

**Assessment Review Board**  
Commission de révision de  
l'évaluation foncière



**ISSUE DATE:** October 28, 2014

**FILE NO.:** WR 126007

**Assessed Person(s):** Toronto Airways Limited, Armadale Enterprises Inc., Ardeda Holdings Inc. and CF/OT Buttonville Properties Inc. c/o Armadale Co. Limited

**Appellant(s):** Toronto Airways Limited, Armadale Enterprises Inc., Ardeda Holdings Inc. and CF/OT Buttonville Properties Inc. c/o Armadale Co. Limited

**Respondent(s):** Municipal Property Assessment Corporation ("MPAC"), Region 14

**Respondent(s):** City of Markham

**Property Location(s):** See Schedule "A" attached

**Municipality(ies):** City of Markham

**Roll Number(s):** See Schedule "A" attached

**Appeal Number(s):** See Schedule "A" attached

**Taxation Year(s):** 2009, 2010, 2011 and 2012

**Hearing Event No.** 552631

**Legislative Authority:** Section 40 of the *Assessment Act*, R.S.O. 1990, c. A.31, as amended

**APPEARANCES:**

**Parties**

**Counsel<sup>+</sup>/Representative**

Toronto Airways Limited, Armadale Enterprises Inc., Ardeda Holdings Inc. and CF/OT Buttonville Properties Inc. c/o Armadale Co. Limited

Richard Minster

MPAC

Chester Gryski<sup>+</sup>

City of Markham

Shane Manson

**HEARING EVENT INFORMATION:**

**Hearing:** Held in Markham, Ontario on May 26 through 30, 2014 and in Toronto, Ontario on June 10 and 11, 2014

## **DECISION OF THE BOARD DELIVERED BY P. ANDREWS AND S. McANSH**

---

### **INTRODUCTION**

[1] The Appellants are the owners and operators of the Buttonville Airport, which has operated in the City of Markham for over 50 years.

[2] The subject properties comprise the "Buttonville Airport Lands". While the parties often refer to the lands collectively, the land consists of four separate parcels, each with separate roll numbers and each with separate appeals. Namely:

- a. 2833 16<sup>th</sup> Avenue (the "Airport Parcel") is the largest parcel, at 142.93 acres, and is where the majority of the airport infrastructure is located, including the terminal and runways, with only its 2012 assessment before the Board;
- b. 350 Allstate Parkway (the "Allstate Parcel") is 15.57 acres and contains some limited airport infrastructure including a communications tower, with its 2009, 2010, 2011 and 2012 assessments before the Board;
- c. Allstate Parkway, Plan 65M2695, Lot 6 (the "Vacant Allstate Parcel") is a 6.72 acre vacant parcel, with its 2011 and 2012 assessments before the Board; and
- d. 180 Renfrew (the "Vacant Renfrew Parcel") is a 3.69 acre vacant parcel with its 2009, 2010, 2011 and 2012 assessments before the Board.

[3] For the 2009, 2010 and 2011 taxation years, the Buttonville Airport Lands had a total assessed value of \$46,081,000. The Airport Parcel was assessed at \$31,400,000, with \$28,028,000 in the Commercial tax class, \$3,261,000 in the Commercial Excess Land tax class and \$111,000 in the Residential tax class. The Allstate Parcel was

assessed at \$7,513,000, with \$6,436,000 in the Commercial tax class and \$1,077,000 in the Commercial Excess Land tax class. The Vacant Allstate Parcel was assessed at \$4,565,000 in the Industrial Vacant Land tax class. The Vacant Renfrew Parcel was assessed at \$2,603,000 in the Industrial Vacant Land tax class.

[4] For a number of years, the Greater Toronto Airport Authority provided an operating subsidy to Buttonville Airport. In 2008 the Appellants were informed that the subsidy would end in 2009. That information prompted the Appellants to begin a process of investigation into the redevelopment potential of the subject lands.

[5] Part of the redevelopment process included the sale of a partial interest in the lands in late 2010 (the "Cadillac Purchase"). When MPAC became aware of this transaction, it increased the assessed value of the Airport Parcel by approximately 100%. However, it made no changes to the remaining parcels.

[6] MPAC states that this value change is based on their opinion that the highest and best use of the land has changed from an airport to urban development land.

[7] The Appellants challenge MPAC's conclusion. They argue that, because there was no physical or legal change to the Airport Parcel for the 2012 taxation year that would warrant a change in value, the lands should continue to be assessed as they were for the 2009, 2010 and 2011 taxation years. They further argue that MPAC is prohibited by the *Assessment Act* ("Act") from changing an assessment based on the same valuation day without a physical or legal change to the property.

