PROPERTY TAX CASE STUDY
SPACED OUT

IMP's Challenge

When IMP Group International Limited, one of Canada's Top 50 Best Managed Companies assumed responsibility for bankrupt Amherst Aerospace's operations in 1993, they faced a major challenge. IMP President Ken Rowe reportedly only agreed to accept the task after a personal plea from Nova Scotia's then Premier, "Sandy" Donald Cameron. The rural landscape of Atlantic Canada is dotted with industry dating back to the Second World War. Amherst Aerospace was housed in Victorian era facilities, worthy of a Dickens' novel, located on a polluted site in the centre of the town. IMP agreed to take on the challenge and help safeguard the 150 jobs: the operations however would have to be relocated to a new 123,000 $ft.^2$ purpose built facility in the industrial park. It was not economic to build this sized facility in a rural area such as Amherst; the Provincial and Federal governments therefore agreed to subsidise the construction cost. Once completed, the Provincial Assessment Department promptly ignored the subsidies and assessed the property at $9.0 million, based on its construction cost. IMP Aerospace Components Limited turned to Turner Drake for advice.

Turner Drake's Approach

The Nova Scotia Assessment Act requires that property be assessed at its market value. However facilities the size of IMP Aerospace were not sold on the open market unless the company occupying the premises ceased operations, in which event the Provincial Assessment Department refused to acknowledge the sale as market evidence, insisting it was a "forced sale", i.e. sold under duress. Leading case law, specifically *"Montreal v Sun Life Assurance Company of Canada (1952)"* had established that the owner occupier must be considered a potential purchaser, so even if the property had value only to them, then this factor must be considered in arriving at the Realty Assessment. The Provincial Assessment Department however stubbornly refused to accept the reality that the value to IMP Aerospace was its actual cost to them, the construction cost net of the subsidies, preferring instead to pretend that the actual construction cost equated to market value. They maintained this position despite the fact that a neighbouring 55,600 $ft.^2$ property failed to find a buyer until a new occupier was persuaded to commence operations with government funding. Only then did the property sell … to the new occupier, at a price equating to 6% of its replacement cost. Property sales are not public knowledge in the Maritime Provinces. Turner Drake therefore launched a major initiative to source, compile and analyse every sale of large industrial property, located in rural areas throughout the Province. They then prepared a "court ready" valuation report which clearly established that purchasers of these properties discounted their Replacement Cost (after Physical Depreciation) by an average of 58%.

Winning Results

The Provincial Assessment Department reduced the assessment by 28%, providing total tax savings of $266,000 for the years under appeal. This was achieved without the necessity for costly litigation before the Nova Scotia Utility and Review Board.

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