondent clarified that in using the direct sales approach, a software program called SPSS takes validated sales data and uses a multiple regression model. The model used for warehouse properties was an additive model, which means that variables (modified by coefficients) are added together with a constant value to come up with a final market value. The variables used are characteristics or attributes of the property.

The Respondent indicated that the first step in the modelling process is referred to as "Inventory". For this step, sales are directly inputted into the Respondent's computer system and analyzed. Sales that are determined to be invalid are then discarded.

The second step is "Valuation", for which the sale prices are first adjusted for time to bring them to the legislated valuation date of July 1 of the assessment year. Then, using multiple regression analysis, certain characteristics of properties are identified as being statistically significant in determining market value. Once these variables are identified, the model is applied to the same property type (in this case warehouses), resulting in assessments at market value.

The final step, "Validation", involves a provincial audit process and statistical testing to ensure the model accurately reflects market value. Under the *Matters Related to Assessment Regulation* (MRAT) assessment to sales ratios (ASRs) must have a coefficient of dispersion of 0 – 20.0 and a median between .95 and 1.05.

The Respondent must submit the ASRs to the province, at which time an audit is performed to ensure it meets the regulated standard. There are three stages to the audit process, ranging from a basic to a comprehensive audit of the assessments. The stage of audit undertaken is determined by the provincial Assessment Services Branch.

Further validation processes occur when a taxpayer contacts the Respondent to discuss a particular property, and through the tribunal process.

Finally, the Respondent clarified that while most industrial warehouse properties were prepared using the direct sales comparison approach, some unique properties were valued using a different approach.

The Appellants added to the explanation of the modelling process. To illustrate the process, the Appellants used an example (below) contained in the Instructor Reference Manual for the International Association of Assessing Officers' Commercial and Industrial Modeling Concepts course.

V/SQFT = 40.88 + (9.24*LINGRADE) – (.2*EFFAGE) + (2.19*AIRCOND) + (13.48*DOWNTOWN) + (1.95*CORNER) – (0.069*SQRTSQFT)

In the example, the Appellant stated that this equation would represent the market value of a group of properties as determined by the multiple regression analysis. The factors labelled LINGRADE, EFFAGE, etc. are all physical characteristics or attributes of the subject property that the analysis found to be significant influences on market value.

Disclosure to Date

In response to the new methodology used to assess warehouses, the tax agents on behalf of the property owner requested further disclosure from the Respondent pursuant to sections 299 and 300 of the Act. Their position was that they did not have sufficient information to determine whether the assessments were correct and equitable, or to challenge or test the assessments. The Appellants did not receive the information they sought, and brought a preliminary issue to the ARB requesting disclosure pursuant to the ARB's authority under section 465 of the Act. The ARB convened a preliminary hearing to decide the issue, and issued a decision finding that the Appellants had not received sufficient information and ordering the Respondent to produce additional disclosure. The merit hearings then proceeded. The Appellants did not find the disclosure produced by the Respondent pursuant to the ARB's order sufficient, and brought an action in the Court of Queen's Bench seeking an order of mandamus and a declaration. This action is still pending in the Court.

Following from the ARB disclosure preliminary hearing and merit hearings, the Respondent produced a large binder containing assessment summary reports and a book of sales used. The summary reports provided the following information:

- the assessment per square foot
- building footprint
- whether the warehouse is a single tenant or multi-tenanted building
- quadrant
- site area and coverage
- zoning, office/retail component

- net rentable area
- year of construction
- land adjustment.

The Appellants do not accept the disclosure thus far to be sufficient to enable them to understand how the assessments were prepared and to know the case they have to meet before the MGB. Accordingly, the Appellants are requesting the MGB order additional disclosure from the Respondent.

ISSUES

1. Is the production of additional information from the Respondent required?
   a. Is the information disclosed to date sufficient for the Appellants to meaningfully test the assessments?
   b. If more information must be disclosed, would such production compromise the Respondent's proprietary interest in the information produced?

2. If additional disclosure is ordered, what information is required?

LEGISLATION

The MGB is authorized to determine its own procedure.

523 The Board may make rules regulating its procedures.

Section 497 permits the MGB to compel additional evidence if it determines it is required.

497(1) When, in the opinion of the Board,
(a) the attendance of a person is required, or
(b) the production of a document or thing is required,
the Board may cause to be served on a person a notice to attend or a notice to attend and produce a document or thing.

The Act also allows an assessed person to request both a summary of the assessment and information regarding how the assessment was prepared. When a request is made, the municipality must comply with it.

299(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive sufficient information to show how the assessor prepared the assessment of that person's property.
(2) The municipality must comply with a request under subsection (1).

300(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive a summary of the assessment of any assessed property in the municipality. (2) The municipality must comply with a request under subsection (1) if it is satisfied that necessary confidentiality will not be breached.

ISSUE 1: Is the information disclosed to date sufficient for the Appellants to meaningfully test the assessments?

Appellants' position

The Appellants submitted that the overall scheme of the legislation contemplates the assessed person requests and receives, pursuant to sections 299 and 300, the information necessary to appeal their assessment prior to the appeal process. Although conceding that some of the information on the assessment summary record was helpful, the Appellants argued there was no definitive information as to what characteristics the Respondent found made a difference to the market value. Additionally, there was no indication as to whether all of the information was used or whether some of it was found to be irrelevant. Without knowing the characteristics considered significant by the Respondent, and the corresponding coefficients, there was insufficient information to determine how an assessment was prepared, and whether it was equitable with other similar properties. In response to questioning, the Appellants clarified that they were not asking for the data used to develop the model, or to have the "working papers".

To demonstrate that the disclosure received was neither sufficient for the taxpayers to understand the assessments nor for the MGB to make an informed decision, the Appellants contrasted what the Respondent previously disclosed under the income approach with what it discloses now under the direct sales approach. The income approach uses a formula with inputs such as rental rate, vacancy rate and capitalization rate. Historically, all of these inputs were disclosed, so it was clear to the assessed person how the assessment was prepared. This, it was submitted, was sufficient information to allow the assessed person to understand how the assessment was prepared. Knowing the inputs used by the Respondent also gave the Appellants the opportunity to ensure that all of the inputs used were correct. In contrast, no information is provided by the City as to what adjustments were made for the physical attributes of each property under the direct sales comparison approach.

The Appellants submitted a chart showing the differences in the assessments of four sample properties from 2006 and 2007, reproduced below, to further demonstrate the difficulties of understanding and challenging the assessments.

