

CANADIAN PROPERTY TAX ASSOCIATION
WESTERN CONFERENCE - LEGAL PANEL CITATION OF CASES – MARCH 2020

**With Thanks to Tanya Boutin – City of Edmonton,
Gil Ludwig – Wilson Laycraft,
Cam Ashmore – City of Edmonton; and
Tina Squire – City of Calgary**

1. Land at Wellsites (appeal to Court of Appeal withdrawn)

Canadian Natural Resources Limited v Red Deer County, 2016 ABQB 558

2. Procedural Fairness, equity for linear property

Alberta (Minister of Municipal Affairs) v Ember Resources Inc., 2018 ABQB 971
(2016 tax year)

Ember Resources Inc. and Encana Corporation v Alberta, MGB 075/16 (2016 tax
year)

Ember Resources Inc. v Designated Linear Assessor for the Province of Alberta,
2017 ABMGB 40 (2017 tax year)

3. MRAT definition of M&E – meaning of ‘processing’

Federated Co-operatives Limited v Wheatland County, CARB 0349 001/2016
(2016 tax year)

Federated Co-Operatives Limited v Wheatland County, 2018 ABQB 637
(appealed to Court of Appeal) (2016 tax year)

Wheatland County v Federated Co-Operatives Limited, 2019 ABCA 513

PepsiCo Canada ULC v City of Lethbridge, CARB – 0203-0008/2017 (judicial
review filed then withdrawn)

Hut 8 Holdings Inc. v City of Medicine Hat, CARB 0217-055/2018

4. Agricultural Operations

Quattro Farms Ltd. v County of Forty Mile No. 8, 2019 ABQB 135 (2017 tax year)

Lynn Thacker Ag. Corp v County of Forty Mile No. 8, 0118 CARB 003-2017

Quattro Farms Ltd. v County of Forty Mile No. 8, 0118 CARB 004-2017

Airdrie (City) v 803969 Alberta Ltd., 2020 ABQB 114

5. Priority for linear taxes under s. 348

Northern Sunrise County v. Virginia Hills Oil Corp, 2019 ABCA 61

Northern Sunrise County, et al. v. Bank of Nova Scotia, et al, 2019 CanLII 79915 (SCC) (Leave to SCC denied)

Bank of Nova Scotia et al v. Virginia Hills Oil Corp. et al, Court of Queen's Bench Action No. 1701 02184

6. Priority for property taxes under s. 348 (appeal to the Court of Appeal)

Royal Bank of Canada v Reid-Built Homes Ltd, 2018 ABQB 124

7. Zoning can affect market value; Must assess annually; Must provide evidence that prior year's assessment still appropriate or if adjustment applied in prior years is removed

Concord Pacific Alberta Properties Inc v Calgary (City), 2017 ABQB 138 (leave granted)

8. Methodology not legislated; Sublease vacancy not included in calculation of typical vacancy rate

ARI 5AP GP Inc v Calgary (City), 2018 ABQB 42 (leave denied)

9. Contamination; Owner is considered a potential purchaser

Victory Motors (Abbotsford) Ltd v Assessor of Area No 15-Fraser Valley, 2017 BCCA 295

10. Zoning can affect value; Don't speculate in the absence of evidence; Get procedural issues on the Record

City of Calgary v Albari Holdings Ltd, 2018 ABQB 210 (leave denied)

11. Classification of Farm Land under s. 297/MRAT s. 4(3)

Baramy Investments Ltd v Edmonton (City), 2017 ABQB 450 (leave granted) (appeal argued Oct/18)

Associated Developers Ltd v Edmonton (City), 2017 ABQB 578 (leave granted) (appeal argued Oct/18)

Associated Developers Ltd. v Edmonton (City), 2019 ABQB 262 (appealed to Court of Appeal)

12. Post facto evidence; Sale of the subject property; Arm's length v Open market sale; Inferences from no evidence

Beta Management Inc. v Edmonton (City), 2017 ABQB 571 (leave denied)

Altus Group Ltd. v Edmonton Composite Assessment Review Board, 2019 ABQB 295

13. Affordable housing and below market rents required by agreement; Weight afforded to appraisals

St. Albert Housing Society v St. Albert (Composite Assessment Review Board), 2017 ABCA 129

14. Statistical testing does not determine comparability

Harvard Property Management Inc. v Saskatoon (City), 2017 SKCA 34

15. Tenant improvements

Veteran's Way Project Ltd v City of Calgary, CARB 93990P-2016 (leave to appeal argued)

16. Contamination adjustment

Pasutto's Hotels (1984) Ltd. v City of Calgary, 2018 ABQB 1030

Pasutto's Hotels (1984) Ltd v City of Calgary, CARB 97083P-2016

17. Complaint dismissed under s. 295; Boardwalk Part 2?

City of Calgary v Pepsico Canada ULC, CARB 120374J-2017

18. Exclusion of evidence due to insufficient testimonial statement/know the case to be met

Jaroc Holdings Ltd. v Calgary (City), 2018 ABQB 969

Jaroc Holdings Ltd. City of Calgary, CARB 114458P-2017

Hanson Ranch Plaza Inc. v City of Calgary, CARB 114612P-2017

19. Classification under s. 297 based on Non-conforming use

HV Developments Ltd v City of Edmonton, 2017 ECARB 01195 (judicial review filed)

20. Taxable status of residence portion of a religious facility

Ottewell Congregation of Jehovah's Witness v the City of Edmonton, 2017 ECARB 01376 (judicial review filed)

