



Alberta Assessors' Association E-Clipboard

Promoting QUALITY through membership excellence

www.assessor.ab.ca

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Symposium Update

88 lucky delegates attended the 2015 Town of Strathmore Symposium and took advantage of continuing professional development opportunities in AbaData Information, ASSET, Decision Review: Finning vs City of Red Deer, PAAH—Multi Res and MFG Homes update; provincial updates and an interactive 299/300 template—table exercise, where delegates went into break-out groups and were faced with a fictional (or actual) 299/300 request for different property types.

A big thank you to Alan Down, AMAA and Les Chute, AMAA from the Town of Strathmore and Dennis Klem, AMAA from Wheatland County for all their hard work to make this Symposium a huge success. Well done!!

2015 Golf Tournament

Speargrass Golf Resort



28 Golfers

Longest Putt: Ray Fortin (A & B); Jerry Boutin(C)
Closest to Pin: Andrew Beecraft (A&B) Kristin Morrissey (C)
Longest Drive: Michael Krieger (A& B); Larry Horne(C)
Longest Drive (Ladies): Julie Peters

Flight Winners:

Flight A:

1. Marco Poretti & Michael Krieger
2. Ryan Sweeny & Jeff Major

Flight B:

1. Ray Fortin & Jamie Clark
2. Michael Minard & Scott Muler

Flight C:

1. Larry Horne & Orest Golinowski
2. Chris Gardner & Jerry Boutin

Thank You to our Generous Sponsors

Tournament Sponsor: Brownlee Law, RMRF

Prize Sponsors (in alphabetical order) Accurate Assessment Group; Beaver County; Bow Valley Property Valuers; Brandt Tractor Ltd; County of Grande Prairie; RMRF (Reynolds Mirth Richards & Farmer); Tanmar; Town of Strathmore; and Wheatland County

New Executive Administrator Announcement

I would like to advise you that our search and selection for Executive Administrator/Registrar has concluded. On behalf of the Executive Committee, I would like to introduce you to Ashley Orleski, our incoming Executive Administrator/Registrar.

Ashley has accepted our offer of employment and her first day in the association office will be December 3rd. Please take time to introduce yourselves in the coming weeks, whether by phone or dropping into the office. Ashley Orleski will work closely with Ashley Mondor, the Executive Committee, our Committees and acting Registrar to learn about and understand the Association's business.

Ashley brings several years of experience in increasingly responsible roles within, not-for-profit, public and private sector agencies. She brings a high degree of enthusiasm and experience in areas of policy development, project management, event planning and fundraising, learning and development and building highly-engaged client relationships.

In her most recent position, Ashley was the Business Process Manager at Paradox Access Solutions that saw her assist in coordinating and organizing company growth from 9 to almost 100 employees in two years as well as carrying out research, develop and implementation of a Human Resource Policy framework for that growth.

Her experience is enhanced by her in-progress Bachelor of Management Degree, a Special Events Management Certification from NAIT, and her near completed CAPM (Certified Associate in Project Management) from the Project Management Institute. Additionally, she has researched and co-published abstracts in the area of Mortality among status Aboriginals in Alberta. In Ashley's spare time, she volunteers for the Crohn's and Colitis Foundation as the Chapter President and Gutsy Walk and Marathon Chair, where she is involved in event planning and fundraising initiatives - Please join me and the Executive Committee in welcoming Ashley

Welcome New Candidates

New Candidates

- ⇒ Ms. Yun Ye, of the City of Calgary, sponsored by, Dan Satoor, AMAA;
 - ⇒ Ms. Christine Mau, of the City of Calgary, sponsored by, Scott Powell, AMAA;
 - ⇒ Mr. Andrel Wisdom, of the City of Edmonton, sponsored by: Joel Schmaus, AMAA
 - ⇒ Mr. Kevin Lim, of the City of Edmonton, sponsored by, Tim Dmytruk, AMAA; and
 - ⇒ Mr. Daryl Genereux, AACI, of the Town of Okotoks, sponsored by, Diane Fraser, AMAA
-

Employment Opportunities

New postings since the last eClipboard

- Canadian Pacific— Property Tax Manager
- City of St. Albert—Assessor II
- Saddle Hills—Assessor
- Town of Cochrane—Assessor
- Regional Municipality of Wood Buffalo—Supervisor, Residential Assessment
- Alberta Municipal Affairs- Well and Pipe Advisor
- Alberta Municipal Affairs- Assessment & Property Tax Policy Advisor

2016 Conference - Mark your calendars and make your plans!

The Conference Planning Team is working hard on the 2016 event.