Address	Rentable Area	Rental Rate in 2006	2006 Assessment	2006 Assessment psf of Bldg	2007 Assessment	2007 Assessment psf of Bldg
5855- 11 St SE	50,220	$5.25	$2,835,120	$56.45	$3,118, 052	$62.09
4120 – 8 St SW	23,880	$5.50	$1,412,308	$59.14	$2,190,177	$91.72
5775 – 11 St SE	50,505	$5.50	$2,986,981	$59.14	$3,375,208	$66.83
5505 – 6 St SE	12,000	$5.75	$741,967	$61.83	$1,482,056	$123.50

The Appellants noted that in 2006, there was a 10% difference in the assessments of these properties; however, in 2007 that difference jumped to a difference of approximately 100%. It was submitted that from the information given by the Respondent, the Appellants could not determine whether the change was justified, or what factors lead to the change in assessed value. The Appellants also provided an additional eight properties in the Highfield area to demonstrate that there is a great variation in the assessed values, and no information provided that would allow the assessed person to understand the reason behind the differences. Additionally, the Appellants stated that during ARB hearings, the sales and equity evidence produced by the assessors showed assessment to sales ratios ranging from 0.71 to 1.19. In light of these differences, the taxpayer needs more information to understand how the assessments were prepared, and to test the assessments.

Respondent's position

The Respondent explained that the amount of information it discloses to taxpayers depends on whether the assessment is contested. First, the assessment notice is sent out, which includes information related to the assessed person, the legal description and civic address of the property, the date of mailing, the final date of complaint, the revenue neutral calculation, as well as instructions on how to contact the City for more information. If a taxpayer contacts the City, the assessor will provide the taxpayer (or authorized agent) with an assessment summary report (the information provided on this report is outlined above). The Respondent indicated that all of the variables that were found to be statistically significant can be found on the assessment summary report. If the property owner still had questions regarding the assessment, the assessor responsible would sit down with the owner and discuss sales comparables. Although the assessor would not give the owner a copy of the sales sheets, the owner would be permitted to take down any information they wished. The Respondent noted that the Appellants represented by Altus had not availed themselves of the opportunity to speak with an assessor regarding individual properties, and that Altus as agent had not done so either.

The Respondent identified the following variables (characteristics) as being the characteristics that were adjusted for in preparing the assessments: site coverage, building area, office finish, location, age and single or multi tenanted properties. These variables were used as it was determined by the model that these variables were significant in predicting the value of a warehouse property. If a property had an unusual characteristic, such as extremely poor condition, an adjustment would be made to the property outside of the modeling process. It was the Respondent's position that the model is intellectual property; thus, outside of naming the variables, the Respondent would not disclose any further information such as the coefficients attached to the variables. In the Respondent's view, no further information needed to be disclosed.

FINDINGS

1. The evidence disclosed to date does not permit the Appellants to meaningfully test the assessments.

2. The Appellants must be able to understand how the assessments were prepared in order to test the assessments.

3. Any proprietary interest the Respondent may have in its assessment model does not eliminate the need to produce information respecting how the assessments were prepared so that the appellants may receive a fair hearing.

4. Issues respecting confidentiality of the information may be dealt with pursuant to MGB practice by sealing orders, confidentiality undertakings, or other similar orders.

REASONS

Section 497 permits the MGB to compel production of a person or thing that it determines is required in the context of an appeal. Historically, the MGB has often deferred determination as to whether further production is required until the merit hearing, when it has all of the other information before it. However, the MGB also recognizes that determining what is required must be made in the context of procedural fairness. This is a broader question than what information is needed by the MGB to make a decision. In this regard, the MGB notes that it is empowered under section 523 to regulate its procedures, and has a general obligation to ensure that its processes are fair to the parties.

Now that the City of Calgary has chosen a new method of assessing warehouses, special care is required to ensure that Appellants are able to understand how their assessments were prepared so that they may test any evidence that the Respondent presents in the hearing to defend the assessments. Particularly relevant are the words of Lutz J. in Nortel Networks Inc. v. City of Calgary and Municipal Government Board, (February 4, 2007) Action No. 0601-04373 Reasons for Judgement [Nortel], affirmed Nortel Networks Inc. v. Calgary (City), 2008 ABCA 370:

> As part of that issue, a fair hearing envisages the concept that the parties must know the case being made against them, so that they can rebut the same, if desired. And I reference Jones and de Villars' Principles of Administrative Law 4th ed., Scarborough, Thomson Carswell, 2004 at 258 and 259. Additionally, the parties must be afforded an opportunity to present the other side of the matter. The applicant was denied that here under several guises, including confidentiality, wrongly.

The wording of Justice Lutz accords with the principles set out in British Columbia (Assessor of Area No. 09 – Vancouver) v. Lord Realty Holdings Ltd., [1996] B.C.J. No 2092 [Lord Realty],

and Rendez-Vous Inn Ltd. v. St. Paul (Town), 1999 ABQB 942. In discussing the issue of disclosure in the context of a property assessment hearing before the British Columbia Assessment Appeal Board, the Court in Lord Realty stated at paragraph 27:

> Clearly, an owner providing information under the Act can reasonably expect that the Assessor will release the information only as authorized by the Act. Such a person has the right to expect that the Board will require disclosure of the information only if such disclosure is relevant and necessary in proceedings before it. This the owner may be said to have an expectation that the information will be treated confidentially so far as possible by the Assessor, but such an expectation does not make the information "confidential" in the sense of "for your and my eyes only".

While this does not mean the Respondent must disclose its entire assessment model, information that is arguably relevant to the Appellant's appeal is required to be disclosed. In coming to this conclusion, the MGB considered the case law provided by the parties.

The Appellants submitted a number of additional cases that - although not directly on point - suggest the assessor has a duty to ensure disclosure of information that is relevant to appeal the assessment, and that the MGB is tasked with ensuring correctness and equity (Alberta (Minister of Municipal Affairs) v. Telus Communications Inc., 2002 ABCA 199, Amoco Canada Petroleum Co. v. Alberta (Minister of Municipal Affairs), 2000 ABCA 252 and Strathcona No. 20 (County) v. Alberta (Assessment Appeal Board), [1995] A.J. No. 35). In light of these authorities, cases put forward by the Respondent (such as Lac Minerals Ltd. v. International Corona Resources Ltd., 1989 CarswellOnt 126, B&S Publications Inc. v. Max-Contracts Inc., 2001 CarswellAlta 69 and R.L. Crain Ltd. v. R.W. Ashton & Ashton Press Mfg. Co., 1948 CarswellOnt 94) do not persuade the MGB that confidential nature of the assessment information or any associated intellectual property rights is enough to bar its production in the context of this appeal.

The Respondent must use mass appraisal to develop the assessments. However, when a property is appealed, it is not the mass appraisal that is examined, as the mass appraisal must by legislation pass Provincial audit; rather, it is the individual result that the mass appraisal yielded (see DL 111/08). The MGB must then determine whether the assessed values appealed to it should be varied in order to be fair, equitable, and within the range of market value.

The MGB recognizes that market value is a range; however, when it is clear on appeal that the mass appraisal did not result in a market value or equitable assessment for an individual property, that assessment is adjusted. While the MGB is not looking at the correctness of the model overall, it is necessary to understand some of the model in determining whether it resulted in a correct, fair and equitable assessment. The Appellants coming before the MGB may provide evidence that the assessment exceeds market value. This can be done by presenting evidence of comparable properties and the price they attracted in the market. Alternatively, the Appellants

can show that, despite market values, similar properties were assessed at a lower value than their property by a sufficient amount to show an inequity. This can be done using assessments of comparable properties.

