

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26.1, Section 460(4).

between:

Ducharme, McMillen & Associates Canada Ltd., *COMPLAINANT*

and

The City Of Calgary, RESPONDENT

before:

J. Noonan, *PRESIDING OFFICER*

K. Coolidge, *MEMBER*

P. Charuk, *MEMBER*

These are complaints to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	098009608	097003727	116013897
LOCATION ADDRESS:	3304 58 Av SE	5724 40 St SE	7910 40 St SE
HEARING NUMBER:	57293	57308	57309
ASSESSMENT:	\$2,860,000.	\$7,820,000.	\$3,340,000.

These complaints were heard on the 23rd day of August, 2010 at the office of the Assessment Review Board located at the 4th Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 1.

Appeared on behalf of the Complainant:

- D. Porteous, Associate Realty Tax Agent, representing Ducharme, McMillen

Appeared on behalf of the Respondent:

- I. Baigent, Sr. Assessor, *The City of Calgary*

Jurisdictional or Procedural Issues Heard:

The Respondent raised a jurisdictional matter in regard to these three complaints: as the complaint forms had been filled out improperly, the complaints should be dismissed. A previous decision of the Calgary Assessment Review Board, ARB J0010/2010-P also known as the Petry Decision, was submitted. That decision dealt with an identical scenario regarding the completion of complaint forms by the same agent, and the decision dismissed the complaints.

The Complainant's representative agreed that these complaints had been filled out in the same fashion as had been dealt with by the Petry Decision. The complaints would not be withdrawn in order to preserve the Complainant's right of appeal to the Court of Queen's Bench.

The CARB is familiar with the Petry Decision and Edmonton ARB Decision Number 0098 48/10. As well, Calgary ARB 1172/2010-P dated August 19, 2010 by colleague Reimer dealt with the same jurisdictional matter. All of these decisions dismissed the complaints at hand. Rather than rework already well-ploughed ground, the CARB summarizes:

1. Section 4 of the Complaint form presents 10 numbered boxes for identifying the matters under complaint, the same 10 matters as listed at *Municipal Government Act* s 460(5). Here, the Complainant has not checked any of the boxes. This omission has been decided at previous CARB hearings to be insufficient reason to deprive a Complainant of the right to be heard, when the matters of complaint can be readily deciphered elsewhere on the Complaint form or attachments to it.
2. Section 5 of the Complaint form specifies that a complaint must identify what information shown on an assessment or tax notice is incorrect, and explain in what respect that information is incorrect. This section of the form repeats the four **musts** as laid out at *MGA* s 460(7) with an elaboration "...including identifying the specific issues related to the incorrect information that are to be decided by the assessment review board, and the grounds in support of these issues". In the cases mentioned above, and here, the Complainant has identified by attachment, "The Assessed Value is Incorrect..." and then listed 17 grounds noted in the Edmonton decision as "a broad ranging list of all possible defects in the assessment without much, if any, specific reference to the property in question." [*Canadian Tire Corp Ltd v Regina (City) Board of Revision*, 2001 SKQB 496]. The Petry Decision found that one or more of these issues or grounds narrowly met the tests of reasonableness and substantial compliance with the requirements of the *Act*. The Edmonton decision differed, finding that

reasonableness requires the anchoring of an issue to some particular aspect of a subject property, and this had not been done. It was further observed that should the 17 grounds be determined sufficient to advance a complaint, then every complaint filed by an agent would soon simply copy the Ducharme list.

3. A further requirement of Section 5 and MGA s 460(7) is a "Requested assessed value" and in all the Ducharme complaints, that amount is \$0.00. This request has been found in all cases to be unreasonable, and in itself reason for dismissal.

The CARB finds the 17 grounds listed by the Complainant do not fulfil the requirements of Section 5 of the Complaint form, and similarly, the requested \$0.00 assessed value does not meet the requirement of Section 5 and MGA s 460(7)(d). As the Complaint forms have not been properly completed, MRAC s 2(2) requires they be found invalid and dismissed.

Board Decision

The complaints are dismissed.

DATED AT THE CITY OF CALGARY THIS 05 DAY OF AUGUST 2010.



Presiding Officer

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

- (a) the complainant;
- (b) an assessed person, other than the complainant, who is affected by the decision;
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;
- (d) the assessor for a municipality referred to in clause (c).

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- (a) *the assessment review board, and*
- (b) *any other persons as the judge directs.*

MEMORY TRANSMISSION REPORT

TIME : AUG-25-2010 02:39PM
 TEL NUMBER : 403-2778421
 NAME : CITY OF CALGARY ASSESMENT REVIEW BOARD

FILE NUMBER : 773
 DATE : AUG-25 02:38PM
 TO : 94032632142
 DOCUMENT PAGES : 005
 START TIME : AUG-25 02:38PM
 END TIME : AUG-25 02:39PM
 SENT PAGES : 005
 STATUS : OK

FILE NUMBER : 773

*** SUCCESSFUL TX NOTICE ***



THE CITY OF CALGARY
 ASSESMENT REVIEW BOARD
 CITY CLERK'S DEPARTMENT (#222)

Mailing Address:
 P.O. Box 2100, Stn. M
 Calgary, AB T2P 2M5

Delivery Address:
 4 floor, 1212 - 31 Avenue N.E.
 Calgary, AB T2E 7S8

DATE SENT:
 August 25, 2010

FACSIMILE TRANSMITTAL SHEET

TO:	NAME:		CORPORATION: DUCHARME, MCMILLIAN & ASSOCIATES CANADA LTD.	
	DEPARTMENT: Assessment Department		CITY/PROVINCE: Calgary, Alberta	
	FAX NUMBER: 403. 263. 2142		PHONE NUMBER:	
FROM:	NAME: Assessment Review Board		TELEPHONE NUMBER: (403) 268-5858	FAX NUMBER: (403) 277 - 8421
	ROLL NUMBER:		FILE NUMBER:	ROLL YEAR: 2010
MESSAGE:	Please see attached decision -- 1235/2010-P			

A TOTAL OF 5 PAGES INCLUDING THIS TRANSMITTAL SHEET HAS BEEN SENT. IF YOU DID NOT RECEIVE ALL OF THE PAGES, PLEASE CALL (403) 268-5858.

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