



ASSESSMENT REVIEW BOARD

Churchill Building
10019 103 Avenue
Edmonton AB T5J 0G9
Phone: (780) 496-5026

NOTICE OF DECISION NO. 0098 117/11

D M Stephen, Walls Alive (Edmonton) Ltd
12125 - 149 Street
Edmonton, AB T5L 2J2

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 August 29, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
2194983	12125 149 STREET NW	Plan: 1431MC Block: 3 Lot: 5A	\$1,423,000	Annual New	2011

Before:

Hatem Naboulsi, Presiding Officer
Francis Ng, Board Member
John Braim, Board Member

Board Officer: Karin Lauderdale

Persons Appearing on behalf of Complainant:

Shirley Klein, Walls Alive (Edmonton) Ltd

Persons Appearing on behalf of Respondent:

Marty Carpentier, City of Edmonton, Assessor
Steve Lutes, City of Edmonton, Law Branch

PRELIMINARY MATTERS

The Respondent raised a preliminary matter respecting the Complainant's disclosure in that no disclosure had been received by the Respondent on two occasions. The Respondent requested that the case be dismissed based on the lack of any disclosure by the Complainant.

The Complainant stated that she had no detailed knowledge of the original disclosure process but had been asked to act in place of the original Complainant who had been called to attend a business meeting at a very short notice. The Complainant had e-mailed the Board on August 25, 2011 requesting a postponement of the merit hearing. The Complainant attended the hearing because she had been informed that the postponement request could not be addressed by the Board administration in a timely manner; therefore the Complainant requested the Board to postpone the merit hearing as a preliminary matter.

The Respondent indicated they would not consent to the postponement request because this is the second postponement request from the Complainant and the Complainant failed to submit any disclosure by the first disclosure date of June 14, 2011 and the new disclosure deadline of July 18, 2011. The Respondent submitted that even if the Board granted a postponement request the Respondent would object to any new disclosure dates.

ISSUE

Should a postponement be granted as requested by the Complainant?

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 decision of the Board is to deny the postponement request as the Board was informed that an earlier postponement request had been granted. A new disclosure deadline had been set for July 18, 2011 but none had been received by the Respondent or the Board.

The Board does not accept that the Complainant's reason for the postponement request was an *exceptional circumstance* as defined by MRAC Sec. 15 (1).

With respect to the non-disclosure matter the decision of the Board is to proceed directly to a merit hearing.

ISSUE(S)

Is the assessment of the subject property higher than other similar properties in the same area?

LEGISLATION

Municipal Government Act, RSA 2000, c M-26

s 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

s 467(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- a) the valuation and other standards set out in the regulations,
- b) the procedures set out in the regulations, and
- c) the assessments of similar property or businesses in the same municipality.

POSITION OF THE COMPLAINANT

The Complainant stated that the property had been assessed at a higher rate than other similar properties in the area and had increased substantially whereas other properties had maintained the same assessment or had increased slightly over the previous year's assessment. The Complainant stated she was unfamiliar with the appeal and had been asked to appear for the Complainant at the last minute.

POSITION OF THE RESPONDENT

The Respondent chose not to present any evidence to the Board as the Complainant had not made any disclosure. The Respondent advised the Board that the onus rests on the Complainant to prove that the assessment is incorrect and the Respondent indicated that the burden of proof had not been shifted and the onus had not been met by the Complainant.

DECISION

The decision of the Board is to confirm the 2011 assessment at \$1,423,000.

REASONS FOR THE DECISION

The Board was persuaded by the Respondent's argument that the Complainant had not presented any evidence that would shift the burden of proof to the Respondent and therefore the Complainant's onus had not been met.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 29th day of August, 2011, at the City of Edmonton, in the Province of Alberta.

Hatem Naboulsi, 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: ADTECH HOLDINGS LTD