## **ISSUES**

[8] The primary issue in these appeals is the current value of the Airport Parcel for the 2012 taxation year. The current value turns on the proper method for assessing the value of those lands. MPAC argues that the proper method is the direct sales comparison approach based on the highest and best use of the land. The Appellants

argue that the cost approach, as applied in the 2009, 2010 and 2011 taxation years, is the more appropriate method as there have been no physical or legal changes to the land.

[9] The Appellants raise a second issue. They argue that, based on the proper interpretation of the Act, MPAC is prohibited from altering the assessment of the land during the four year assessment cycle. Further, they argue that MPAC can only change its opinion of value when the statutory base year changes, unless there is a physical or legal change to the land. No physical or legal change to the land has occurred that might warrant such a change in value.

[10] MPAC argues that it is permitted to change its opinion of value each year when the roll is returned.

## **DECISION**

[11] For the reasons that follow, the Board finds that MPAC is not prohibited from changing its opinion of value when it annually returns an assessment. The Board further finds that the cost method for determining value is the most appropriate approach to value the Buttonville Airport Lands for the 2012 taxation year.

[12] Accordingly:

- a. The current value of the Airport Parcel (Roll Number 1936-020-133-86700-0000) for the 2012 taxation year is reduced from \$63,693,000 to \$31,400,000, with \$28,028,000 in the Commercial tax class, \$3,261,000 in the Commercial Excess Land tax class and \$111,000 in the Residential tax class;
- b. The current value of the Allstate Parcel (Roll Number 1936-020-133-86300-0000) for the 2009, 2010, 2011 and 2012 taxation years is confirmed at

\$7,513,000, with \$6,436,000 in the Commercial tax class and \$1,077,000 in the Commercial Excess Land tax class;

- c. The current value of the Vacant Allstate Parcel (Roll Number 1936-020-133-86500-0000) for the 2011 and 2012 taxation years is confirmed at \$4,565,000 in the Industrial Vacant Land tax class; and
- d. The current value of the Vacant Renfrew Parcel (Roll Number 1936-020-132-27010-0000) for the 2009, 2010, 2011 and 2012 taxation years is confirmed at \$2,603,000 in the Industrial Vacant Land tax class.

## **Background**

[13] Buttonville Airport has been subsidized in its operation for many years through the Greater Toronto Airport Authority. In 2008 notice was given to Toronto Airways Limited, a subsidiary of Armadale (the owner of the Buttonville Airport Lands), that the subsidy would soon end. Accordingly, Armadale commenced the process that would lead to redevelopment of the lands. A preliminary master plan was developed that envisioned a large "urban village" with a variety of uses, including residential, retail, office and convention center uses. The Cadillac Fairview Corporation Limited was selected, through a Request for Proposals process, as the developer-partner to see the plan to completion.

[14] On May 5, 2010, Cadillac Fairview and Armadale entered into a letter agreement, which led to a series of other agreements, including a Co-Owners Agreement, a Partnership Agreement, a Master Development Agreement and an Agreement of Purchase and Sale for the Buttonville Airport Lands. The Agreement of Purchase and Sale was completed on October 7, 2010 and saw Armadale transfer a 25% interest in the Buttonville Airport Lands to CF/OT Buttonville Properties Inc. for \$16,664,921 in total consideration, or \$500,000 per developable acre of land. The registration of this sale is what brought the redevelopment to the attention of MPAC.

[15] Since that time, applications have been made to change the legal use of the Buttonville Airport Lands to allow for the proposed development. Currently the Appellant's application for a Secondary Plan Amendment is before the Ontario Municipal Board ("OMB") and is not expected to be resolved until sometime in 2015. At the time of this hearing, the Buttonville Airport Lands continued to operate as an airport. One of the major hurdles to proceeding with the development is the cost of the infrastructure required to service such a large development, which is estimated to exceed \$100 million. Those costs are still being negotiated between the developer, the City and the Region of York.

[16] In late 2011, MPAC modified its opinion of value based largely on the Cadillac Purchase. Accordingly, for the 2012 taxation year MPAC increased the returned assessment for the Airport Parcel from \$31,400,000 to \$63,693,000 with all of that increase in value in the Commercial Excess Land tax class. At the hearing, MPAC sought an assessed value for the 2012 taxation year of \$81,386,000 with \$71,239,000 applied to the Commercial tax class. MPAC did not vary the assessment of the remaining three parcels for the 2012 taxation year, nor did they seek to increase those assessments at the hearing. MPAC rather suggested that the Buttonville Airport Lands could be treated as one parcel so it did not matter to which parcel an increase in assessed value was applied.

