

**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, Section 460(4).

between:

WRD Borger Construction, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

Paul G. Petry, PRESIDING OFFICER

This is a preliminary jurisdictional matter concerning the late filing of a complaint with 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: 116009507

LOCATION ADDRESS: 7719 – 40 Street S.E Calgary, Alberta

This matter was heard on the 18th day of June, 2010 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 7.

Appeared on behalf of the Complainant:

- *Ms. N. Pulliam*

Appeared on behalf of the Respondent:

- *Ms. K. Hess*

Board's Decision in Respect of Procedural or Jurisdictional Matters:**Overview of the Parties Positions**

In this case on March 2, 2010 the complainant had called the 268-2888 number provided on the Assessment Notice to inquire as to the correct procedure in filing their complaint. The advice given by the City of Calgary staff member answering this phone was that the complaint could be mailed but must be post marked on or before the March 5, 2010 deadline. The Complainant indicated that had they been told that the complaint must arrive at the ARB clerk's office on or before that March 5, 2010 deadline, they would have delivered it in person.

The City of Calgary, Respondent, acknowledged that they are aware of a few cases where the same advice given in this case had been given in other cases and accepted some responsibility for the incorrect guidance provided. The Respondent also pointed out that the typical 7 day mailing time that had been allowed under the previous wording of the Municipal Government Act (Act) is no longer applicable as when section 309 1) (c) and 461(1) are read together it is clear that the complaint must be in the hands of the ARB no later than the deadline which in this case was March 5, 2010. The Respondent made the observation in another case with similar facts the ARB in their decision J0008/2010 – P had ruled that the complaint would be accepted. Because the subject case is similar the Respondent indicated that a similar decision of the CARB would be expected.

Reasons for the Decision:

The CARB understands that there were only a few cases where the City of Calgary staff advised that complaints post marked on or before the filing deadline would be accepted. The Respondent has accepted responsibility for this advice and in this case did not object to the complaint being declared as valid by the CARB. This fact along with the previous decision by the ARB to allow the complaint where similar facts were present convinces the CARB to accept the reason for late filing in this case and to decide that the complaint therefore should be scheduled for hearing.

It is so ordered.

DATED AT THE CITY OF CALGARY THIS 22nd DAY OF JUNE 2010.



Paul G. Petry
Presiding Officer

PP/mc

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.*