

**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).

Jurisdictional Hearing

between:

Paltec Agencies (Alberta) Inc. (as represented by T. Palmer), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

K. D. Kelly, PRESIDING OFFICER

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:	094500949
LOCATION ADDRESS:	163 – 4999 – 43 ST SE
FILE NUMBER	JD 094500949

This complaint was heard on the 27th day of May, 2011 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:

- *Mr. T. Palmer*

Appeared on behalf of the Respondent:

- *Ms. K. Hess*

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

Overview of Parties' Positions

Issues

This file is before the Board today on the basis that in filing his complaint against the City's 2011 assessed value of the subject property, the Complainant;

1. Failed to file his Complaint within the legally-prescribed time frame pursuant to Section 461 (1) of the Municipal Government Act (MGA);
2. Failed to include a duly-completed copy of the legally-prescribed Complaint Form pursuant to Sections 460 (2) and 460 (7) of the Municipal Government Act (MGA).

Issue #1

Both the Complainant and Respondent clarified for the Board that the first issue was now Moot.

The Respondent noted that a clerical error had been made with respect to the alleged "late-filing" of the complaint and the Board no longer needed to be concerned with this issue. Both Parties concede that the Complaint's materials had been received within the prescribed time frame.

Issue #2

Both the Complainant and Respondent indicate this matter remains outstanding.

The Complainant advised the Board that he thought he had included both a completed Complaint Form and a Cheque for the prescribed fee with his Complaint when he mailed it on or about March 3, 2011. However, the evidence before the Board appears to show that when the ARB opened the Complainant's envelope on March 8, 2011, only a bank cheque in the amount of \$30 was contained in the Complainant's appeal submission.

Moreover, the Complainant clarified that when he received an April 5, 2011 letter from the General Chairman of the Calgary Assessment Review Board (ARB) returning his submission documents due to the alleged "late filing", the only document returned was a photocopy of the \$30 cheque. It was submitted that notations on the photocopy by the Clerk opening the

envelope indicated that no complaint form or reasons for the complaint, were submitted – only a cheque and envelope.

The Respondent argues that;

“Section 460 (of the MGA) sets out 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.”

“Section 2 (1)(a) of MRAC (Matters Relating to Assessment Complaints Regulation AR 310/2009) requires that for a complaint to be heard by an ARB, the complainant must complete and file a complaint form set out in Schedule 1. Section 2 (2) of MRAC states that if the complainant does not comply with subsection (1), the complaint is invalid and the ARB must dismiss the complaint”

“Section 467 (2) states that the ARB must dismiss a complaint that was not made within the proper time or which does not comply with section 460 (7). This section is mandatory and there is no discretion for an ARB to vary the provisions.”

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

Only Issue #2 as noted above is before this Board in appeal today.

The evidence before the Board in this appeal indicates the following;

1. The Complainant failed to submit his 2011 property assessment complaint on the prescribed form contrary to the provisions of the Municipal Government Act (MGA) and Matters Relating to Assessments Complaints Regulation AR 310/2009 (MRAC).
2. Sections 460 (2) and 460 (7) and 467 (2) of the MGA and Sections 2 (1) (a) and 2 (2) of MRAC are of particular relevance in this appeal.
3. Sections 467 (2) of the MGA, and, Section 2 (2) of MRAC contain mandatory provisions which require an Assessment Review Board to dismiss a complaint which is not filed on the required form, or fails to contain reasons for the complaint.

In this regard therefore, the legislation is clear, and based on the written evidence and oral testimony before this Board in this Hearing, the Board has no option but to dismiss the complaint.

The Board so Orders therefore that the appeal is Dismissed

DATED AT THE CITY OF CALGARY THIS 7 DAY OF June 2011.


K. D. Kelly
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C-1	Complainant - copy of e-mail – Complainant to ARB – May 1, 2011
2. C-2	Complainant - copy of letter of April 5, 2011 – ARB to Complainant
3. C-3	Complainant - photocopy of Complaint's cheque from ARB
4. R-1	Respondent - copy of Respondent's brief
5. R-1	Respondent - copy of ARB e-mail of April 20, 2011 to Complainant

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.*