### **Legislation**

[17] Section 44(3)(a) of the Act requires the Board to "determine the current value of the land." Section 19.(1) of the Act states that "the assessment of land shall be based on its current value" and s.1 of the Act defines current value as "the amount of money the fee simple, if unencumbered, would realize if sold at arm's length by a willing seller to a willing buyer." This means that the Board must determine what the Buttonville Airport Lands would have sold for on the valuation day.

[18] Valuation days are set out in s. 19.2.(1)2 of the Act, which states that “for the period consisting of the four taxation years from 2009 to 2012, land is valued as of January 1, 2008.” This section creates a four year cycle between valuation days.

[19] Despite this four-year valuation base year, s. 36.(1) of the Act requires assessments to be made annually and s. 36.(2) requires that the assessment roll be returned to the municipality “not later than the second Tuesday following December 1 in the year in which the assessment is made.”

[20] Section 32.(1) of the Act permits MPAC to “correct any defect, error, omission or misstatement in any assessment and alter the roll accordingly” at any time “before the time fixed for the return of the assessment roll.” Section 32.(1.1) of the Act permits MPAC to “correct any error in the assessment or classification of property that has resulted from incorrect factual information about the property, and not from a change in opinion as to current value” and this change can be done “at any time during the taxation year.”

[21] Section 33 of the Act also permits MPAC to assess land that has been omitted from the assessment roll under certain conditions, MPAC can also supplement assessments pursuant to s. 34 of the Act “before the last day of the taxation year” if the change in value “results from the erection, alteration, enlargement or improvement” of items on the land or other changes to the land.

[22] The Appellants argue that the four-year base year cycle is only significant if s. 32.(1) of the Act is limited to physical or legal changes to the property. They state that if MPAC is permitted to change an assessment based solely on a change in its opinion of value each taxation year based only on market changes then the four-year base year model is essentially obsolete. They also argue that s. 19.1 of the Act limits the increases that can be made during the four years between valuation dates to changes at “general reassessments”, which are assessments based on a different valuation days.

[23] MPAC argues that the exclusion of “a change in opinion as to current value” from changes after close of the roll in s. 32.(1.1) implies that changes in opinion as to current value is included in “defect, error, omission or misstatement” set out in s. 32.(1).

[24] The parties agree that we are bound by Driedger’s modern approach to statutory interpretation, namely that “the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament,” see *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42, [2002] 2 SCR 559 at para. 26. The object of the Act was addressed by the Divisional Court in *Toronto (City) v. Municipal Property Assessment Corp.*, 2013 ONSC 6137 at para. 30 where it was noted that the primary “principles of equity and finality are often in conflict and each must be weighted in the balance in arriving at the proper interpretation of the legislation.” The Appellants favor an interpretation of the Act that promotes finality and stability of assessments over the four-year assessment cycle, while MPAC favors an interpretation of the Act that promotes equity in assessments by permitting MPAC to adjust an assessment each year.

[25] This Board has considered the proper interpretation of s. 32, and the legality of mid-cycle assessment changes, in two decisions: *Reininghaus v. Municipal Property Assessment Corporation, Region 15* [2013], 77 O.M.B.R. 485 (“*Reininghaus*”) and *Ritchie v. Municipal Property Assessment Corporation, Region 15* [2013] 76 O.M.B.R. 125. In both instances the Board concluded that the Act permits a new assessment each taxation year and that s. 32 cannot be read in a limited manner. In *Reininghaus* Member Wyger held, at para. 19: “It makes eminent sense to allow MPAC to correct an assessment for practically any reason prior to the roll being fixed.” We agree. Section 32 must be read as a whole and by clarifying in s. 32.(1.1) that “a change in opinion as to current value” was not a change permitted after the return of the roll, the legislature has made its intention clear that an opinion of value is a valid correction pursuant to s. 32(1). This is further supported by the requirement in s. 36.(1) that an assessment be



returned each year. Assessing property requires an assessor to form an opinion on the value of that property. Thus, in requiring an assessment to be returned each year, the legislature left it open to MPAC to change its opinion of value each taxation year.

