

Action No.: 1203 18110  
E-File No.: EVQ12MCEWENSAVIATION1  
Appeal No.: \_\_\_\_\_

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE OF EDMONTON

BETWEEN:

McEWENS'S AVIATION SERVICES INC., McEWEN'S FUELS &  
FERTILIZERS INC., AIRCO AIRCRAFT CHARTERS LTD., GLOBAL  
REMOTE SENSING INC., MIFACO INC., ZEEBEST PLASTICS  
OF CANADA INC., 745284 ALBERTA LTD., HAMILTON AVIATION  
LTD., AIR SPRAY (1967) LTD., 1222663 ALBERTA LTD.,  
and THE EDMONTON FLYING CLUB

Plaintiff

and

CITY OF EDMONTON AND LARRY CARR, INQUIRY OFFICER

Defendant

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P R O C E E D I N G S

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Edmonton, Alberta  
December 13, 2012

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1 conclude that the issue has already been predetermined.

2  
3 In other words, that it cannot afterwards be fairly considered based on the positions yet to  
4 be presented by the parties. This is fundamental to the fairness of the process which itself  
5 must examine fairness of the proposed expropriation.

6  
7 **Decision (Application to Prohibit Mr. Carr from Acting as Inquiry Officer)**

8  
9 THE COURT: I have concluded that the concerns here  
10 reasonably held are both serious and substantial. The remedy in such circumstances is as  
11 contemplated in *R. v. S.(R.D.)*, [1997] 3 S.C.R. 484, at paragraph 99, for the Court to  
12 disqualify Mr. Carr as the officer since the proceedings are otherwise ready to get  
13 underway.

14  
15 In summary, having assessed the legal issues and the scope of evidence in dispute, the  
16 Court hereby determines that the circumstances do give rise to a reasonable apprehension  
17 of bias as to which the inquiry officer must be recused and prohibited from dealing further  
18 with this case.

19  
20 Although it may be anticipated from the representations of the delegate of the Deputy  
21 Minister that a new inquiry officer will be appointed forthwith under section 15(2) of the  
22 *Expropriation Act*, the Court confines its order to the remedy that Mr. Carr is recused  
23 from this appointment.

24  
25 That is my decision.

26  
27 Do the parties wish to make any representations on costs?

28  
29 **Submissions by Mr. Agrios (Costs)**

30  
31 MR. AGRIOS: Sir, the legislation provides that the parties are  
32 entitled to reasonable costs in connection with the inquiry. I would hope that we could  
33 work things out with my learned friend. She has been abundantly reasonable and I note  
34 the word "reasonable" -- which is solicitor/client, I think you would acknowledge that -- is  
35 applicable, but if we cannot work it out that we could have the leave to come back to the  
36 Court?

37  
38 THE COURT: Is that agreeable?

39  
40 MR. AGRIOS: Because we have had preparations, we have  
41 filed submissions, interviewing of witnesses, all sorts of things.