

The following version is for informational purposes only

CANADIAN NATIONAL RAILWAYS COMPANY

v.

CITY OF PRINCE RUPERT

Supreme Court of British Columbia (No. 429/56)

Before: MR. JUSTICE H.W. McINNES

Vancouver, June 13, 1956

John R. Lakes for the Appellant
J.T. Harvey for the Respondent

Case Stated by Assessment Appeal Board

1. The improvement which is the subject of this appeal is known as the Salmon and Oriental Wharf in the City of Prince Rupert. This structure is set on piles and includes trackage and a general warehouse that was constructed during the years 1920, 1921, and 1922 to be used for the transshipment of ocean to railway traffic and the reverse. Detailed plans of the improvements were filed as an exhibit by the appellant with the Board, and such plans show the dimensions of the structure as well as a detailed piling plan marking each pile supporting the structure.
2. The assessment of this improvement for 1955 was \$531,790, broken down into three portions - i.e., the wharf at \$279,431, the track portion at \$51,616, and the warehouse at \$200,743. The total assessment for 1956 for all these portions was fixed by the Assessor at \$310,960 after receiving certain information from the appellant as to the costs of construction, which were, on the hearing of the appeal, admitted to be incorrect.
3. The City of Prince Rupert appealed to the Court of Revision, which fixed the assessment at \$432,650. The assessment upon the track portion was eliminated as a duplication, since the track had already been otherwise assessed, and this portion of the improvement was assessed by the Court of Revision at \$545.
4. The appellant then appealed to the Assessment Appeal Board, and in the course of the hearing submitted evidence as to the costs of construction and the condition of the improvement. The city presented no evidence, but both the City Controller and the Assessor were called by the Board to explain the original assessment and that fixed by the Court of Revision. No reasons for the decision of the Court of Revision were before the Board. It was admitted by both the City Controller and the Assessor that the 1955 assessment and the city's argument on appeal to the Court of Revision with respect to the 1956 assessment were based upon a square foot value found in one of the Provincial manuals and adjusted by a cost conversion factor to costs in 1953. This manual was not introduced as an exhibit, but was referred to in evidence without objection. The Assessor's evidence was that the figures taken by the Court of Revision as the assessment figures could not have allowed for obsolescence.
5. The City Controller gave evidence (and the Board finds it a fact) that the Court of Revision based its decision upon valuations obtained from the Provincial assessment manual and, after

eliminating the duplicate assessment upon track above referred to, fixed the assessment at 10 per cent less than in 1955 because of the large difference between the assessment based upon valuations obtained from the Provincial assessment manual and that assessment originally reached by the Assessor.

6. Early in the proceedings the Board directed the attention of counsel to section 252 (4) of the *Municipal Act*. Both counsel submitted written arguments with respect to the effect of this section.

Wherefore the following questions are humbly submitted to this Court by the Board for opinion:-

"1. In the circumstances outlined above, has the Assessment Appeal Board jurisdiction to hear the appeal on its merits having regard to the provisions of section 252 (4) of the *Municipal Act*?

"2. May an assessment exclusively based upon an assessment manual without consideration of costs of construction or obsolescence be considered a valid assessment in law? "

Reasons for Judgment (by Court Order)

This Court doth adjudge and determine that the opinion of the Court on the questions of law arising in connection with this appeal is as follows:

Question 1: In the circumstances outlined in the said stated case, has the Assessment Appeal Board jurisdiction to hear the appeal on its merits, having regard to the provisions of section 252 (4) of the *Municipal Act*?

Answer: No.

Question 2: May an assessment exclusively based upon an assessment manual without consideration of costs of construction or obsolescence be considered a valid assessment in law?

Answer: In view of the answer to Question 1, it is unnecessary to express an opinion on Question 2.

And this Court doth further order and adjudge that the matter of costs of and incidental to the said stated case may be spoken to by counsel.