[26] The wording of s. 19.1(3) does not change this conclusion. That section limits the increases that can be made “if the current value of land increases because of a general reassessment.” An increase in value as a result of a change in opinion in value pursuant to s. 32.(1) is not the result of a general reassessment and is not limited by s. 19.1(3).

[27] The Board rejects the Appellants suggestion that this interpretation renders the four-year cycle meaningless. The base year for each annual return during the cycle remains the same and without a physical or legal change to the property, it is hard to imagine what would justify a change in opinion of value within the cycle. That does not mean that annual changes in opinion are not permitted, but rather that such changes are scarce in practice. Here, MPAC argues that the nature of the land itself changed as it ceased to be valued as an airport and would instead be valued as development land since it was sold as such sometime before the close of the roll on December 13, 2011.

### **Current Value**

[28] Alex Locantore appeared as a witness for MPAC and was qualified by the Board to give opinion evidence on the appraisal of land in Markham and surrounding communities. His opinion was that the Buttonville Airport Lands should be assessed using the sales comparison approach, comparing the land to other parcels at its perceived highest and best use as development land for a mixed use urban village. He was of the opinion that the cost method of determining value, which was used for the 2009, 2010 and 2011 taxation years, was no longer appropriate for the Buttonville Airport Lands.

[29] Mr. Locantore supported his contention that the highest and best use of the Buttonville Airport Lands was mixed-use development land solely through the Cadillac Purchase and two planning documents. Those documents were a slide show presented to Markham City Council on November 22, 2011, and a report from City planning staff to Council dated May 7, 2013. These demonstrate that redevelopment is contemplated, but fail to establish that the highest and best use of the Buttonville Airport Lands was other than an airport on December 13, 2011.

[30] The Board was provided with the relevant chapter from *The Appraisal of Real Estate, Third Canadian Edition*, which all parties agreed was the authoritative text on the issue of highest and best use. The Board also heard evidence from Joseph Gombus, who was certified by the Board to provide opinion evidence on the appraisal of real estate. Mr. Gombus outlined in great detail the evidence that is required to establish the highest and best use of land. The Board found Mr. Gombus' evidence to be clear and highly credible. He provided a great deal of support for his position and the Board accepts his evidence on that topic.

[31] The parties agree on the basic definition of highest and best use, found in *The Appraisal of Real Estate, Third Canadian Edition*: "The reasonably probable and legal use of vacant land or an improved property that is legally permissible, physically possible, appropriately supported, financially feasible and that results in the highest value." That is, in order to establish the highest and best use of land, it must be determined which uses are legally permissible or possible, physically possible and financially feasible and from those potential uses determine which is the most productive use of the land. While this technique is more commonly used on vacant land, it can be applied to land with improvements.

[32] *The Appraisal of Real Estate, Third Canadian Edition* is clear, on page 12.3 that market analyses must be done in order to assess those criteria. The required market studies are set out in Table 12.1 and include a fundamental analysis, an inferred analysis, a market study and a marketability study. Those are defined as follows:

- a. Fundamental Analysis: “Investment analysis that investigates both basic and economic factors and conditions affecting specific sectors and industries.”
- b. Inferred Analysis: “Demand projected on the basis of current market conditions, rates of change, and absorption patterns.”
- c. Market Study: “A macroeconomic analysis that examines the general market conditions of supply, demand, and pricing or the demographics of demand for a specific area or property type. A market study may also include analysis of construction and absorption trends.”
- d. Marketability Study: “A microeconomic study that examines the marketability of a given property or class of properties, usually focusing on the market segments in which the property is likely to generate demand. Marketability studies are useful in determining a specific highest and best use, testing development proposals, and projecting an appropriate tenant mix.”

[33] It is noted in the opening of Chapter 12 of that text that “an understanding of market behavior developed through market analysis is essential to the concept of highest and best use.” It makes a great deal of sense that market information and reasonable predictions of future market demand would be required to determine the highest and best use of land. Without a prediction of future demand that is supported by market evidence, it is impossible to say what the best use of land would be. This is especially true when the development horizon of the proposed use is well into the future, as it is for the Buttonville Airport Lands.

[34] Mr. Locantore did not provide any market analyses to support his opinion that a high density mixed use of the Buttonville Airport Lands is the highest and best use of that land. Rather, he assumed that the Appellant’s pursuit of a particular redevelopment of the Buttonville Airport Lands demonstrates that the requisite studies have been

completed by the Appellants. This is not sufficient evidence for the Board to make a determination as to the highest and best use of the land. Section 40.(17) of the Act states that MPAC bears the burden of proof “as to the correctness of the current value of the land.” Here MPAC is attempting to justify a change to the 2008 base year value of the Buttonville Airport Lands solely because they allege the highest and best use of the land changed for the 2012 taxation year. Proving that change requires sufficient evidence, not merely an assumption that another party has the required evidence.