In order to test and challenge the assessment, an appellant must understand how the assessment was prepared. In the direct sales comparison approach used by the Respondent market value is established by reference to sales of *similar* properties. In determining equity, a property is also compared to *similar* properties; therefore, establishing *comparability* is critical to understanding, testing and challenging the assessment. In determining comparability, the Respondent analyzes data to determine which characteristics or attributes of a type of property (i.e. industrial warehouses) are statistically significant contributors to value. The model also determines the adjustments for these characteristics. In determining whether an assessment is correct, fair and equitable, properties that are similar to the property under appeal must be identified. To do this, knowledge of what the statistically significant characteristics are, both generally, and in relation to the subject property is required. Further, to determine whether the assessor has entered the correct input data to his or her model, the assessed person must know not only which attributes are considered statistically relevant for the property in question, but also what descriptors or codes were entered for a that property. The MGB notes that the characteristics determined by the model to be significant may not be the only characteristics that make properties similar. For instance, there may be instances where an unusual feature in the environment (such as a slough) affects a number of closely located properties and is not taken into account by the model. Thus, the Appellants are not limited to arguing sales and equity based on only those characteristics that the model finds to be significant.

The Respondent has stated that the necessary information is contained on the assessment summary sheet, and indicated six significant characteristics during the hearing. However, the MGB notes that there is some inconsistency in the evidence as to whether the characteristics listed there form a complete and accurate list. Additionally, while the information may be on the assessment summaries, it is not clear on those sheets what the relevant information is or how it was used. No fully meaningful understanding of how the assessment was prepared may be gained from the assessment summaries. Thus, while it may be repeating some of the information already disclosed, to avoid confusion the MGB orders that the Respondent provide a full and final list of the characteristics recognized as significant by the model, and in the context of each appeal, the characteristics that were applicable to that property and the relevant comparables.

With respect to the Appellants' argument that it was also necessary to know the coefficients of the significant characteristics, the MGB finds that the coefficients are not arguably relevant in determining market value. While such information would be interesting the issue of market value, when put in issue before the MGB, centres on comparability. It is not necessary to know the coefficients to determine which properties are comparable.

The MGB recognizes that the model adjusts not only for each characteristic, but for the interrelationship between the characteristics, which are not independent variables. This is what

makes mass appraisal methods so complex. It is not simply a matter of starting with the value of the land, adding on the value of improvements and adjusting for a series of influences like location. For example, a 16 foot clear wall height in one warehouse may add ascertainable value, while in another neighbourhood, or value range of warehouses, it adds little overall value, because most warehouses, with their other characteristics, have 16 foot clear wall heights; so there is little extra value to the specific feature because all such properties have that feature. Suffice to say that mass appraisal models adjust for the interrelationship of characteristics not just for each characteristic itself. Saying, again for example, that the property has less than a 16 foot clear wall height yet was assessed as if it had a 16 foot clear wall height may alter the value the mass appraisal formula yields, but not necessarily so, and if it does it may well yield different adjustments to the market value on account of a 16 foot clear wall height for the various different warehouses in the municipality. Thus, the coefficients of individual characteristics are of little assistance in determining comparability.

The MGB recognizes that some characteristics, such as quality, may have a range of codes or descriptors. Where a characteristic has a range of descriptors or codes, knowledge of where in the range the subject property lies is also required. For example, in the context of residential properties, a dwelling may be given a quality of "good". During the appeal, evidence may be led by both parties as to why the quality is correct or incorrect. In order to understand and test the assessments, the Appellants would need to know what the range for the characteristic is (in the example given, possible ranges for quality could be poor, average, good or excellent). Additionally, in order to understand how the Respondent has stratified the property into each range, an explanation of the criteria for each range is necessary.

Both parties agreed that the assessment process involves adjustments outside the model for unique characteristics that the model does not take into account. These adjustments are done on an individual basis. In order to determine whether an assessment is within the range of market value, it is necessary to know of these site specific adjustments. Thus, information concerning any additional adjustments made to a property in addition to the significant characteristics determined by the model is required.

Further procedural matters

In order for the Appellants to examine and apply the above information, the MGB finds that the additional disclosure must be received with enough time for the Appellants to submit any new evidence in accordance with the timelines in the *Assessment Complaints and Appeals Regulation* (ACAR). Therefore, the MGB orders that the Respondent provide the Appellants and the MGB with this additional disclosure by January 30, 2009.

With respect to the merit hearings, and the exchanges under ACAR, the MGB finds it prudent to make a further suggestion as to the content of the Respondent's submissions where the Respondent is relying on sales or equity comparables. The MGB notes that in residential assessment appeals (which are also prepared using the direct sales approach) the Respondent

routinely provides both sales and equity reports unless the only issue is with the correctness of one of the inputs (such as square footage). These reports contain the significant characteristics of the comparable properties to substantiate the assessment of a subject property. From its experience with the numerous residential appeals that occur every year, the MGB finds these reports relevant and helpful in its decision making.

The MGB would expect to be provided with similar reports for industrial properties at the merit hearings to establish correctness (using sales) and equity (using assessments). These reports would be similar to the residential reports, containing the significant characteristics of the comparables to establish comparability with the subject. Additionally, the Nortel case (discussed above) endorsed the disclosure of information pertaining to comparable properties to ensure that the appellants knew the case they had to meet.

Confidentiality

While the Respondent expressed concerns about the confidentiality of the information and its proprietary interest in the model, the MGB does not accept that these are legitimate reasons for failing to disclose the information now ordered. Any issues with confidentiality may be dealt with through the MGB's usual procedure of sealing documents, or other similar means. As for the characteristics found to be significant in the model, this is basic information about how the assessment was prepared. The MGB does not accept that any proprietary interest the Respondent may have in the modelling process would compromise the statutory right of the assessed person to know how the assessment was prepared, or (even in the absence of that statutory right) their right to receive a fair hearing by virtue of that knowledge. This conclusion is consistent with the cases of Nortel and Lord Realty, discussed above.

As a final note, the MGB is uncertain why the Respondent is reluctant to disclose meaningful information on how the assessments were prepared despite a request by the Appellants under sections 299 and 300 of the Act. If the Appellants had been given full information in response to their section 299 and 300 requests, it would facilitate expeditious handling of appeals. It may even prevent mass appeals, as suggested by the Appellants, where there is uncertainty in what the assessor has done. This is especially true when the Respondent has changed its method of assessing a large group of properties, particularly a group that historically has a high proportion of appeals. One would expect the Respondent to provide information of an equal or even more comprehensive nature than it had under the income approach, which was established and fully understood by property owners and the agents they contract to represent them.

The MGB notes that to its credit, the Respondent previously provided a comprehensive assessment summary report under the income approach including floor areas, rent rate(s), vacancy allowance and capitalization rate, so that the taxpayer could follow step by step the application of the valuation approach that led to the assessment. Corresponding reports of a similar quality are now required under the direct sales approach. Assessors have a duty of fairness in matters of taxation, and for this reason transparency is especially important. The

taxpayers have a legislated right to understand how their assessments were prepared, and the MGB does not believe that the assessment summary report answers that requirement, or the ordinary requirements of fairness.