Pre-Conference dates: Monday/Tuesday, April 25 and 26, 2016

Conference dates: Wednesday through Friday, April 27-29, 2016



The 2016 Conference will be held at the

Edmonton Marriott at River Cree Resort
300 E. Lapotac Boulevard, Box 179
Enoch, Alberta T7X 3Y3

Phone: 780-484-2121 or 1-800-960-4913.

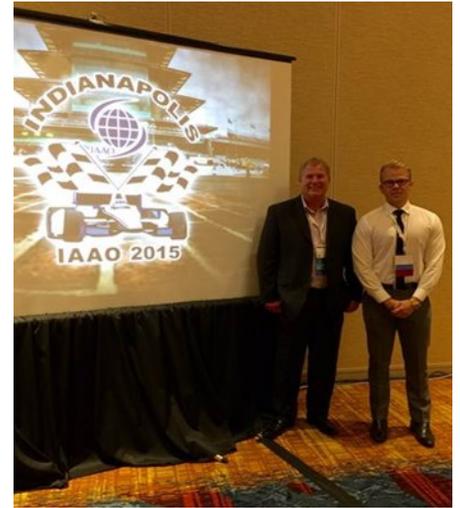
Please avoid disappointment by booking your guestrooms early; it is easier to cancel a booking made early than to find alternate lodging later. Quote “**Alberta Assessors’ Association Group Booking**” when reserving rooms. This allows you favourable rates at the 2015 agreed price and ensures the Association the benefit of the required room uptake for credits to the meeting room rentals.

Recertification Credit Reminder!

A reminder to Accredited Members who have not yet met the total credit requirement **Forty (40) credits must be learning-based activity. The remaining ten (10) credits can be either learning-based or general credits.** you have one month to complete and update your re-certification record in the Member’s Only section of the Association’s website. The current 5 year re-certification cycle ends December 31, 2015.

IAAO

Andrew Cornick, and John G. Lindsay, AMAA Presented “Progressive Market Amnesia” at this years’ IAAO conference in Indianapolis, Indiana. This session outlined how the City of Calgary considered the effect of overland flood waters in calculating property assessments, consequential revenue stream outcomes and the lessons learned in administration of the recent annual market value assessment rolls.



John Lindsey, AMAA and Andrew Cornick.

Remembering Colleagues and Friends

“Behold, I send an Angel before you to keep you in the way and to guide you into this place I have prepared.” (Exodus 23:20)



Abdurahman (Abdi) Abubakar

On Saturday, October 31, 2015, our wonderful friend and coworker, Abdi, passed away. He left this physical world peacefully at the age of 62 years. He was surrounded by numerous family and friends from Edmonton, but many of whom traveled from very far away; Ottawa, Houston, Sweden, Djibouti, Africa & Somalia, Africa to be at his bedside and burial held on Sunday. He is truly loved by so many!

Abdurahman Abubakar is survived by his wife Sahra & five children; Omar (22), Abu (20), Osman (18), Aisha (17), Afnan (9) and also six adopted Somalian refugee nieces and nephew. Five nieces are: Umalkhair (20), Sharusad (17), Hodan (16), Muna (15) Sadia (13) and one nephew Abdi (19) which have been living with Abdi and his family for over a year now.

Abdi was a man of faith, truth and integrity. He was a man of his word and a huge pillar within his family and community. His gracious presence and sincere smile will forever leave an imprint on many of our lives..

- Originally from Somolia, Ottawa, to Houston, to Ottawa, to Edmonton
- He was diagnosed with a brain tumor a year ago, and has been on a leave of absence since then
- Was a candidate member with the AMAA – started his career in Houston and it made more sense to go the IAAO route.
- About 8 years with The City of Edmonton- well rounded career, started in business tax and then progressed into multi family investment assessment and did some retail and took the lead in hotels/ motels
- Very good values, his muslim faith played a large role in his daily life – large family and adopted his wives children from Somalia. 5 kids and 4 that he has adopted. Quiet, thoughtful, good person. Strong in faith.
- Strong/ active member in his community – was known and thought highly of by many
- Selfless, put his family first – made a lot of sacrifices to put his familys welfare before his.

INTERPRETATION AND APPLICATION OF THE CCRG RECENT COMPOSITE BOARD DECISIONS

Carol M. Zukiwski

Reynolds Mirth Richards & Farmer LLP

The *Construction Cost Reporting Guide* (“CCRG”) is used in three circumstances:

- i. to assess M&E where regulated rates do not exist;
- ii. in the development of rates for regulated property; and
- iii. the assessment of electric power systems (generation and substations) linear property.