[35] Further, even if the market research were presented to show that a higher use of the land is financially feasible, Mr. Locantore provided no assessment of the probability that the Appellants would be able to obtain the requisite zoning approvals to redevelop the land as high density commercial and residential.

[36] The subject property is designated “Industrial – Business Park” in the current approved City of Markham Official plan. The subject property is zoned “Transportation Zone” in By-law No. 304-87 as amended and “MC” (industrial with limited commercial) by By-law 165-80 as amended. The Appellants have applied for a Secondary Plan Amendment in order to advance their development goals for the Buttonville Airport Lands. However, that is only one stage in the required approvals and will not be addressed by the OMB until 2015. There are still very significant infrastructure costs to overcome and it was far from clear on the evidence before the Board that the Buttonville Airport Lands will ever be developed as envisioned.

[37] It is important to recall that the condition date for the 2012 assessment is December 13, 2011. The question is what was the highest and best use of the land on that date. The land was zoned for airport use, the land was being used as an airport and the Board agrees with the Appellants that the highest and best use for the land at that date was still its use as an airport.

[38] While a planning application had been made at that time, the fact that nearly three years later there is no decision on that application demonstrates the inherent uncertainty of the zoning process.

[39] In order to meet its burden of proof MPAC should have, at the very least, brought evidence relating to the probability of success in rezoning. This may include evidence on similar rezoning applications in the municipality, or the use of neighboring parcels of land. Probable rezoning must mean a greater than 50% chance of rezoning within a reasonable time frame, see *Petro Canada Inc. v. Coquitlam* (1991) 61 BCLR (2d) 86 (S.C.). Anything outside of a reasonable redevelopment horizon is speculative in nature and cannot represent a probable use of the land. Here the redevelopment of the land is hoped to be permissible in 2016, with actual development starting 2017 and a completed project hoped for in 2030. There is a great deal of uncertainty on how the project will proceed even at this point in time. The proposed use was not legally permissible on the condition date and MPAC has failed to prove that rezoning was probable on December 13, 2011.

[40] It is also significant that Mr. Locantore did not address the existing structures and regulations on the Buttonville Airport Lands. The Appraisal of Real Estate, Third Canadian Edition is clear that when assessing an improved property consideration must be given to the existing facilities on the land. Mr. Locantore did not consider the cost of demolition or the expense in removing the existing regulations, including the *Toronto/Buttonville Airport Zoning Regulations*, SOR/88-148. This oversight brings MPAC's highest and best use analysis further into doubt.

[41] For those reasons, the Board finds that MPAC has failed to meet their burden in proving that the highest and best use of the property on December 13, 2011 is other than its use as an airport. At that point in time, the evidence is clear that a different use of the property was contemplated, but it was far from probable given the regulatory hurdles still to be overcome and the long development timeframes proposed. It is far

from clear that a willing buyer would have considered the land as development land for an urban village on December 13, 2011.

[42] Mr. Lacontore presented the Board with six suggested comparable sales based on his opinion on the highest and best use of the Buttonville Airport Lands. Given the Board's finding that the highest and best use for the 2012 taxation year was as an airport, those suggested comparable sales are of little relevance. Further, the properties put forward by Mr. Lacontore are all significantly smaller than the Buttonville Airport Lands and were all in a far different regulatory state when they were sold.

[43] 1577-1621 Major Mackenzie East is a 75.75 acre vacant site that sold for \$65,000,000 on October 19, 2007. This sale involved the same parties as the sale of 11258 Woodbine Avenue, a 52 acre site that sold for \$29,393,000 on August 31, 2007. The opinion of Robert Allen, the appraiser for the Appellants, was that these sales appeared to involve some other arrangement, such as a land swap. The timing and parties in these sales do raise suspicions that should have been investigated, but as neither property is similar to the Buttonville Property, this information is not material. Major Mackenzie East did not have nearly \$10,000,000 worth of buildings and special regulations to deal with when considering development. While it did require a rezoning for its intended use, it is a much smaller parcel with different development goals. Similarly, 11258 Woodbine Avenue had an accelerated rezoning to incentivize Honda to build on the site. That incentive does not exist on the Buttonville Airport Lands.

