

# Alberta Assessors' Association Spring 2023

Current Developments  
in Municipal  
Assessment and  
Taxation: 2022-2023  
Legal Update



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## Presented by:



**Greg Plester**  
Partner, Edmonton Office



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## 2022 → 2023 cases covering:

# OVERVIEW

- M&E Guidelines - Additional depreciation
- Tax exempt properties
- Comparables, corroboration, and CARB's expertise
- Impact of environmental contamination
- Linear property assessments
- Vacant space shortfall
- Disclosure and RFI requirements
- Sale of subject as market evidence

## *TransAlta Generation Partnership v Alberta (Minister of Municipal Affairs), 2022 ABCA 381*

*2017 Linear  
Guidelines*

Related to the  
ceasing/reducing of  
coal-fired emissions




*TransAlta Generation Partnership v Alberta (Minister of Municipal Affairs), 2022 ABCA 381*

**TransAlta argued:**

- The Minister did not have the regulatory authority to make the impugned provisions in the *2017 Linear Guidelines*
- Had to consider depreciation in setting the guidelines for property assessment;
- Was conflating environmental and assessment policy
- Relied on the Off-Coal Agreement and Payments

The provisions created an unauthorized class of property, or amounted to unauthorized discrimination

A duty of fairness was owed to TransAlta


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*TransAlta Generation Partnership v Alberta (Minister of Municipal Affairs), 2022 ABCA 381*

- The Minister made a valid policy decision to define depreciation in a way that furthers the government's policy of reducing emissions
- 2017 Linear Guidelines* did not create an unauthorized class of property and were not unlawfully discriminatory
- No duty of procedural fairness was owed to TransAlta

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### Cavendish Farms Corporation v Lethbridge (City), 2022 ABCA 312

Whether a production line was “building and structure” versus “machinery and equipment” under MRAT



The importance of sufficient reasons



### Altus Group Ltd v Alberta (City of Edmonton Composite Assessment Review Board), 2023 ABCA 35

Appeal of property taxes on 22 multi-family residential buildings



The Board’s decisions placed weight on the City’s comparables and not on Altus’, without a reason

The Court determined the decision was not transparent and not reasonable

The Court remitted 21/22 of the assessments for reconsideration, and substituted its own opinion for the last assessment

*Seaspan ULC v. North Vancouver (District),  
2022 BCCA 433*



*Costco Wholesale Corporation v Calgary (City),  
2022 ABKB 615*



**Costco Wholesale Corporation v Calgary (City),  
2022 ABKB 615**


A property assessment is presumed correct; however a complainant must only provide sufficient evidence that is capable of showing that a mistake exists such that the assessment is not fair and equitable .

The CARB’s reasons were clear, transparent and logical.

The City has no obligation to provide sufficient evidence; it is not a procedural unfairness to provide a lack of evidence.

The lack of evidence did not need to be addressed in the CARB’s decision because it found that Costco had not made a *prima facie* case..

The CARB’s decisions are entitled to deference.



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**1617312 Alberta Ltd v Edmonton (City), 2022  
ABQB 454**

Conditional subdivision approval was issued in 2019

The subdivision plans were registered on title in 2020

It was reasonable to treat the parcel as a whole






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*2116162 Alberta Ltd. v Calgary (City), 2022 ABQB 399 & 2116162 Alberta Ltd. v Calgary (City), et al., 2022 ABQB 400*



Applicant argued that horses grazed on his property, and so it should be assessed as farmland

The Boards required corroboration of this fact before considering whether it would qualify as farmland

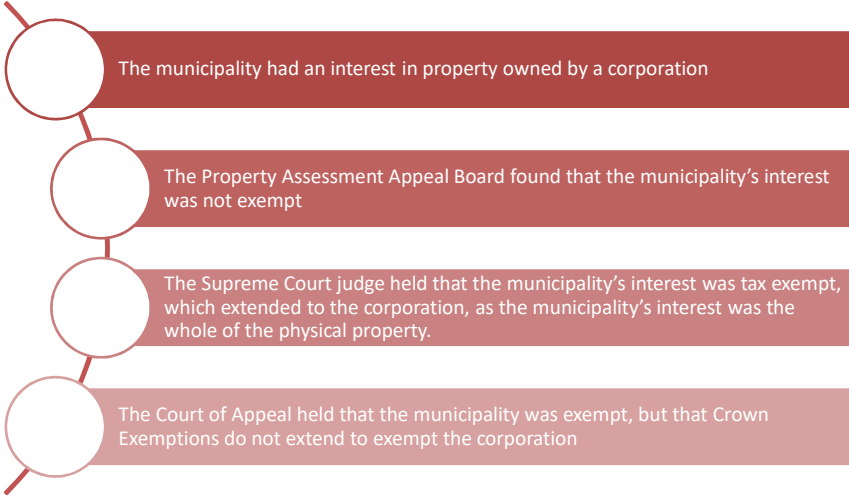
Court held that that the Boards failed to reasonably assess the evidence before it by requiring corroboration

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*Coquitlam (City) v. British Columbia, 2022 BCCA 183*




The municipality had an interest in property owned by a corporation

The Property Assessment Appeal Board found that the municipality's interest was not exempt

The Supreme Court judge held that the municipality's interest was tax exempt, which extended to the corporation, as the municipality's interest was the whole of the physical property.

The Court of Appeal held that the municipality was exempt, but that Crown Exemptions do not extend to exempt the corporation

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*Governors of the University of Alberta v  
Edmonton (City), 2022 ABKB 725*



An exemption for educational purposes must be for the owner of the property itself, rather than a third-party educational benefit

*Colliers International v The City of  
Edmonton, 2022 ABECARB 1744*

**Agent Authorization**



*2298393 Alberta Ltd as represented by Altus Group Limited v The City of Edmonton, 2022 ABECARB 978* **VS** *Baramy Investments Ltd as represented by MNP LLP v The City of Edmonton, 2022 ABECARB 1096*

Sale of Subject


Sold in an unreserved auction

No evidence that the sale was not reflective of typical market value

Board confirms the assessment and dismisses the complaint

Board reduced the assessment to the sold price

**SOLD**

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*Jorge Jose Antunes v The City of Edmonton, 2022 ABELARB 234*

No disclosure was provided by the complainant

The LARB found that the complainant had failed to meet their initial burden

The complaint was dismissed



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*Luxor Properties Inc as represented by CBRE Limited v  
The City of Edmonton, 2022 ABECARB 1753*

**“The Board finds that dismissing complaints in situations where owners have repeatedly neglected to respond to an RFI strikes a reasonable balance between ensuring that assessors have the information necessary to fulfil their legislated mandate while recognizing that short term circumstances may occasionally impact a property owner's ability to respond to the RFI.”**



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## QUESTIONS?

Greg Plester, Partner  
Edmonton Office  
780-497-4859

[gplester@brownleelaw.com](mailto:gplester@brownleelaw.com)



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Thanks!

Go Oilers!!!