DECISION

I The MGB directs the Respondent to provide the following information to the Appellants and the MGB respecting the subject properties as shown in Appendix "D":

1. all the variables or significant characteristics used by the model;

2. for each subject property, the characteristics entered into the model, the descriptors and codes entered for those characteristics, and any adjustments made to those descriptors and codes;

3. where there is a range (such as in quality) of descriptor or code possible for the characteristic, the ranges and what descriptor and code was applied in respect of each subject property, including an explanation of the criteria used in determining each range; and

4. any adjustments that were made to each subject property outside those characteristics determined to be statistically significant by the model.

Submissions to the MGB are to be made to the Edmonton office by 4:30 p.m. January 30, 2009.

PART B: APPEAL HISTORY AND OTHER MATTERS

Appeal History

Due to the lengthy timeframe and number of parties involved in this appeal, further explanation of timeline and parties may help to provide clarity.

On January 23, 2008 a preliminary hearing was held to consider a postponement request by the Respondent. The MGB refused to postpone the matter pursuant to the reasons given in DL 023/08, and the hearing proceeded as scheduled on February 12 and 13, 2008. On these dates the City raised a number of preliminary matters and objections (outlined below), and the MGB was unable to commence hearing evidence and argument related to the issue of disclosure. With the agreement of all parties the hearing was to be continued on March 13 and 14, 2008.

On March 13, 2008 the parties advised that they expected to settle the matter, and requested that an adjournment be granted. An adjournment was granted to April 8, 2008.

On April 8, 2008, the parties informed the MGB at this time that they had not resolved the matter, but expected a resolution shortly. The MGB accordingly ordered a further adjournment until April 17, 2008.

On April 17, 2008, member D. Thomas sat as a single member panel. At this time the parties informed the MGB that no resolution had been reached, and the preliminary hearing would proceed. As only one member was available at that time, the MGB adjourned the matter until June 24 and 25, 2008. As a result DL 033/08 was issued.

On June 24, 2008 the parties again informed the MGB that another offer had been made by the Appellants represented by Altus. The parties requested an adjournment until June 25, 2008 to allow the Respondent to consider the offer. The adjournment was granted; however when the hearing reconvened the parties informed the MGB that no agreement had been reached. The hearing continued on June 25, 2008. At this time the evidence for the Appellants was given, but there was insufficient time for the presentation of the Respondent's evidence. The hearing was again adjourned until July 22 and 23, 2008.

The Respondent entered its evidence and questioning on this evidence was completed on July 22, 2008. Unfortunately, due to unforeseen circumstances, the City was unable to attend on July 23, 2008 to complete its summary. The MGB adjourned the hearing until July 29, 2008. However, it became apparent that the Respondent would be unable to proceed on this day. On July 29, 2008 the parties spoke to a future date to complete summaries. It was agreed that the hearing would continue on September 16, 2008.

Originally this preliminary hearing included the appellants represented by agents Deloitte & Touche, Assessment Advisory Group, Rickard Realty, Linnell Taylor and Altus Group represented by Wilson Laycraft. Linnell Taylor subsequently withdrew its appeals, and those appellants are no longer parties to these proceedings. At the beginning of this hearing, Deloitte & Touche informed the MGB that it and the Respondent had agreed to sever Deloitte's hearing of this preliminary issue, and requested that the MGB sever its hearing and adjourn it sine die as a resolution was expected. The MGB agreed to this request, and accordingly the only parties remaining in this preliminary hearing were those represented by Altus Group (represented by Wilson Laycraft) and Assessment Advisory Group. The merit hearings for those appellants represented by Assessment Advisory Group were scheduled to be heard prior to the conclusion of this hearing. Assessment Advisory Group elected to go ahead with the merit hearings, thus discontinuing its participation in this preliminary hearing. Therefore, the evidence and argument put forward by Assessment Advisory Group was considered by the MGB, and is included in this decision; however, the decision does not apply to the roll numbers represented by Assessment Advisory Group.

Disclosure order not appealed to the MGB

At the ARB, where the Appellants were represented by Altus Group, Altus requested that the ARB order further disclosure from the Respondent pursuant to its obligations under section 299 of the Act. The ARB found that the Respondent had not met its obligation under section 299, and ordered the Respondent to disclose further information to the Appellants for these properties under the authority given to it in section 465(1)(b) of the Act.

To comply with the ARB's order, the Respondent produced a large binder on the deadline indicated. The contents of this binder were the assessment records for the 365 properties under appeal, and were identical to the records the Appellants already had. These records were the assessment summary reports which provided the following information:

- the assessment per square foot
- building footprint
- whether the warehouse is a single tenant or multi-tenanted building
- quadrant
- site area and coverage
- zoning, office/retail component
- net rentable area
- year of construction
- land adjustment.

After receiving the binder, the Appellants wrote to the ARB to advise that the information received was identical to what was received previously, and did not, in their view comply with the ARB's order. Subsequently, Altus (represented by Wilson Laycraft) filed a Court of Queen's Bench originating notice for an order for a declaration and mandamus to obtain the information it sought. At the time of this decision, the Court Action had not been concluded.

The Respondent submitted that since the Appellants did not appeal the decision of the ARB regarding disclosure, the matter was not properly before the MGB. Even if the matter was before the MGB, the Respondent had complied with the ARB's order and provided the necessary disclosure, making the issue moot.

There is no doubt that the ARB has held merit hearings and rendered final decisions as to the assessments now under appeal. The MGB is required under Part 12 of the Act to hear appeals from such decisions. The intent of the current preliminary hearing is not to hear an appeal from the ARB's disclosure order; rather, the MGB's goal is to ensure sufficient disclosure occurs during its own process for the purposes of holding full and fair hearings of its own. Thus, as stated above, the MGB considers this to be a matter concerning the fairness of its own process.

The MGB recognizes that the Appellants have sought mandamus from the Court of Queen's Bench to enforce the ARB's order for the Respondent to comply with sections 299 and 300. That

application did not prevent the ARB from rendering its decisions concerning the merits, some of which were then appealed to the MGB. Given the nature of sections 299 and 300, the Court's decision concerning the Appellants' mandamus application may well have an impact on the matters presently before the MGB. At this point, however, it is difficult to know what that effect might be. It may be that once the Court has rendered its decision, the MGB will need to consider further submissions, or any direction the Court may have in relation to how these proceedings should be coordinated.

Disclosure a new issue not properly before MGB

Related to the above issue, the Respondent stated that disclosure was not raised as an issue before the ARB in the individual merit hearings; therefore, section 6 of ACAR bars the Appellants from raising it as an issue before the MGB. The Appellants disagreed, suggesting that the ARB record shows that disclosure was raised as an issue; moreover, they urged that whether or not the ARB considered disclosure is irrelevant, since the MGB's jurisdiction to order disclosure does not arise solely from what was heard at the ARB. Rather, it was submitted, the MGB's jurisdiction arises from sections 523, 496 and 497 of the Act. Section 523 permits the MGB to make its own rules of procedure, section 496 states that the MGB is not bound by the rules of evidence and section 497 permits the MGB to compel evidence. According to the Appellants, the question to be decided here is what information the MGB determines is required, which is clearly within the purview of the MGB's jurisdiction.