Maryland Heights Congregation of Jehovah's Witnesses (Calgary) v Assessment Review Board (Calgary), 2019 ABQB 213

21. Contamination; board award costs on own initiative; Bias; Procedural issues; Ministerial extensions)

Slawsky v. Edmonton (City), 2019 ABQB 77

Aaron Slawsky, 82 Avenue Development Inc v The City of Edmonton, 2015 ECARB 01696

82 Avenue Developments Inc v The City of Edmonton, 2017 ECARB 01341(judicial review filed)

Aaron Slawsky, Baron Real Estate Investments Ltd v The City of Edmonton, 2015 ECARB 01849 (leave to appeal filed)

Baron Real Estate Investments Ltd. v Edmonton (City), 2019 ABQB 63 (appealed to Court of Appeal)

Baron Real Estate Investments Ltd v The City of Edmonton, 2017 ECARB 01391

22. Value of improvements under cost approach to exclude GST

Calgary (City) v Lehigh Hanson Materials Limited et al, 2018 ABQB 639 (CanLII)

1542921 Alberta Ltd v Calgary (City), 2018 ABQB 607 (CanLII)

23. S. 299 response include information about other properties

Ten 201 Jasper Avenue Ltd as represented by Altus Group v The City of Edmonton, 2016 ECARB 00519

Edmonton (City) v Edmonton (Assessment Review Board), 2018 ABQB 501, June 29, 2018 (appealed to the Court of Appeal – to be heard by Court of Appeal October 2019)

Edmonton (City of) v Ten 201 Jasper Avenue Ltd., 2020 ABCA 60

Canapen Phipps McKinnon Ltd as represented by Altus group v The City of Edmonton, 2016 ECARB 00959

1602157 Alberta Ltd as represented by Altus Group v The City of Edmonton, 2016 ECARB 00958 (appeal argued March 22)

24. Board fettering its discretion (breach of procedural fairness) by following a City of Calgary zoning policy – leave to appeal granted

Cidex Developments Ltd. v. Calgary (City), 2018 ABQB 519, July 9, 2018

25. Unreasonable for a CARB to fail to take into account zoning bylaw restrictions even if not raised as an issue.

Condominium Corporation No 0211484 v The Town of Canmore, 2018 ABQB 649 (CanLII)

Court considered the impact of the Land Use Bylaw on the value of the stalls despite this issue not having been raised before the CARB. Said that it was unreasonable to not consider this issue that was not raised. The case was remitted back to the CARB to consider this issue.

26. Issues Surrounding Lease Rates and Capitalization Rates not questions of law to which an appeal should be granted.

Dundeal Summer 2011 Collection (GP) Inc. v. Calgary 2018 ABQB 219

Leave to appeal dismissed on issues surrounding rental rates and capitalization rates as raising no questions of law and having no chance of success.

HOOPP Realty Inc v Edmonton (City), 2018 ABQB 404 (CanLII)

Application on leave to appeal was denied. Issues related to the use of evidence on rental rate and the classification of the property as well as the onus of proof in assessment cases. Court recognized that this was a case about the application of evidence that was attempting to get around the expertise of the CARB.

J-9 Capital Corp et al. v. City of Calgary et al (unreported) (Nov 1, 2017)

Similar issues to above two cases.

27. Special Lien in 348 only applies to the land for which the tax was imposed.

Regent Resources Ltd (Re), 2018 ABQB 669 (CanLII)

28. Limitation to file for judicial review (s. 470) interpretation of “Date of Decision”

Special Areas Board v ATCO Power Canada Ltd., 2018 ABQB 1035

29. Late Complaints

Enterprise Properties Ltd. v Flagstaff County, 0110 CARB 2018-02 (judicial review argued February 2020)

30. Business Tax Bylaw

Airstate Ltd. v Calgary (City), 2019 ABQB 10

31. Bylaw (Ag Society) s. 362(2) and Exemption s. 362(1)(n)(ii) and COPTER

Donalda and District Ag Society and Village of Donalda CARB 0089 1154 2018
Central AB CARB

32. Adjusting Sales

Altus Group Ltd. v. Edmonton Composite Assessment Review Board, 2019
ABQB 295

33. Know the case to be met/opportunity to respond

Calgary (City) v Renfrew Chrysler Inc., 2017 ABQB 197

Alberta (Minister of Municipal Affairs) v Ember Resources Inc., 2018 ABQB 971

Jaroc Holdings Ltd. v Calgary (City), 2018 ABQB 969

Pepsico Canada ULC, Kanco 44th Street Calgary Ltd. And Hamptons Golf Course Ltd. v The City of Calgary and the Calgary Assessment Review Board, Oral Decision of Justice deWit Rendered September 13, 2018 QB action # 1701-09870

654189 Alberta Inc. (as represented by Assessment Advisory Group Inc.) v The City of Calgary and the Calgary Assessment Review Board, Oral Decision of Justice Nixon Rendered January 19, 2018 QB action # 1601-15719

34. Jurisdiction of the MGB to rule on the validity of the Minister's Guidelines s. 322.1 and s. 488.1

TransAlta Generation et al v. Designated Linear Assessor, DL 011/19

35. Reasonableness Standard of Review – SCC

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65

36. Reasonableness Standard of Review (failure to account for relevant evidence, adequacy of reasons)

Calgary (City) v Bradie Building Ltd., 2019 ABQB 846