

NOTICE OF DECISION NO. 0098 07/12

Altus Group
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Edmonton, AB T5J 3S4

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 May 24, 2012 respecting a postponement or adjournment request for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
4022893	1 Kingsway Garden Mall NW	Plan: 8820371 Block: 6 Lot: 307 / Plan: 8921613 Block: 7 Lot: 274A	\$299,777,500	Annual New	2012

Before:

Peter Irwin, Presiding Officer

Board Officer: Rhoda Lemphers

Persons Appearing on behalf of Complainant:

No appearance.

Persons Appearing on behalf of Respondent:

No appearance.

ISSUE

Should a postponement of the 2012 Annual New Realty Assessment hearing scheduled for June 25, 2012 be granted as requested by the Respondent?

POSITION OF THE RESPONDENT

The Respondent requests this postponement due to medical reasons. The City of Edmonton assessor assigned to this file tore his ACL and was required to have an unexpected surgery on May 7, 2012. He will not be returning to work until June 11, 2012, the day the Respondent's disclosure is due.

The Respondent also states that, due to the preparation already done on the file, it is not feasible to assign a different assessor to the file, as a new assessor would not have the time to prepare a response to the Complainant's disclosure.

The Respondent also states that failing to grant a postponement and extend the disclosure deadlines would disadvantage them in their ability to respond to the Complainant's disclosure.

POSITION OF 1st COMPLAINANT (Omers Realty Corporation c/o Altus Group)

The first Complainant consents to the request for postponement, but states that they do not consent to the extension of the disclosure dates.

The first Complainant states that granting a postponement of disclosure deadlines would unfairly advantage the Respondent while causing the Complainant to suffer a disadvantage.

This Complainant also states that the Respondent's request for postponement should have been made before the Complainant submitted their disclosure, which was done on May 14th, 2012 in accordance with the legislated timeline.

The first Complainant indicates that the narrow nature of the issues on their complaint form and in their disclosure should not require an extensive amount of work on the Respondent's part. The Complainant states that the Respondent analyzed the market data at the time that they issued the 2012 assessments, so there should be only a minimal amount of work remaining for them to complete. Ultimately, the first Complainant asserts that it would have been reasonable for the City of Edmonton to assign another assessor if there was concern whether the current assessor would be able to meet the June 11, 2012 disclosure deadline.

POSITION OF 2nd COMPLAINANT (HBC c/o Wilson Laycraft)

The second Complainant consents to the Respondent's request for postponement and does not object to postponement of the disclosure deadlines.

LEGISLATION

Matters Relating to Assessment Complaints Regulation, AR 310/2009

- 15(1) Except in exceptional circumstances as determined by an assessment review board, an assessment review board may not grant a postponement or adjournment of a hearing.

- (2) A request for a postponement or an adjournment must be in writing and contain reasons for the postponement or adjournment, as the case may be.
- (3) Subject to the timelines specified in section 468 of the Act, if an assessment review board grants a postponement or adjournment of a hearing, the assessment review board must schedule the date, time and location for the hearing at the time the postponement or adjournment is granted.

DECISION

The Board grants the postponement request.

REASONS FOR THE DECISION

In regard to the request for an extension of the disclosure deadlines, the Respondent states that the surgery on which they base their postponement request took place on May 7th, 2012. This was seven days prior to the Complainant's disclosure deadline. The Board finds seven days to be a reasonable amount of time during which the Respondent could have requested a postponement, but they failed to do so. Considering that the first Complainant submitted their disclosure without realizing that the Respondent would later request a postponement of the disclosure deadlines, in the interests of procedural fairness, the Board declines the Respondent's request for postponement of the disclosure dates.

In consideration that this is a first-time request, that notice of the Respondent's unavailability was provided to the ARB administration, and that neither Complainant objects to the postponement of the hearing date, the Board finds an exceptional circumstance exists thereby warranting a rescheduling of the hearings.

The Board confirms that the new hearing date will be as follows:

Date: **Tuesday, September 18th to Friday, September 21st**
Time: **9:00 AM**
Location: **Edmonton**

The Board affirms the original disclosure dates as follows:

Complainant Disclosure: May 14, 2012
Respondent Disclosure: June 11, 2012
Complainant Rebuttal Disclosure: June 18, 2012

A new hearing notice will not be sent.

The Board directs that no further evidence or documentation be submitted in regard to this matter.

Dated this 29th day of May at the City of Edmonton, in the Province of Alberta.

Peter Irwin, 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: OMERS REALTY CORPORATION