



ASSESSMENT REVIEW BOARD

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NOTICE OF DECISION NO. 0098 01/12

863056 Alberta Ltd
P.O. Box 1609
Silverdale, WA 98383 US

The City of Edmonton
Assessment and Taxation Branch
600 Chancery Hall
3 Sir Winston Churchill Square
Edmonton AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on April 2, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
1111541	20904 STONY PLAIN ROAD NW	Plan: 6048KS Lot: 2	\$3,061,500	Annual New	2012

Before:

Larry Loven, Presiding Officer
Brian Carbol
John Braim

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

Karim Bhanji
Mohamed Bhanji

Persons Appearing on behalf of Respondent:

Shawna Pollard, Assessor
Cameron Ashmore, Law Branch

Preliminary Hearing

- [1] This hearing arose as the Respondent stated no response was received to the request for information (the “RFI”) as required under section 295 of the Municipal Government Act (the “Act”). The Appellant argued that failure to provide the requested information within the specified time period under section 295(4) of the Act prevents the Complainant from filing the current complaint.

Background

- [2] 8635056 Alberta Ltd. is the owner of the subject property which consists of a motel known as the *Royal Scott Motel* located at 20904 Stony Plain Road in the west end of the City of Edmonton. The Respondent mailed the Complainant a request for information (RFI) package pursuant to section 295(1) of the Act on February 11th, 2011 addressed to 20904 Stony Plain Road NW, Edmonton, Alberta, T5S 2C3 the municipal address shown on the assessment notice for 2012. A reminder letter, dated March 25th, 2011, was also mailed to the same address. The reminder letter referenced the requirement to respond within 60 days from the date of the request, as required by section 295(4) of the Act.
- [3] The Notice of Assessment was mailed to the same municipal address on record on January 3rd, 2012. The Complainant filed the complaint form dated February 10th, 2012, following which the merit hearing was scheduled for May 14th, 2012.

ISSUE(S)

- [4] 1. Did the Complainant comply with the request as required under section 295(4) of the Act?

LEGISLATION

- [5] The *Municipal Government Act, RSA 2000, c M-26* reads:

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.

(2) An agency accredited under the *Safety Codes Act* must release, on request by the assessor, information or documents respecting a permit issued under the *Safety Codes Act*.

(3) An assessor may request information or documents under subsection (2) only in respect of a property within the municipality for which the assessor is preparing an assessment.

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of linear property, under section 492(1) about an assessment if the person has

failed to provide the information requested under subsection (1) within 60 days from the date of the request.

- [6] **310(2)(a)** If the mailing address of an assessed person is unknown, (a) a copy of the assessment notice must be sent to the mailing address of the assessed property, and

(b) if the mailing address of the property is also unknown, the assessment notice must be retained by the municipality or the assessor designated by the Minister, as the case may be, and is deemed to have been sent to the assessed person.

POSITION OF THE RESPONDENT

- [7] The Respondent argued that the Complainant failed to provide the information required by the Respondent to prepare the 2012 assessment of the subject property. The request was formally made in the RFI package. The respondent further submitted that pursuant to section 295(4) of the Act, the Complainant has forfeited the right to appeal the 2012 assessment of the subject property, as a result of failing to respond to the RFI.
- [8] In support of these arguments the Respondent provided copies of the RFI package (R-1, pp. 5-16), as well as the follow-up reminder for the current assessment year and the previous assessment year. The Respondent also submitted that no response to the RFI had been received from the Complainant for at least five years. The Respondent testified that the requirement of notification under section 310(2)(a) of the Act, was that “ *a copy of the assessment notice must be sent to the mailing address of the assessed property, ...*”, and no further obligation is required to contact the Complainant in order to gain a response to the RFI. The Respondent stated that if no response to the RFI was received within the mandated timeframe, the assessment of the subject property would be based on the incomes and expense of similar hotels/motel operations. The Respondent also stated that no request had been received from the Complainant to change the mailing address.
- [9] The Respondent noted that the Complainant had received the 2012 Assessment notice for the subject property which was sent to the property address and subsequently filed a complaint. The Respondent questioned that if the Complainant had received the assessment notice at the municipal address of the subject property, then it seemed reasonable that the RFI which was sent to the same address could have been responded to by the Complainant.
- [10] The Respondent requests that the complaint on the 2012 assessment of the subject property be dismissed under 295(4) of the Act.

POSITION OF THE COMPLAINANT

- [11] The Complainant stated that they had not received the RFI, and that the Respondent could have obtained income information from the quarterly provincial Tourism Levy Returns. The

Complainant further submitted that there were difficulties respecting the on-site management in that mail may not have been forwarded to the owner.

- [12] Under questioning, the Complainant confirmed that in the five years that he has owned the subject property, no RFI was submitted.
- [13] The Complaint maintained that the RFI was not delivered, and that the Respondent provided no documentary evidence to confirm the delivery of the RFI. The Complainant further argued that it would have been reasonable for the Respondent to have phoned or used registered mail to inform the Complainant of the RFI.

DECISION

- [14] **It is the decision of the Board to dismiss the 2012 assessment year complaint for the subject property.**

REASONS

- [15] The Board finds that the Respondent met the requirements of the Act by mailing the RFI to the municipal address shown on the Assessment Notice for the subject property. Moreover, the Respondent followed up the RFI with a reminder letter. There was no record of any response to either the RFI or reminder letter, and the Respondent received no communication from the Complainant that advised the mailing address should be different from that of the municipal address.
- [16] The Board notes that the Notice of Assessment was also mailed to the property address and appears to have been received as this notice formed the basis of the complaint.
- [17] The Board further finds that the Respondent made reasonable efforts to inform the Complainant of the responsibilities and consequences of failing to provide the required information.
- [18] In conclusion, the Board finds that the Complainant failed to comply with the requirement to respond to the RFI for the 2012 assessment year, and that this failure to comply has extended over several consecutive years. Consequently, pursuant to s. 295(4) of the Municipal Government Act, the Complainant is precluded from making a complaint in the 2012 assessment year.

Dated this 3rd day of April, 2012, at the City of Edmonton, in the Province of Alberta.

Larry Loven, Presiding Officer

This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, RSA 2000, c M-26.

cc: 863056 ALBERTA LTD