In a series of 3 decisions the Wood Buffalo Composite Assessment Review Board (“the Board”) has considered the interpretation and application of several key sections of the CCRG. The Board has considered the following issues:

- (a) the interpretation of section 1.100 regarding the costs termed ‘owners costs’ by industry;
- (b) whether the cost of certain engineering documents (Design Basis Memorandum (“DBM”) and Engineering Design Specifications (“EDS”) are an excluded cost under s. 2.100.100 as feasibility studies; and
- (c) how abnormal costs under s. 2.500 are measured.

The three decisions are CNRL 001/2013, CNRL 001/2014 (leave to appeal granted) and IOL 001/2015 (leave to appeal filed). Reading the three decisions in order you can see an expansion of the Board’s reasoning over time. The IOL decision is particularly helpful as the Board provides its interpretation of the sections in issue, the evidence it accepts and why, followed by the evidence it does not accept and why.

Interpretation of s.1.000 of the CCRG (Owner’s Costs)

Typically in the construction of large projects, the owner will have one or more general contractors responsible for the field assembly of the project. It is also typical for the owner to have their own team for project management, bidding and tendering, and quality control in the factory. Industry typically calls these expenditures ‘owner’s costs’ and takes the position that such costs should not be included in the total construction cost or, if they are included, they should be 100% excluded. One reason for the difference of opinion centers around the point in time when construction costs begin to be incurred. Some argue that construction costs are only incurred when the field installation begins, and any expenditures prior to that are not costs of construction.

Another common argument is that construction costs are only those costs incurred by the general contractor. The argument is that all costs incurred by the owner are ‘owner’s costs’ and, therefore, not construction costs.

In the IOL decision the dispute focused on costs incurred for the Project Management Team and the Construction Management Team. IOL argued that these costs were incurred to protect the shareholder's interests and were an oversight role of the general contractors. RMWB argued that these costs fell under s.1.100 as either direct or indirect costs of construction related to the supervision and monitoring of construction and the Board accepted this approach.

The Board's reasons at paragraphs 131 – 144 of the IOL decision, indicate that the Project Management Team and the Construction Management Team supervised the contractors and ensured they fulfilled their obligations and these Teams inspected the work. The Board noted that the CCRG does not specify that construction costs must only be incurred on site. The Board found that such an interpretation would be contrary to the CCRG which stipulates that indirect costs *can* be incurred away from the site. The Board commented that the activities of the Project Management Team, when coordinating the work of the major contractors, was a cost of construction.

Costs Incurred for the DBM and EDS Documents

Property owners have found that their project runs smoother if they invest a greater amount of resources in the development of engineering and construction planning documents prior to the start of field installation. This process is sometimes called Front End Loading (“FEL”) or Front End Engineering Design (“FEED”). These documents are called the Design Basis Memorandum and the Engineering Design Specifications. The Design Basis Memorandum is developed first and then, as engineering and planning progresses, the DBM evolves into the Engineering Design Specifications, which then evolves into detailed engineering.

Both CNRL and IOL claimed that the costs to prepare these documents should be 100% excluded since the documents were feasibility studies (CCRG s. 2.100). Based on the facts of each case, the assessor took the position that varying portions of the cost of the documents did not relate to feasibility studies, and therefore did not qualify as an excluded cost under s. 2.100.100.

When reviewing the two CNRL decisions vs the IOL decision on this point, it is important to remember that CNRL refused to produce these documents for review by the assessor. In the 2014 CNRL decision, the Board neglected to decide the assessor's request that the Board order production of the documents. Accordingly, when assessing CNRL's Horizon Project, the assessor was limited to providing a description of how these documents were typically used based on descriptions of the documents and providing the tables of contents of similar documents produced by other property owners (larger portions of those documents were not produced for confidentiality reasons). In the IOL decision, the DBM and EDS were produced for the assessor's review and the documents were before the Board.

In the first CNRL decision, the Board accepted the testimony of CNRL's witnesses that it was not the practice in RMWB to produce the DBM or EDS documents and that 100% of the costs were excluded. In the second CNRL decision, the assessor did a historical file review which confirmed: (i) other property owners produced these documents when requested by the assessor, and (ii) a portion of the costs of preparing the DBM and EDS were included costs. This review confirmed it was *not* the past practice to exclude all of the cost for preparing the DBM and EDS.

There is recognition in the two CNRL decisions that the DBM and EDS documents can be used for several purposes, meaning that portions of the documents are not feasibility studies (2013 CNRL decision paragraphs 274 – 275, and 2014 CNRL decision paragraph 369). However, the best reasoning on this issue is found in the IOL decision (paragraphs 152 – 160).