Section 497 provides the MGB with explicit authority to compel evidence that it determines is required to decide matters before it. Further, the MGB is empowered under section 523 to regulate its procedures, and has a general obligation to ensure that its processes are fair. The MGB concurs with the Appellants that whether or not disclosure was raised at the ARB is irrelevant to whether further disclosure is required before the MGB. The MGB must ensure parties are not denied access to sufficient relevant evidence to plead legitimate issues, and to ensure that these issues are considered in accordance with a fair process. The MGB notes that it considers the sufficiency of disclosure made during its proceedings as a matter to be decided or at least enforced under sections 497 and 523 rather than sections 299 and 300 under which the taxpayers are responsible for making a request to the municipality. However, this distinction is to some extent academic, since the latter provisions are no doubt intended to ensure taxpayers have sufficient information to understand their assessments and to challenge them if necessary – matters that also affect the fairness of the MGB process.

As is outlined in the party positions and the reasons in Part A, the question before the MGB is how much information with respect to the assessments of warehouse properties is required to ensure that there is a fair and full hearing at which there is sufficient evidence to enable the MGB to decide the issues brought up in each appeal. This is a procedural matter to which section 6 of ACAR does not apply.

Withdrawn properties

The Respondent identified a number of properties that had been withdrawn or were not warehouse properties. These properties should be brought to the attention of the MGB administration so they may be dealt with appropriately.

MGB unable to grant declaratory relief

The Respondent submitted that the MGB did not have the jurisdiction to grant declaratory relief, which it was purporting to do. The Respondent stated that the MGB is an administrative tribunal and thus is bound by the legislation that created it. This differs from the Court of Queen's Bench, which enjoys plenary jurisdiction and so has the jurisdiction to make declarations of law.

The MGB does not consider itself to be making any declaration of law. Rather, the MGB finds it necessary to determine for warehouse properties how much disclosure is required to have a full and fair hearing, recognizing that the Respondent has changed the way that it assesses warehouse properties. Again, this is a procedural matter in the context of case management.

Affidavit of Ms. Kelly Hess

The Respondent made its submissions through an affidavit from Ms. Kelly Hess. The affidavit had been prepared for the Altus court application described above. After entering this exhibit, Ms. Hess was to be questioned by the Appellants and the MGB. The Appellants objected as they had not received notice that this was how the Respondent intended to proceed. The Respondent countered that it had sent the Appellants' lawyer a facsimile giving notice the day before at 3:20 p.m. The Appellants later advised the MGB that the transmission of the facsimile had failed, and it had not been received until 8:45 a.m. the morning the hearing was set to resume (July 22, 2008).

The MGB allowed the Respondent to submit its evidence by way of affidavit, perceiving no prejudice to the Appellants, since Ms. Hess was available for cross examination. However, recognizing that the Appellants had had effectively no notice of the affidavit, the MGB allowed sufficient time for the Appellants' counsel to review it, and indicated that it was prepared to allow the Appellants wide latitude in questioning.

Recusal request

Summary of the Respondent's Position

At the beginning of the hearing the Respondent requested that two members, Mr. Cook and Mr. Kipp recuse themselves. The Respondent noted that both these members were on the December 20, 2007 panel that decided to schedule a preliminary hearing concerning the issue of disclosure. From the resulting decision DL 191/07 and the decision regarding the January 23, 2008

postponement request (DL 023/08), the Respondent believed that these two members had already made their decisions regarding some of the arguments the Respondent intended to raise.

In response to the Appellants' submissions, the Respondent stated that they were not making a claim of reasonable apprehension of bias or actual bias; rather, the request to recuse was based on the members having already made their decision.

Summary of the Appellants' Position

The Appellants did not agree that the two panel members should recuse themselves; rather, it was submitted that they were in the best position to hear the issue, having participated in the previous hearings on this matter. In support of this position, a number of legal authorities were submitted.

It was submitted that the fact that a panel member has heard an issue previously is not in itself reason to recuse his or herself from subsequent hearings on the same issue.

To make a claim of bias, real or apprehended, it was submitted that there has to be some evidence and not just a bare allegation. The Appellants submitted that the Respondent had no evidence of bias, and that this was merely a red herring.

Decision

The panel will proceed as constituted.

Reasons

Following the Respondent's recusal request, the two affected members considered the Respondent's submissions and declined to recuse themselves on this basis. With respect to a claim of apprehension of bias, the two members involved saw no evidence to support this allegation. Being present at a previous proceeding is not a sufficient basis to make a claim of bias, either real or apprehended.

With respect to the Respondent's concern that the MGB has already made a decision, the MGB does not agree with this interpretation of DL 191/07. The statement that the Respondent takes issue with refers merely to the fact that section 497 gives the MGB powers that are outside of the ARB process. It is not a statement that decides jurisdiction under ACAR; it is just saying that the power to compel evidence under section 497 is independent of the processes related to the ARB.

Rehearing Request

Summary of the Respondent's Position

The Respondent's position was that it had not been treated fairly procedurally, and the only way to fix the procedural error that had been made was to have a rehearing of DL 191/07 as amended by DL 005/08 and DL 023/08. In support of this request, the Respondent submitted seven instances in which it feels it was treated unfairly.

The first concern the Respondent expressed was that the MGB administration purported to identify a disclosure issue raised by a number of tax agents. The Respondent stated that the ARB record shows that this was not actually an issue raised or considered by the ARB for many of the roll numbers attached to this preliminary hearing. The effect of this, the Respondent stated, was threefold; first, the Respondent had no notice of this issue, and second, the MGB had no jurisdiction to hear the issue of disclosure where it was not raised at the ARB. The third result was that the Respondent required the record of each roll number under appeal so that it could make this jurisdictional argument on a case-by-case basis. As all of the ARB records were not provided to the Respondent, it was procedurally unfair to continue with the hearing. By identifying the issue and initiating this preliminary hearing, the Respondent submitted that the MGB has demonstrated that it is not impartial and is prepared to seek out litigants and provide them with issues.

The Respondent stated that the second circumstance that affects the procedural fairness of this proceeding was the occurrence of "secret meetings" held with the agents and the MGB administration which it believed happened in December. As evidence of these secret meetings, the Respondent submitted a letter addressed to Deloitte & Touche that referred to a meeting "last Friday" to which the Respondent stated it was not invited, and did not attend. The Respondent stated that it did not know what occurred at these meetings, and believed that the occurrence of these meetings affected the "complexion" of events.

Thirdly, the Respondent challenged the MGB's statement in DL 191/07 and again in DL 023/08 that the MGB identified the issue of disclosure through ARB decisions. The Respondent stated that many of the ARB decisions do not mention the issue of disclosure.

