

**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:

EDWARD WALTER KURIANOWICZ, 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:

ROLL NUMBER:	081089609
LOCATION ADDRESS:	1532- 27TH AVENUE S.W., CALGARY, ALBERTA
HEARING NUMBER:	61713
ASSESSMENT:	\$930,000

This complaint was heard on 12th day of October, 2011 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom #10.

Appeared on behalf of the Complainant:

- **Mr. EDWARD WALTER KURIANOWICZ**

Appeared on behalf of the Respondent:

- **Ms. Yang Wang**

Preliminary or Jurisdictional Matters:

Having convened the hearing, the Board heard a preliminary matter raised by the Respondent to the effect that the Complainant had failed to file disclosure materials required to be exchanged in advance of the hearing, and that the consequences of such failure should result in confirmation of the assessment.

The Complainant confirmed that he had not filed any disclosure materials in advance of the hearing but wished to make an oral presentation based on information which he said was new and could not have been disclosed. The Complainant wished to proceed with the merits of the complaint on that basis.

In answer to questions from the panel, the Complainant admitted that the information that he proposed to present orally was not relevant to the 2011 assessment year. The Board held in abeyance the admission of any evidence from the Complainant pending decision on the preliminary matter.

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

Based on the findings set out below, the Board ruled that the Complainant was not entitled to give evidence that was not properly disclosed and exchanged. As a result, there was no evidence admitted in the hearing in support of the complaint, and in the absence of any other evidence to the contrary, the assessment was confirmed at \$930,000.

Regulation AR 310/2009 *Matters Relating to Assessment Complaints Regulation* sets out clearly the responsibility of the parties to a CARB hearing to disclose and exchange information prior to a hearing. The responsibilities of the Complainant are set out in section 8 thereof:

"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;

[...]

(c) the complainant must, at least 7 days before the hearing date, 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 rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

Based on the evidence contained in the file and as presented by the Complainant himself, the Board finds that the Complainant failed to disclose evidence as required by section 8 of the Regulation.

The consequences of the failure of the Complainant to affect proper disclose is set out in section 9 thereof:

"Failure to disclose – [...] 9(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8. "

In the absence of evidence to the contrary, the onus of the Complainant has not been met and the current assessment for 2011 must not be altered. The Board confirms the assessment at \$930,000.

No costs to either party.

DATED AT THE CITY OF CALGARY THIS 17 DAY OF November 2011.


W. Gagnon
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure - none
2. R1	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.*