

**CALGARY  
COMPOSITE ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the jurisdictional matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

**between:**

***Sedock Holdings Ltd., COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***C. Griffin, PRESIDING OFFICER***

This is a decision of a single member panel of the Composite Assessment Review Board (CARB) of Calgary from a Hearing held on August 27, 2010 to determine if a Merit Hearing should proceed if the Complainant did not receive a Notice of Hearing further resulting in the requirements for the Disclosure of Evidence, as required under Section 8(2) of Matters Relating to Assessment Complaints Regulation (MRAC), not being met.

<b>ROLL NUMBER:</b>	<b>100012608</b>
<b>LOCATION ADDRESS:</b>	<b>820 – 59 Avenue SE</b>
<b>HEARING NUMBER:</b>	<b>57137</b>

This complaint was heard on 27th day of August, 2010 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- R. Sekhon
- D. Sekhon

Appeared on behalf of the Respondent:

- Cunningham, Council for City of Calgary

Also Appeared:

- P. Knoll, Council for Assessment Review Board

**Schedule of Events:**

1. Assessment Review Board Complaint form filed by the Complainant and the required fee was paid, said notice bearing a stamp indicating "ARB Rec'd. Mar. 4, 2010".
2. Notice of Hearing with Hearing Date of July 23, 2010 at 9:00 AM mailed to Complainant. Date of mailing April 8, 2010.
3. On June 21, 2010 at 10:46 AM an email was sent to the Assessment Review Board by the Complainant, specifically Harry Sekhon, asking when the subject property was scheduled for a Hearing and advising that the writer would be out of the country in July and August. This same email refers to past experiences of the Complainant had lead to an expectation of a Hearing time "sometime in August" but requesting coordination between the parties to agree upon an acceptable date for the Hearing given his planned absence from the country.
4. June 21, 2010 at 11:29 AM an email reply to the above email was sent to the Complainant from the Assessment Review Board advising that a Notice of Hearing had been mailed out on April 8/10 and further noting that the Hearing was scheduled for July 23/10 together with the time and place for said Hearing. This email also advised the Complainant that the Disclosure due date was June 10/10. The Complainant was also advised that their request for a postponement would be forwarded to the General Chairman for consideration.
5. June 21/10 11:40 AM the Complainant responded to the email of 11:29 AM stating that the Notice of Hearing had not been received as of that date and further advising that "in previous years the notice was sent to the wrong address" and asked that the mailing address be confirmed.
6. June 21/10 11:45 AM an email was sent by the Assessment Review Board in response to the 11:40 AM email advising that the Notice of Hearing had been sent to the address given by the Complainant in his latest email (11:40 AM) and further noting that the Assessment Review Board had no record of the referenced Notice of Hearing having been returned.
7. June 28/10 11:18 AM an email was sent by the Assessment Review Board Clerk with an attachment of a letter dated June 28/10 by the Calgary Assessment Review Board General Chairman advising that "Postponements are not granted when Complainants have failed to disclose evidence."
8. June 28/10 12:34 PM an email responding to the above email (7) was sent by the Complainant outlining the basic issue of not having received the Notice of Hearing and further questioning "...how could we be expected to ask for a postponement without a date and then get one rejected as per your email attachment based on not having submitted evidence when we didn't have a date to submit evidence,..." This same email goes on to advise that "...we have already sent the appraisal papers to the city assessor..." and further advising that the information/evidence could be delivered as soon as possible.
9. July 06/10 10:19 AM email sent by Assessment Review Board Clerk to Complainant with attachment advising of time and place for Jurisdictional Hearing (this Hearing).

In preparation for this Jurisdictional Hearing the Complainant submitted to the Assessment Review Board an outline as to the above given events together with a copy of an email sent, on April 21/10, by the Complainant to Mr. George Bell of the City of Calgary Assessment Department. That email makes note of an Attachment of "Apraisal (sic) 820 – 59<sup>th</sup> Ave. SE July 2009.pdf".

**Board's Decision in Respect of Procedural or Jurisdictional Matters:**

Insofar as the Complainant's contention that the original Notice of Hearing had not been received, the Board notes that the Complainant has a history of appealing the assessment of this property and considers the matter to be of importance. The Board also notes Section 23(2)(b) of the Province of Alberta Interpretation Act states that "...the document was not received by the addressee, the proof of which lies on the addressee." The Board finds this to be confusing and questions how one is to prove that one did not receive something? As it relates to this matter, the Board is aware that from time to time items do get lost within the Canada Post system for reasons that go unexplained. The Board believes the Complainant to be an honest person and accepts their word that the Notice of Hearing was not received to constitute the proof required of the Interpretation Act. The Board further notes that the Complainant was in communication with representatives of the assessing authority about matters relating to the assessment of the property in question as early as April 21/10, and, in that an appraisal of the property was evidently exchanged, the Board considers this to be partial disclosure having occurred well within the required timelines of the original Hearing date.

It is the decision of this Board that the appeal of this property proceed to a Merit Hearing.

DATED AT THE CITY OF CALGARY THIS 14<sup>th</sup> DAY OF SEPTEMBER, 2010.

  
C. Griffin  
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.*