

**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:**

***Jarco Holdings Ltd. & Terrigno Investments Inc., 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 May 6, 2011 to determine if a Merit Hearing should proceed if the Complainant did not file in accordance with the requirements of the *Municipal Government Act (MGA) Section 460* and did not provide the required information set out in *Alberta Regulation 310/2009 Section 5 Schedule 1*.

<b>ROLL NUMBER:</b>	<b>112001508 / 112105903 / 058189309 &amp; 058170101</b>
<b>LOCATION ADDRESS:</b>	<b>6712 Macleod Trail SE / 7104 Macleod Trail SE / 212 – 10A Street NW / 201 – 10 Street NW respectively</b>
<b>HEARING NUMBER:</b>	<b>N/A</b>

This complaint was heard on 6th day of May, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 7.

Appeared on behalf of the Complainant:

- No authorised representative for the Complainant appeared.

Appeared on behalf of the Respondent:

- K. Hess, for City of Calgary

**Preliminary Matter(s)**

The Hearing had been scheduled for a 09:00 start time; however at that time no authorised representative for the Complainant was present. A Witness for the Complainant (Mr. B. Chornawka) was present and indicated to the CARB that he had spoken with the Complainant the evening before the scheduled Hearing and that it was his understanding that the Complainant was planning to attend the Hearing. Accordingly the CARB delayed the start time for the Hearing for 15 minutes to allow for the arrival of the Complainant.

At approximately 09:15 the CARB, having received no further information pertaining to the attendance of the Complainant, commenced the Hearing.

**Summary of Events**

The CARB did not receive any written submission from the Complainant for this Hearing. That being the case the CARB requested the Respondent to summarize the schedule of events leading up to this Hearing. Those events were summarised as follows:

1. On January 17, 2011 the *Assessment Review Board (ARB)* received two (2) envelopes one of which contained three (3) cheques related to roll numbers 112001508 / 112105903 & 058189309 and the other envelope contained a cheque pertaining to the filing fee for roll number 066066820. The Complaint for roll number 066066820 was reportedly abandoned.
2. On January 18, 2011 the ARB sent a letter informing the Complainant that the complaints for roll numbers 112001508 / 112105903 & 058189309 did not comply with the legislative requirements and asked that the complaint form be returned to the ARB on or before the final date for complaint as indicated on the bottom of the Assessment Notice.
3. No response to the letter(s) of January 18/11 were received by the ARB.
4. On April 5<sup>th</sup>, 2011 letters were sent by the ARB General Chairman pertaining to roll numbers 112001508 / 112105903 & 058189309 and titled "Failure to provide reasons for 2011 assessment review board complaint" indicating the Complaints were deemed invalid.
5. On April 7<sup>th</sup>, 2011 the Complainant contacted the ARB via email indicating the required documentation had been submitted to them. The email string continues until April 13, 2011 at which time the ARB clerk telephoned the Complainant and suggested they request a Jurisdictional Hearing.
6. On April 13, 2011 the Complainant sent an email to the ARB requesting a Jurisdictional Hearing with an attachment which contained complaint forms for roll numbers 112001508 and 058170101 dated February 1<sup>st</sup> 2011. These complaint forms had reportedly never been received by the ARB prior to April 13/11. Additionally this was reportedly the first time the ARB had been made aware of the intention to file a complaint on roll number 058170101.

It is the position of the Respondent that the Legislative Provisions to be considered by the CARB are as follows:

MGA Section 460 sets out the requirements related to complaints. Specifically Section 460 (2) states a complaint must be in the form prescribed in the regulations and Section 460 (7) states a complaint must indicate what information is incorrect, explain in what respect the information is incorrect, indicate what the correct information is and identify a requested value.

MGA Section 462 (1) requires that if a complaint is to be heard by the ARB it must be filed with the designated by the date shown on the notice, in this case March 7/11.

The *Matters Relating to Assessment Complaints Alberta Regulation 310/2009 (MRAC)* Section 2 (1) (a) requires that for a complaint to be heard by an ARB the complainant must be complete and file with the clerk a complaint in the form set out in Schedule 1. Additionally, Section 2 (2) of MRAC states that if a complainant does not comply with subsection (1), the complaint is invalid and the ARB must dismiss the complaint. (Despite a request made to by the ARB administration Jan.18/11 to do so, the complainant did not complete the form set out in Schedule 1 and file it with the ARB by the final date of complaint.)

Section 467 (2) of the MGA states that the ARB must dismiss a complaint that was not made within the proper time or which does not comply with Section 467 (7).

**Board's Decision in Respect of Jurisdictional Matter:**

In that the Complainant did not appear before the CARB to present their case and nor did they submit a written submission for the CARB to consider, the CARB has no viable alternative other than to give full credence to the testimony of the Respondent. The referenced emails and letters are contained in the files of the ARB clerk and have been reviewed by the CARB to assist in the determination of this matter.

Section 460(1) of the MGA states that "A person wishing to make a complaint about any assessment or tax **must** do so in accordance with this section." (My emphasis added)

Section 460(2) of the MGA states that "A complaint **must** be in the form prescribed in the regulations and must be accompanied with the fee set out by the council under section 481(1) , if any." (My emphasis added)

Section 460(7) of the MGA states that "A complainant **must**

- (a) indicate what information shown on the assessment notice or tax notice is incorrect,
  - (b) explain in what respect that information is incorrect,
  - (c) indicate what the correct information is , and
  - (d) identify the requested assessed value, if the complaint relates to an assessment.
- (My emphasis added)

Section 467(2) states that "An assessment review board **must** dismiss a complaint that was not made within the proper time or that does not comply with section 460(7)." (My emphasis added)

In that the Complainant did not comply with above noted sections of the MGA and/or MRAC, it is the decision of this Board that the appeals of these properties are **dismissed**.

DATED AT THE CITY OF CALGARY THIS 10<sup>TH</sup> DAY OF May, 2011.

  
C. J. 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.*