

**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:

***DALJO ENTERPRISES LIMITED (as represented by Mr. Dave Morrison), COMPLAINANT***

and

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

before:

***W. GAGNON, PRESIDING OFFICER  
J MASSEY, MEMBER  
J. KERRISON, 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 2011 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>081086100</b>
<b>LOCATION ADDRESS:</b>	<b>1711- 26<sup>th</sup> Avenue S.W., Calgary. Alberta</b>
<b>HEARING NUMBER:</b>	<b>61266</b>
<b>ASSESSMENT:</b>	<b>\$2,750,000</b>

This complaint was heard on 12 day of October, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom #7.

Appeared on behalf of the Complainant:

- *Written submission was received from Mr. Dave Morrison on behalf of DALJO ENTERPRISES LIMITED*

Appeared on behalf of the Respondent:

- *Ms. Yang Wang, City of Calgary*

### **Preliminary Issue:**

The Complainant was not present at the hearing but provided a written submission with respect to the proposed merits of the assessment. Prior to a review of the merits, a preliminary issue was raised by the Respondent with respect to the duty of the Complainant to provide information to the assessor as required under section 295 of the *Municipal Government Act*. The Respondent argued that the failure of the Complainant to provide information was crucial to the right of the Complainant to present evidence in this hearing.

The Board ruled that a decision on the preliminary issue was in order and set aside the hearing of the merits pending the decision by the Board on the preliminary matter. The Complainant did not provide any evidence or argument in connection with the preliminary matter.

The Respondent provided evidence to the Board indicating that the Complainant had for a number of years failed or refused to disclose information requested by the Municipality under the Assessment Request for information (ARFI) form as required by the municipality. The evidence of the Respondent in this regard was not refuted by the Complainant.

### **Board's Decision in Respect of the Preliminary Issue:**

After a review of the applicable legislation, the Board ruled that it had no discretion in the matter, and had no alternative but to dismiss the complaint without reference to its merits.

The legislative scheme in Alberta is such that the determination of individual assessments through mass appraisal techniques requires the municipality to rely upon assessment data which only property owners or managers can provide. The ability of the municipality to produce accurate assessments is hampered, reduced, or made impossible when taxpayers themselves refuse to cooperate and provide the raw information necessary for the municipality to create assessments on the basis of mass appraisal.

The legislation itself provides the answer to any balancing of interests that the panel may wish to embark upon between the rights of the assessed person and the municipality. Subsection 295(1) of the *Municipal Government Act* sets out the requirement of a property owner to provide information requested by the assessor necessary to prepare an assessment.

The method used by the municipality for obtaining such information is the Assessment Request for Information (ARFI) form which is distributed annually, and for which various follow-up calls are often made by the municipality to ensure compliance.

Subsection 295(4) of the *Municipal Government Act* goes on to deprive the right of complaint to any person who fails to provide information to the assessor. The relevant portions of the legislation reads as follows:

*" 295(1) Duty to provide information – 295 (1) A person must provide, on request by the assessor, any information necessary for the assessor to prepare an assessment or determine if property is to be assessed. [...]*

*(4) No person may make a complaint in the year following the assessment year under section 460 [...] about an assessment if the person has failed to provide the information request under subsection (1) within 60 days from the date of the request."*

Subsection 9(3) of *Matters Relating to Assessment Complaints Regulation* deals with the role of the CARB (Composite Assessment Review Board) in respect of such matters. It provides as follows:

*"Failure to disclose – 9(3) A comprehensive review board must not hear any evidence from a complainant relating to information that was requested by the assessor under section 294 or 295 of the Act but was not provided to the assessor."*

The combined effect of these legislative provisions support the panel's decision of dismissal of the complaint.

The evidence provided by the Respondent municipality indicates that requests for ARFI's had been made of the property owner by the assessor and that they had not been complied with or returned as requested. In particular, the Respondent provided a computer print screen reflecting all communications with DALJO ENTERPRISES LIMITED in respect of assessment matters. It reflected the fact that DALJO ENTERPRISES LIMITED had not responded to ARFI requests.

The evidence provided by the Complainant to this panel in this hearing was with respect to the merits of the assessment only. No evidence was provided or argument made with respect to the preliminary issue raised under section 295 or the Regulation. The Complainant was not present and therefore did not make oral representations.

The Board finds that it is therefore precluded from hearing evidence with respect to the merits of the assessment and in the absence of such evidence the Board would not be able to rule in favour of the Complainant regardless of the merits.

Accordingly, the Board has no option but to dismiss the complaint without reference to the merits. A hearing of the merits shall not be scheduled and the assessment is confirmed in the amount of \$2,750,000.

DATED AT THE CITY OF CALGARY THIS 17<sup>th</sup> DAY OF November 2011.



W. Gagnon  
Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure
3. R3	Respondent Disclosure

*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.*