[44] 9999 Markham Road is a 31.69 acre parcel which sold for \$27,896,000 on December 4, 2007 with a large industrial building on the site. The building has been demolished and applications have been made for rezoning. However, the size and location of this parcel make it difficult to compare to the Buttonville Airport Lands.

[45] On Warden Avenue, an 88.43 acre vacant parcel sold for \$100,000,000 in July of 2008. At the time of sale, the Official Plan was already in place for the proposed mixed-use development, though subdivision and zoning applications were still required. This

site was vacant and had a significant planning approval in place to sell as development land. This is not comparable to the Buttonville Airport Lands, which are not vacant and have no planning approvals for the proposed development. This is not a comparable sale.

[46] 7171-7181 Yonge Street is a 9.95 acre parcel which sold for \$29,000,000 on June 29, 2006 with a strip mall in place. The site now contains large residential towers and retail development. This site is located in a built up urban area and is a much smaller lot than the Buttonville Airport Lands. It is also fully built out eight years from when it was purchased, while the Buttonville Airport Lands do not have any planning approvals nearly four years from the sale of a partial interest in the land. This is a fundamentally different development lot from the Buttonville Airport Lands and is not a comparable sale.

[47] Finally, East Beaver Creek is a 9.32 acre vacant parcel that sold for \$18,644,000 on October 31, 2008. This is now a fully developed site, demonstrating the differing timing and probability of development from the Buttonville Airport Lands.

[48] The Board was presented with no other suggested comparable sales to determine the value of the Buttonville Airport Lands.

[49] Mr. Allen, for the Appellants, suggests that the Cadillac Purchase could be used as a comparable sale in order to determine value. We disagree. That sale was not only for an interest in the land. It included future options to purchase, partnership agreements, service agreements and a collection of sophisticated business agreements. It is impossible to accurately tease out the consideration attributable to the land in this complex arrangement. Further, that sale took place nearly three years from the valuation day. Markets change greatly over even a short period of time and it is difficult to say what that sale demonstrates in terms of a sale for on January 1, 2008. For those reasons, the Board finds that the sale of a partial interest in the Buttonville

Airport Lands in 2010 too problematic to be of assistance in determining the current value of the subject properties.

[50] The Board finds that the cost approach to value is the most appropriate manner to assess the Buttonville Airport Lands. This is how MPAC assessed those lands for the 2009, 2010 and 2011 taxation years. MPAC used their automated costing system to attribute value to buildings and valued the land using their land tables for industrial land. The Airport Parcel MPAC had returned a building value of \$7,816,925 and a land value of \$23,583,450 or \$165,000 per acre. The Allstate Parcel had a building value of \$3,091,528 and a land value of \$4,347,533 or \$279,225 per acre. The Vacant Allstate Parcel had a land value of \$4,565,299 or \$679,360 per acre. The Vacant Renfrew Parcel had a land value of \$2,603,162 or \$705,464 per acre.

[51] The Appellants take no issues with MPAC's assessment of the Buttonville Airport Lands using the cost approach to value. In fact, the Appellants argue that this is the preferred method for valuing the Buttonville Airport Lands.

[52] The Board accepts that the cost valuation method is most appropriate for the Buttonville Airport Lands. MPAC seems to generally agree, with the only deviation from that method being the 2012 assessment of the Airport Parcel. The Board finds that the cost approach to value is appropriate for that assessment as well, as there have been no changes that would justify any other assessment method. The Board therefore reduces the 2012 assessment of the Airport Parcel from \$63,693,000 to \$31,400,000, with \$28,028,000 in the Commercial tax class, \$3,261,000 in the Commercial Excess Land tax class and \$111,000 in the Residential tax class. The assessments of the Allstate Parcel, the Vacant Allstate Parcel and the Vacant Renfrew Parcel are confirmed.



## **Equity**

[53] Section 44.(3)(b) of the Act requires that the Board “have reference to the value at which similar lands in the vicinity are assessed and adjust the assessment of the land to make it equitable that of similar lands in the vicinity.” No similar lands were provided to the Board.

[54] Accordingly the Board finds that there is no evidence before it that might lead to an adjustment under s. 44.(3)(b).

## **Excess Land**

[55] The Appellants raised concerns with the excess land allocation on the Airport Parcel and the Allstate Parcel. For the Airport Parcel, MPAC apportioned 90.942 acres to excess land and the Appellants seek to have that allocation reduced to 59.42 acres. For the Allstate Parcel, MPAC apportioned 3.857 acres to excess land and the Appellants seek to have that allocation increased to 9.71 acres. The Appellants did not indicate how these changes in acreage would impact value.