A common argument to support the exclusion of all DBM and EDS costs as being feasibility studies, is that these costs are often incurred before the project is sanctioned by the company, and therefore they are “pre-construction”. This argument was not accepted by the Board in the IOL decision based on the interpretation of the s.2.100.100, and based on a review of the evidence given by the witnesses. The Board noted that the terms ‘pre-sanction’ and ‘post-sanction’ are not used in the legislation. The Board noted that s.2.100.100 specifically states that the cost of working models which facilitate construction are an included cost. So, based on the wording of the section, the drafters contemplated that some of the costs would be included costs.

In the IOL decision, the RMWB witnesses provided the Board with testimony about: (i) the interpretation, application and quantification of the claims for excluded costs under the CCRG, and (ii) the way in which the engineering documents were used during field installation. This testimony was consistent with that given by the same witnesses in the two CNRL decisions. There are two pivotal differences in how the Board approached the evaluation of the evidence. The first difference relates to the party who has the burden of proof, and the second difference relates to which party has control of the records from the construction of the project.

In the 2014 CNRL decision, the Board put the onus on the Respondent assessor to provide it with compelling proof as to why it should depart from its decision in the prior year. Arguably, this approach is contrary to the basic administrative law principle that a board must make its decision on the basis of the evidence and argument before it, since its prior decisions are not binding upon it. This approach is also contrary to the direction in the MGA as interpreted by the Court, that the property owner as complainant has the burden of proof, not the respondent assessor. Indeed, the Court of Queen’s Bench granted leave to appeal the 2014 CNRL decision on this basis. The appeal is adjourned until the Supreme Court of Canada issues its decision in *Capilano Shopping Centre v. Edmonton* on the standard of review.

In the IOL decision the Board acknowledged (correctly in the writer’s view) that it is not bound by previous decisions and the onus is on the complainant.

The Board’s response when there was a lack of detail in the evidence was another pivotal difference in the approach taken by the Boards in CNRL and IOL. There is no doubt that IOL provided a greater number of source documents in support of their claims for excluded costs, than had been provided by CNRL. The production of source documents by the property owner to support claims for excluded costs is a requirement under the CCRG, and the request for these types of documents is commonly part of the assessor’s s. 295 request.

In IOL, whenever there was a lack of detail in the documents, the Board noted that it was the company who had control of these documents and it could have provided them. The IOL Board

was prepared to accept the assessor’s best judgement based upon the limited information provided by IOL. However, in CNRL the Board was critical of the assessor for exercising best judgement in similar circumstances. The CNRL Board did not recognize the fact that the assessor and the Board cannot obtain access to a document unless provided by the property owner.

Another common argument of Industry which the Board did not accept is that the costs for the DBM and EDS are throw away costs if the project is not approved. The Board noted that, if this was the case, there would not be an M&E assessment. However, when the project goes ahead, the DBM and EDS are documents which are relied upon during field installation and are part of the cost of construction.

Abnormal Costs Under s. 2.500

IOL made a number of claims for excluded costs which were based on the claim that they were abnormal based on a comparison to what those costs would typically be if incurred in the Edmonton area. IOL argued that under the Special Property Assessment Guide (which was a policy document used before the CCRG), this was the approach taken to determine abnormal costs.

The Board accepted the approach taken by the RMWB witnesses, which evidence was consistent with that given in the two CNRL hearings.

The Board concluded that abnormal costs were to be measured against what was typical in the municipality in the relevant time period of construction. The Board notes that the only place in the CCRG which mentions a comparison to Edmonton area costs is in s. 2.500.200 – in relation to transportation costs. The Board acknowledged that s. 2.500 of the CCRG states that typical or normal may vary over time, between locations and among industries (see paragraphs 191, 192, 194, 195, 204, 221, and 223).

The Board noted in paragraph 195, that in relation to the claim that certain costs should be excluded because of a ‘heated market’, that the application of the cost factors and the assessment year modifiers in the Minister’s Guidelines brings the costs for all M&E assessments to the 2005 base year. The Board was unwilling to make a reduction for further excluded costs because to do so would result in double counting, when the Minister’s Guidelines have already addressed this issue.

Conclusion

The analysis provided by the Board in IOL supports the evidence and argument that the RMWB assessment and expert witnesses have consistently provided in all three hearings. The Board’s analysis is consistent with the principles set out in the pre-conference course on the CCRG provided at the 2015 AAA Conference.

Random Quote

Our hopes are high. Our faith in the people is great. Our courage is strong. And our dreams for this beautiful country will never die.