Fourthly, the MGB held a hearing on December 20, 2007 without notifying the Respondent of its intention to hold a further preliminary hearing on disclosure. The MGB compounded the procedural unfairness by refusing to hear from the Respondent on December 21, 2007.

The fifth instance of procedural unfairness, the Respondent submitted, was the decision of the MGB to proceed with this preliminary hearing despite the uncertainty surrounding the roll numbers, parties and exactly what information each agent had requested from the Respondent.

The final instance of procedural unfairness raised by the Respondent is the fact that DL 191/07 and DL 023/08 contained factual errors which demonstrated that the MGB was misapprehending the facts. The Respondent outlined four statements that it believed were incorrect. Another serious issue, the Respondent stated, was that a statement in DL 191/07 purported to make a decision without hearing submissions by any of the parties. The MGB stated:

> …the issue of disclosure before the MGB, which has its own powers and processes, is not tied to any decision rendered by the ARB.

The Respondent submitted that this statement purported to decide that the objection brought up by the Respondent of the issue of disclosure not being brought up at the ARB, and thus not properly before the MGB, had been predetermined by the MGB without submissions by the parties. The Respondent stated that it did not agree with this statement, and believed that it was wrong in law. This, it was submitted, compounded the procedural unfairness to the Respondent as outlined above.

Summary of the Appellants' Position

The Appellants stated that they were unaware of any secret meetings. The meeting that they were aware of was the hearing held December 20, 2007 at which the Respondent was represented.

In response to the Respondent's request for a rehearing, it was noted that there are procedures set out in the MGB's Procedure Guide to request a rehearing, and they were not followed. Further, the 30 day period during which a rehearing request had passed for DL 191/07 and DL 005/08. It was submitted that the Respondent should have followed the procedures in the Procedure Guide, and requested that the MGB proceed with the preliminary hearing.

Decision

The request for a rehearing of DL 191/07 as amended by DL 005/08 and DL 023/08 is denied.

Reasons

The MGB takes the Respondent's concerns about procedural fairness very seriously. However, having heard the submissions of all parties, and on review of DL 191/07 as amended by DL 005/08 and DL 023/008, the MGB does not find it appropriate to grant a review/rehearing of these decisions.

While the administration brought to the MGB's attention that disclosure appeared to be a common issue, it was a five member panel of the MGB – not the administration - sitting on December 20, 2007 that found that this was indeed an issue that was necessary to deal with. With respect to the "secret meetings", the MGB is unaware of any meetings outside the standard discussions that took place to coordinate MGB and party resources. When appeals arrive in the

volumes to which the MGB has become accustomed, early meetings between MGB administrative staff, tax agents and the Calgary assessment department are essential if the process is to retain its intended efficiency. It appears to the MGB from the number and content of the preliminary issues raised by the Respondent that the Respondent is attempting to preclude the MGB from consolidating proceedings and dealing with common issues in an efficient and effective manner.

Regarding the Respondent's concerns about who the parties are, the MGB is satisfied that the parties in this matter were sufficiently identified in DL 023/08 and by the remaining parties themselves during this hearing. Further, as most of the agents have withdrawn or otherwise discontinued their participation in this preliminary hearing, the only remaining parties are those Appellants represented by Altus Group and their counsel Wilson Laycraft.

Similar considerations apply to the Respondent's concerns with the roll numbers. The only remaining agents participating in this preliminary proceeding are Altus Group, which has identified a list of roll numbers. The MGB is satisfied that this list is complete and sufficient, at least for the purposes of this proceeding.

With respect to the Respondent's concerns that it has not been heard, the MGB finds that they have been given full and fair opportunity to make their position clear. The Respondent in fact spoke at the December 20, 2007 hearing, at the January 23, 2008 postponement request hearing, and it again made its position known during this hearing. The MGB notes parenthetically that the Respondent, as stated in DL 191/07, did initially agree to this procedure before a five member panel.

Finally, the MGB notes that the procedure for requesting a review/rehearing is outlined in the Procedure Guide. The Respondent did not follow this procedure, and is outside of the 30 day period in respect to DL 191/07; nevertheless, the MGB considered the request due to the serious nature of the Respondent's concerns. In the future, the MGB will expect the procedures outlined in its Procedure Guide to be respected.

Style of Cause

Summary of the Respondent's Position

The Respondent requested that the MGB list the names of each property on the face of the forthcoming decision instead of attaching the roll numbers as an appendix. The Respondent also requested that each agent read into the record the names of each property owner they represent in this appeal. The purpose of naming the individual property owners in the style of cause is to avoid the trafficking of litigation, which is the underlying interest that the doctrine of champerty is trying to protect.

In support of its request, the Respondent submitted the case of van Beek & Associates v. Regional Assessment Commissioner, Region No. 14 and Town of Richmond Hill [1994], 113 D.L.R. (4th) 563. In this case, the Court outlined the legal doctrine of champerty and maintenance and stated that the contracts between the agent and its clients could reasonably be considered to be champertous, but did not conclusively decide this issue.

In this instance, the agents involved represent a great number of parties, and there is no protection for the Respondent from mass appeals as there is in the Rules of Court for class action suits. The Respondent concluded that in light of the great number of appeals and the case law, the MGB should follow the practice of naming the property owners on the face of the decision instead of incorporating the names in an Appendix.

Summary of the Appellants' Position

In answer to the Respondent's request, the Appellants noted that in van Beek, the Court directed that the hearings go forward. In order for the authorizations to be invalid, the first step was to find the agreements invalid. The Appellants also submitted the Alberta Court of Appeal case of Paralee Property Tax Consultants Ltd. v. Pembroke Investments Ltd., 14th Street Investments Ltd., 15 Street Investments Ltd., 16th Street Investments Ltd., and Canada Life Assurance Company, 2003 ABCA 350, in which the Court considered a very similar contract and upheld it. This, it was submitted, was a full answer to the case submitted by the Respondent.

The Appellants submitted that there was no evidence in this matter of any intermeddling on the part of Altus Group, and that the Respondent's preliminary application in this regard was a red herring. The Appellants concluded that there was no reason for the MGB to deviate from their prior practice.

Decision

The MGB will continue its past practice in naming the parties in decisions.

Reasons

While the MGB appreciates the Respondent's concerns with identifying the parties to which a decision applies, the MGB agrees with the Appellants that an attached appendix listing all of the parties is sufficient to identify the parties to an appeal.

The MGB notes that in some instances listing each individual roll number or party on the face of the order as the Respondent requests would be overly cumbersome and difficult to read. For example, in the instance of a residential high rise condominium building operating as a rental, there could be hundreds of roll numbers. By attaching an appendix with the parties named, it is clear to which roll numbers and parties the decision applies.