[56] MPAC did not make any submissions on excess land, either with respect to acreage or value.

[57] The Board cannot make a determination of the value of the excess land property class without some submissions on that topic. It would therefore be inappropriate for the Board to make a determination of the acreage of the excess land, as it is not known what impact that will have on current value, which is the subject of these appeals.

## **CONCLUSION**

[58] For the reasons set out above, the Board finds as follows:

- a. The current value of the Airport Parcel (Roll Number 1936-020-133-86700-0000) for the 2012 taxation year is reduced from \$63,693,000 to \$31,400,000, with \$28,028,000 in the Commercial tax class, \$3,261,000 in the Commercial Excess Land tax class and \$111,000 in the Residential tax class;
- b. The current value of the Allstate Parcel (Roll Number 1936-020-133-86300-0000) for the 2009, 2010, 2011 and 2012 taxation years is confirmed at \$7,513,000, with \$6,436,000 in the Commercial tax class and \$1,077,000 in the Commercial Excess Land tax class;
- c. The current value of the Vacant Allstate Parcel (Roll Number 1936-020-133-86500-0000) for the 2011 and 2012 taxation years is confirmed at \$4,565,000 in the Industrial Vacant Land tax class; and
- d. The current value of the Vacant Renfrew Parcel (Roll Number 1936-020-132-27010-0000) for the 2009, 2010, 2011 and 2012 taxation years is confirmed at \$2,603,000 in the Industrial Vacant Land tax class.

*"Peter Andrews"*

PETER ANDREWS  
VICE-CHAIR

*"Scott McAnsh"*

SCOTT McANSH  
MEMBER

**Assessment Review Board**

A constituent tribunal of Environment and Land Tribunals Ontario

Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

# SCHEDULE A

Written Reason No	Request Type	Release Date	Hearing No							
126007	Reserved	October 28, 2014	564277							
Appeal No	Roll Number	Property Address	Region	Assessed Person	Unit	Year	Decision			
2030203	1936 020 132 27010 0000	0 to 0 RENFREW DR	14	ARMADALE CO LIMITED	W/S	2009	TOTAL VALUE CONFIRMED AT \$2,603,000 CLASSIFICATION CONFIRMED AT INDUSTRIAL (VACANT LA			
2335358	1936 020 132 27010 0000	0 to 0 RENFREW DR	14	ARMADALE CO LIMITED	W/S	2010	TOTAL VALUE CONFIRMED AT \$2,603,000 CLASSIFICATION CONFIRMED AT INDUSTRIAL (VACANT LA			
2678187	1936 020 132 27010 0000	180 to 0 RENFREW DR	14	CF/OT BUTTONVILLE PROP	SUITI	2011	TOTAL VALUE CONFIRMED AT \$2,603,000 CLASSIFICATION CONFIRMED AT INDUSTRIAL (VACANT LA			
2910973	1936 020 132 27010 0000	180 to 0 RENFREW DR	14	CF/OT BUTTONVILLE PROP	SUITI	2012	TOTAL VALUE CONFIRMED AT \$2,603,000 CLASSIFICATION CONFIRMED AT INDUSTRIAL (VACANT LA			
2032840	1936 020 133 86300 0000	350 to 0 ALLSTATE PKY	14	TORONTO AIRWAYS LIMITE		2009	TOTAL VALUE CONFIRMED AT \$7,513,000 APPORTIONMENT VALUE CONFIRMED COMMERCIAL (FULL			
2336428	1936 020 133 86300 0000	350 to 0 ALLSTATE PKY	14	TORONTO AIRWAYS LIMITE		2010	TOTAL VALUE CONFIRMED AT \$7,513,000 APPORTIONMENT VALUE CONFIRMED COMMERCIAL (EXCE			
2679795	1936 020 133 86300 0000	350 to 0 ALLSTATE PKY	14	CF/OT BUTTONVILLE PROP		2011	TOTAL VALUE CONFIRMED AT \$7,513,000 APPORTIONMENT VALUE CONFIRMED COMMERCIAL (EXCE			
2910990	1936 020 133 86300 0000	350 to 0 ALLSTATE PKY	14	CF/OT BUTTONVILLE PROP		2012	TOTAL VALUE CONFIRMED AT \$7,513,000 APPORTIONMENT VALUE CONFIRMED COMMERCIAL (EXCE			
2637360	1936 020 133 86500 0000	0 to 0 ALLSTATE PKY	14	CF/OT BUTTONVILLE PROP		2011	TOTAL VALUE CONFIRMED AT \$4,565,000 CLASSIFICATION CONFIRMED AT INDUSTRIAL (VACANT LA			
2910338	1936 020 133 86500 0000	0 to 0 ALLSTATE PKY	14	CF/OT BUTTONVILLE PROP		2012	TOTAL VALUE CONFIRMED AT \$4,565,000 CLASSIFICATION CONFIRMED AT INDUSTRIAL (VACANT LA			
2943282	1936 020 133 86700 0000	2833 to 0 16TH AVE	14	CF/OT BUTTONVILLE PROP		2012	CHANGE TOTAL VALUE FROM \$63,693,000 TO \$31,400,000 APPORTIONMENT VALUE CONFIRMED RESIDENTIAL (FULL)			



