

**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, Revised Statutes of Alberta 2000 (the Act).

between:

***SERVICE CORPORATION INTERNATIONAL (CANADA) LIMITED,
(as represented by Assessment Advisory Group Inc.),***

COMPLAINANT

and

The CITY OF CALGARY,

RESPONDENT

before:

R. Glenn, PRESIDING OFFICER

A. Zindler, MEMBER

G. Milne, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER:	141121202
LOCATION ADDRESS:	12700 Macleod Trail SE
HEARING NUMBER:	65692
ASSESSMENT:	\$2,720,000

This complaint was heard on Thursday, the 26th day of July, 2012, at the offices of the Assessment Review Board located on Floor Number 4, at 1212 – 31 Avenue NE, in Calgary, Alberta, in Boardroom 12.

Appeared on behalf of the Complainant:

- S. Cobb, Agent with Assessment Advisory Group

Appeared on behalf of the Respondent:

- A. Mohtadi and A. Cornick, Assessors with the City of Calgary

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

(1) Prior to proceeding with the hearing, as a preliminary matter, the Respondent objected to the absence of a proper agency authorization form on the file. When the Complainant suggested that there was an authorization form attached to the complaint form on the file, the Board examined the form. In addition, the Complainant simultaneously argued that they needed:

(A) An adjournment in order to properly deal with the Respondents position on agency, and,

(B) An adjournment in order to set up a jurisdictional hearing.

(2) First, dealing with the request for an adjournment, the Board was troubled with the request. The regulations (MRAC s.27) state that an adjournment will only be granted in exceptional circumstances, and the request must be in writing and state the reasons for the requested adjournment. Secondly, the timing of the request was suspect in that the Complainant stated that they had received no advance notice of the Respondents position regarding the agency authorization form. The Respondents countered that they had previously provided notice of their concerns, but in the large sense, they are not required to provide notice of every tenet of their position.

(3) The Respondents also countered that they were not informed previously of the Complainant's position regarding the "necessity" of a jurisdictional hearing.

(4) Ultimately, after due consideration, the Board decided that the application for an adjournment would not be granted because it did not meet either of the regulation requirements from MRAC, (s. 27). Also, the request for a jurisdictional hearing was specifically denied because the request was not timely.

(5) With respect to the authorization form, as filed, the form revealed that the owner, Service Corporation International (Canada) Limited, hereinafter referred to as "SCI CL" had authorized Canadian Valuation Group, hereinafter referred to as "CVG " as their agent.

(7) However the Complainant subsequently produced a letter (which was not on the file as the Board originally received it) indicating that the authorized agent, CVG, had authorized Assessment Advisory Group (AAG) to appear as their agent. That is, CVG purported to delegate their agency authority to another agent (AAG). The purported agent from AAG suggested that this was the procedure they had used before successfully on several prior hearings, and therefore that procedure should be applied here.

(8) In addition the purported agent introduced an advice letter very recently received from their own legal counsel in Edmonton which offered an apparent legal opinion that the Agent Authority Form from the owner in this matter allowed CVG to appoint an agent to act on behalf of the owner. The Board found the letter, as late as it was, to be self serving in the extreme, and not of much assistance.

(9) In addition, the opinion offered in the letter flew in the face of the general principles of agency law, one of which states that without the express authority of the principal (or owner in this case), an agent may not delegate its authority to another agent. The Board, later in deliberation, found there was no such authorization or express authority.

(10) The Respondent produced a prior decision (LARB 0505-2012-B) which supported their position, and which is summarized as: without a proper Assessment Complaints Agent Authorization Form on the file, anyone purporting to appear as an agent is not in compliance with the Matters Relating To Assessment Complaints Regulation (MRAC) (s. 51) which states that:

(51) An agent may not file a complaint or act for an assessed person or taxpayer at a hearing unless the assessed person or taxpayer has prepared and filed with the clerk or administrator an assessment complaints agent authorization form set out in Schedule 4.

(11) The file as it was originally received by the Board was silent about any authority rendered directly by the owner to the purported agent.

(12) After asking the parties if there was any other documentation they wished to produce, and having confirmed that there was none, the Board withdrew to deliberate. Those panel discussions included a review of the whole fact pattern as presented and also, the general principles of agency and the proper delegation of authority according the Municipal Government Act.

(13) The Board found that the owner, SCICL, had a proper agency relationship with CVG, as established by the filed agency authorization form, but that could not extend to the authority of CVG to delegate its agency responsibilities to AAG without it being expressly mentioned. The Board found that under the general Rules of Agency, and supported by the MGA, and MRAC regulations, CVG could not delegate its agency responsibility.

(14) Accordingly, the Board found that in this case, AAG could not appear as agent for the owner. There being no agent on the appearance, and the only Complainant brief material filed being from the purported agent, the Board was obliged to dismiss the complaint and confirm the assessment as originally rendered.

Board's Decision in Respect of Each Matter or Issue:

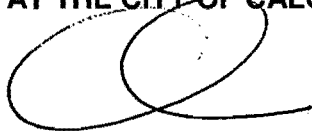
(15) The Board found that there was not a proper agent authorization form or any other documentation showing agency flowing from the owner to the purported agent on the file, and

there was nothing on the file or in argument that convinced the Board the purported agent could be allowed to appear and act as agent.

Board's Decision:

(16) There being no appearance, the Board simply dismissed the complaint and confirmed the original assessment in the amount of: \$2,720,000.

DATED AT THE CITY OF CALGARY THIS 25 DAY OF SEPTEMBER, 2012.



R. Glenn
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
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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.