

**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:

Randall H. Flemmer & Joan M. Flemmer, COMPLAINANTS

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, PRESIDING OFFICER

J. Kerrison, MEMBER

R. Roy, 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: 094501202

LOCATION ADDRESS: 211, 4999 – 43 Street SE, Calgary AB

FILE NUMBER: 65165

ASSESSMENT: \$124,500

This complaint was considered on the 17th day of August, 2012 at the office of the Assessment Review Board located at Floor Number 4 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 6.

Appeared on behalf of the Complainant:

- *Randall Flemmer*

Appeared on behalf of the Respondent:

- *George Bell*

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

[1] This complaint was dismissed by the Board due to lack of compliance with the Municipal Government Act (MGA) and Regulation 310/2009 (MRAC).

AR 310/2009 Matters Relating To Assessment Complaints Regulation

Disclosure of evidence

8(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 42 days before the hearing date,

(i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence;

Failure to disclose

9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

[2] The Assessment Review Board Complaint form was submitted on January 17, 2012. In Section 5 of the form, the Complainant stated that it was the owner's position that the property is unique in that it is "an office inside another office with no separate entrance. It is not saleable as it is not a standalone unit." The Complainant's requested assessment was \$80,000.

[3] The hearing notice mailed to the Complainant stated the due date for Complainant's Disclosure was July 5, 2012. No disclosure was received from the Complainant prior to the due date. The Respondent filed a disclosure document on July 23, 2012 but that document comprised only a copy of Alberta Regulation 310/2009 (MRAC). On August 14, 2012, the Complainant filed a document containing some photographs and some text including what had been stated on the complaint form. ARB clerks marked this as Rebuttal evidence. The Board noted that 1) it was filed five days past the due date for Complainant's Rebuttal and, 2) the Respondent disclosure had contained no evidence which could be rebutted. None of the documents were marked as exhibits for this hearing.

[4] The Complainant failed to comply with the requirements of MRAC Sections 8 and 9, therefore the complaint is dismissed.

[5] The 2012 assessment is confirmed at \$124,500.

[6] After the adjournment of the hearing, the Board suggested that the Complainant should contact the assessor to work out the physical details for consideration in subsequent assessments. The Respondent, Mr. Bell, offered to assist Mr. Flemmer in arranging for an inspection of the property.

DATED AT THE CITY OF CALGARY THIS 6th DAY OF Sept 2012.



W. Kipp
Presiding Officer

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

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Procedural	Information Exchange	Late/No exchange	