With respect to the argument of champerty and maintenance made by the Respondent, the MGB finds there is insufficient evidence to convince the MGB that there is anything improper in the agency relationship of the parties to this appeal. Further, the final answer to the Respondent's argument lies in the van Beek case at paragraph 11:

> While we accept that the Board might, on its own initiative or as a result of the challenge by an opposing party, satisfy itself that a person or company claiming to be an agent on behalf of ratepayers has in fact been authorized to so act, the Board's right to satisfy itself does not convert the proof of agency into a constituent element of the complainant's application in the sense described by *Colville v. Small*; supra. Rather, it is abundantly clear that the Commissioner's claim of champerty was being used as a defence, and this is not an appropriate basis on which to dismiss the appeal or complaints. While the agreements between van Beek and the ratepayers may not be enforceable as between these parties, the Board would not dismiss the appeals before it on such grounds according to the authorities.

Court Reporter

Summary of the Appellants' Position

The Appellants noted that the Respondent had brought in a court reporter to record the within proceedings, but no agreement as to the cost of the transcripts had been reached. The Appellants requested that the MGB direct that the Respondent pay the cost of providing transcripts to the MGB and to each party requesting transcripts. The Appellants supported this request with section 10.3 of the MGB Procedure Guide which states that the party bringing in the court reporter is to pay for the transcripts. On this basis, it was requested that the MGB continue the order made in DL 023/08 and require the Respondent to pay for copies of the transcripts to the MGB and the parties.

Summary of Respondent 's Position

The Respondent opposed the request of Wilson Laycraft, and disagreed with the submission that this was the MGB's standard practice. While the Respondent would provide the MGB with a transcript, it requested that the MGB refuse the request, and order the parties to each pay for a copy of the transcript if they desired one.

Decision

The Respondent will pay the cost of providing transcripts to the MGB and to each party who requests a copy.

Reasons

The MGB finds that there is no special reason to deviate from its standard procedure, or from the decision in DL 023/008 respecting this issue. Thus, the Respondent will be responsible for the cost of providing transcripts to the MGB and to each party who requests a copy.

SUMMARY

This preliminary hearing was convened to determine whether additional disclosure from the Respondent is required in order to have full and fair hearings before the MGB. At the outset, the Respondent brought a number of preliminary issues including: a request for a rehearing, the issue not being properly before the MGB, the proper decision of the ARB not having been appealed to the MGB, the naming of the parties in the order and a request for two members of the panel to recuse themselves. The MGB, after reviewing the submissions and authorities submitted by the parties, is satisfied that this matter is properly before the MGB, and the panel proceeded as constituted.

The Appellants argued that they had not received sufficient information from the Respondent to understand how the assessments were prepared, and then to test the assessments. It was argued further that in order to have a full and fair hearing, it was necessary for the Respondent to disclose the model that it uses to assess warehouse properties. The Respondent countered that it had provided sufficient information, and that it should not be forced to disclose the model as to do so would compromise its proprietary interest in the model.

The MGB found that information that is arguably relevant to understanding and testing the assessment should be disclosed to the Appellants. After reviewing the submissions and authorities submitted by the parties on this issue, the MGB concluded that the following was arguably relevant to understanding and testing the assessments:

- All the variables or significant characteristics used by the model and the descriptors and codes entered for those characteristics, and any adjustments made to those descriptors and codes.
- Where there is a range (such as in quality) of descriptor or code possible for the characteristic, the ranges and an explanation of the criteria used in determining each range
- Any adjustments that were made outside those characteristics determined to be statistically significant by the model.

In determining whether the assessments are correct, fair and equitable, the key issue is comparability. The Direct Sales Comparison analysis used by the Respondent focuses on the sales of similar properties to establish market value. The above information is necessary in order to determine comparability, thus the MGB finds that the Respondent must disclose this information to the Appellants in order to ensure a fair and full hearing. The MGB rejected the

Appellants' request for the coefficients attached to the significant characteristics as the coefficients are not of assistance in understanding and testing the assessment as they are not independent variables, but have complex relations amongst themselves and other characteristics not explicitly recognized by the model. In addition, the MGB found that issues raised by the Respondent of confidentiality and intellectual property are not sufficient to bar production of assessment information in the context of an assessment appeal.

Dated at the City of Edmonton, in the Province of Alberta, this 17th day of December 2008.

MUNICIPAL GOVERNMENT BOARD

(SGD.) S. Cook, Presiding Officer

APPENDIX "A"

APPEARANCES

NAME	CAPACITY
G. Kerslake	Agent (Altus) for the Appellants
C. Van Staden	Agent (Altus) for the Appellants
B. Dell	Solicitor for the Appellants (represented by Altus)
S. Cobb	Agent (AAG) for the Appellants
K. Hess	For the Respondent
S. Trylinski	Solicitor for the Respondent

APPENDIX "B"

DOCUMENTS RECEIVED AT THE HEARING AND CONSIDERED BY THE MGB:

NO.	ITEM
1A	Submission of Wilson Laycraft for the Appellants
2R	Submission of the Respondent - van Beek & Associates v. Ontario Regional Assessment Commissioner, Region No. 14 and Town of Richmond Hill (1994), 17 O.R. (3d) 114.
3R	Submission of the Respondent - van Beek & Associates v. Ontario Regional Assessment Commissioner, Region No. 14 and Town of Richmond Hill (1993), 17 M.P.L.R. (2d) 136.
4A	Submission of the Appellant - Paralee Property Tax Consultants Ltd. v. Pembroke Investments Ltd., 2003 ABCA
5R	Letter from Altus attaching list of roll numbers
6A	Will-say statement of G. Kerslake
7A	Will-say statement of C. Van Staden
8A	Legal Brief of Wilson Laycraft for the Appellants
9A	Appellant's Rebuttal
10A	Transcript of ARB preliminary hearing
11R	Respondent's submission from January 23, 2008 hearing
12R	Respondent's submission
13A	Copy of Letter of Authorization
14R	January 25, 2008 letter
15A	Submission of AAG for the Appellants
16A	Rebuttal of AAG for the Appellants

17R	Affidavit of K. Hess
18A	Submission of the Appellant - Calgary (City) v. Alberta (Municipal Government Board), 2008 ABCA 187
19A	Appellant's submission - s. 497, 523m 524 of MGB
20A	Appellant's submission – s. 1(m) of the MGA
21A	Appellant's submission – s. 284(d) of the MGA
22A	Appellant's submission – Northern Cruiser Co. v. Canada, [1991] F.C.J. No. 923., Intercontinental Packers Ltd. v. Canada, [1987] F.C.J. No. 1112, Laboratories Servier v. Apotex Inc., [2006] F.C.J. No. 1764, Grant v. Montsanto, [1979] A.J. No. 585
23R	July 22, 2008 letter from the Respondent to Wilson Laycraft
24R	Respondent's submission - Pharand Ski Corporation v. R. in Right of Alberta, 1991 CarswellAlta 85, Pipeda Case Summary #39 Re, 2002 CarswellAlta 542, Lac Minerals Ltd. v. International Corona Resources Ltd., 1989 CarswellOnt 126, B&S Publiscations Inc. v. Max –Contacts Inc., 2001 CarswellAlta 69, R.L. Crain Ltd. v. R.W. Ashton & Ashton Press Mfg. Co., 1948 CarswellOnt 94

APPENDIX "D"

Roll No.	Owner
009001199	The Great West Life Assurance Company
009003096	The Great West Life Assurance Company
009020603	The Great West Life Assurance Company
027125301	Grosvenor Canada Limited
031001894	SREIT (Nuquest Calgary) Ltd.
031002702	Kaiban Co. Ltd.
031011596	TR Westcan Inc.
031012693	SREIT (West #1) Ltd.
031018104	Bridgelink Holdings Inc.
031022908	Penvest Realty Ltd.
031023609	Penreal Property Fund III Ltd.
031023906	Penreal Property Fund III Ltd.
031024003	Penvest Realty Ltd.
031024300	Westpen Properties Ltd.
033002205	Nortech Holdings Inc.
033026501	Apollo Export SA
033029703	Atlanta Industrial Sales Ltd.
033035304	Bridgelink Holdings Inc.