## DECISION

**TO: CF/OT BUTTONVILLE PROPERTIES  
20 QUEEN ST W FLR 5TH  
TORONTO ON M5H 3R4**



**Decision No.:** 2657526  
**Region No.:** 14  
**Hearing No.:** 564277  
**Hearing Date:** June 10, 2014

**ROLL NO:** 1936-020-133-86300-0000

**DEEMED APPEAL NO.:** 2679795

**350 ALLSTATE PKY PLAN 65M2695 LOT 4**

**Markham City of**

**SECTION: 40** Assessment made in **2010** for taxation commencing **January 01, 2011**

**THE ASSESSMENT REVIEW BOARD HAS MADE THE FOLLOWING DECISION:**

TOTAL VALUE CONFIRMED AT \$7,513,000

WRITTEN REASONS ATTACHED

COMMERCIAL (EXCESS LAND) VALUE CONFIRMED AT \$1,077,000

COMMERCIAL (FULL) VALUE CONFIRMED AT \$6,436,000

**APPELLANT:** TORONTO AIRWAYS LIMITED  
**APPELLANTS COUNSEL:** RICHARD MINSTER  
**ASSESSED:** CF/OT BUTTONVILLE PROPERTIES  
**MPAC COUNSEL:** CONWAY DAVIS GRYSKI  
**REPRESENTATIVE:** PS JOHNSON LEGAL SERVICES PROFESSIONAL CORPORATION

*If the decision has changed the assessed value on the property, questions regarding tax refunds or adjustments should be made to the municipality.*

**A copy of this Decision has been mailed to the following parties or their representatives: the Appellant(s), the Assessed Person(s), the Municipal Clerk and the Municipal Property Assessment Corporation.**

**Registrar**

**Decision released on: October 28, 2014**

Page 1 of 1  
(Assessed's Copy)



## DECISION

**TO: CF/OT BUTTONVILLE PROPERTIES  
20 QUEEN ST W SUITE 500  
TORONTO ON M5H 3R4**

**Decision No.:** 2657528

**Region No.:** 14

**Hearing No.:** 564277

**Hearing Date:** June 10, 2014



**ROLL NO:** 1936-020-133-86500-0000

**APPEAL NO.:** 2637360

**ALLSTATE PKY PLAN 65M2695 LOT 6**

**Markham City of**

**SECTION:** 40 Assessment made in **2010** for taxation commencing **January 01, 2011**

**THE ASSESSMENT REVIEW BOARD HAS MADE THE FOLLOWING DECISION:**

TOTAL VALUE CONFIRMED AT \$4,565,000

CLASSIFICATION CONFIRMED AT INDUSTRIAL (VACANT LAND)

WRITTEN REASONS ATTACHED

**APPELLANT:** ARDEDA HOLDINGS INC  
**APPELLANTS COUNSEL:** RICHARD MINSTER  
**ASSESSED:** CF/OT BUTTONVILLE PROPERTIES  
**MPAC COUNSEL:** CONWAY DAVIS GRYSKI  
**REPRESENTATIVE:** PS JOHNSON LEGAL SERVICES PROFESSIONAL CORPORATION

***If the decision has changed the assessed value on the property, questions regarding tax refunds or adjustments should be made to the municipality.***

**A copy of this Decision has been mailed to the following parties or their representatives: the Appellant(s), the Assessed Person(s), the Municipal Clerk and the Municipal Property Assessment Corporation.**

**Registrar**

**Decision released on: October 28, 2014**

Page 1 of 1  
(Assessed's Copy)