033036005	RGO Properties Ltd.
033039306	0692281 BB Ltd.
033047705	London Plaza Limited
034188797	GPM Real Property (9) Ltd./Mondow (9) Inc.
047044003	The Great West Life Assurance Company
048041800	Paragon Investments Ltd.
048047005	SREIT (West #1) Ltd.
048048300	1169764 Alberta Ltd.
048050306	894691 Alberta Inc.
048073902	The Great West Life Assurance Company
048074009	The Great West Life Assurance Company
048074801	Airways Equities Inc.
048075204	Airways Equities Inc.
048075303	Airways Equities Inc.
054008404	RGO Properties Ltd.
054008602	RGO Properties Ltd./Airstate Ltd.
054010202	SREIT (West No. 2) Ltd.
054012406	SREIT (West No. 2) Ltd.
054012604	Homburg LP Management
054012901	SREIT (West No. 2) Ltd.
054013008	SREIT (West No. 2) Ltd.
054013107	396844 Alberta Ltd.
054013206	SREIT (West No. 1) Ltd.
054014105	SREIT (West No. 1) Ltd.
054014204	SREIT (West No. 1) Ltd.
054014402	SREIT (West No. 1) Ltd.
071043905	RGO Properties Ltd.
074004300	Rona Revy Inc.
078065802	Sajid Enterprises Ltd.
078070406	Crossroads Market Ltd.
090040809	Staverly Holdings Ltd.
090064700	OKAID Building Inc.
090076902	Superior Holdings Ltd.
090076951	Superior Investments 2004 Ltd.
090077009	Superior Investments 2004 Ltd.
090083908	Baramy Investments Ltd.
090084104	Baramy investments Ltd.
090084203	Baramy Investments Ltd.
090084401	Baramy Investments Ltd.
090085903	Baramy Investments Ltd.
090088105	Baramy Investments Ltd.
090091505	CP Development Ltd.
091000109	Baramy Investments Ltd.

091000208	Ellmar Developments Ltd.
091000901	Baramy Investments Ltd.
091018531	Latco Inc.
091034603	Burnswest Corporation
091034892	Burnswest Corporation
091098400	Airstate Ltd.
092023506	Standen's Limited
092026608	JJG Realty Inc.
093162907	Hopewell Equities Inc.
093163004	Hopewell Equities Inc.
095000204	Westpen Properties Ltd.
096023890	Copez Properties Ltd.
097002109	SREIT (Quest Foothills) Ltd.
097011407	SREIT (West #1) Ltd.
097016901	2725321 Canada Inc.
097017305	Foothills Equities Inc.
097017404	Foothills Equities Inc.
097018006	2725321 Canada Inc.
097018501	2748355 Canada Inc.
097020804	2748355 Canada Inc.
097020903	2748355 Canada Inc.
098002306	SREIT (Quest Foothills) Ltd.
098003502	Dynasty Furniture Manufacturing Ltd.
098004187	SREIT (Nuquest Calgary) Ltd.
098009707	Vinyl International Panels Ltd.
098010408	Pierce Leahy Command Company
098012107	225911 Alberta Ltd.
098016207	Shanahans Limited
098018005	Roycom (6) Property Fund Ltd.
100002609	SREIT (Nuquest Calgary) Ltd.
100002807	SREIT (Nuquest Calgary) Ltd.
100007103	Resman Holdings Ltd.
100007400	Apollo Exports SA
100007509	Apollo Exports SA
100008903	Standen Holdings Ltd.
100009000	Standen Holdings Ltd.
100009802	Westhill Properties Inc.
100010321	Airstate Ltd.
100010453	Airstate Ltd.
100010701	SREIT (West No. 1) Ltd.
100013903	Standen's Limited
100015007	Airstate Ltd.
101004109	Superior Investments 2004 Ltd.

101004653	Manchester Syndication Ltd.
101007854	RMA Properties Ltd.
101015402	Staverly Holdings Ltd.
101033207	Panterra (5241) Properties Inc.
101033306	Panterra (5241) Properties Inc.
101034304	Staverly Holdings Ltd.
101034403	Superior Holdings Ltd.
101035608	B&L Long Investments Ltd.
101038800	Panterra (5241) Properties Inc.
112135702	SREIT (West #1) Ltd.
112135751	The Great West Life Assurance Company
112137609	654189 Alberta Inc.
112138300	SREIT (Quest Glenmore) Ltd.
112143409	ING Real Estate
113002802	ING Real Estate
115056608	SREIT (West #1) Ltd.
115057408	SREIT (Quest Foothills) Ltd.
115062002	GPM Realty Property (10) Ltd.
115065302	SREIT (Nuquest Calgary) Ltd.
115065401	SREIT (West No. 5) Ltd.
116000423	Mckesson Canada Corporation
116003708	Noble Development Ltd.
116003807	Noble Development Ltd.
116006701	Highfield Stock Farm Inc.
116007758	Min Development Company Ltd.
116010794	SREIT (West #1) Ltd.
116012527	Staverly Holdings Ltd.
116013392	Investors Group Trust Co. Ltd.
116018995	GPM Realty Property (10) Ltd.
116026196	Foothills Realty Advisors Ltd.
116027400	K.E.G. Investments
116027608	Foothills Equities Inc.
116028101	K.E.G. Investments
116028705	Gienow Management Inc.
116028804	Hopewell Equities Inc.
116507328	K.E.G. Investments
116507369	K.E.G. Investments
116507385	K.E.G. Investments
118003557	Trycyle Lane Ranches Ltd.
118006808	GPM Realty Property (10) Ltd.
124187709	Telsec Property Corporation
137036208	City of Calgary (c/o Telsec Property)
138151501	Telsec Property Corporation

138154000	R & R Miller Acquisitions Ltd.
138154802	Telsec Property Corporation
200117133	RMA Properties Ltd.
200163814	BCIMC Realty Corporation
200477016	GPM Real Property (10) Ltd.
200537736	Hoopp Realty
200592889	2748355 Canada Inc.
200676278	2748355 Canada Inc.
200776896	1093151 Alberta Ltd.
200916716	Sun Life Assurance Co. of Canada