



ASSESSMENT REVIEW BOARD

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

NOTICE OF DECISION NO. 0098 208/11

ALTUS GROUP
17327 106A Avenue
EDMONTON, AB T5S 1M7

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 September 29, 2011 respecting a postponement or adjournment request for: See Schedule A attached.

Before:

Lynn Patrick, Presiding Officer

Board Officer:

Segun Kaffo

Persons Appearing on behalf of Complainant:

No appearance.

Persons Appearing on behalf of Respondent:

No appearance.

BACKGROUND

Merit Hearings regarding the complaints filed by the Altus Group Ltd., for the Roll Nos. set forth herein were scheduled to commence on various dates between October 25 and November 1, 2011.

These roll numbers form part of a larger group of complaints on which a Preliminary Hearing was originally scheduled to commence on June 6, 2011.

An adjournment of the Preliminary Hearing was requested by Altus Group Ltd. to enable a FOIPP application for certain information to be obtained. That request resulted in an adjournment of the Preliminary Hearing to July 6-8, 2011.

On July 4, 2011 a further adjournment request was made by the Altus Group Ltd., because the FOIPP application process was considerably delayed. That request resulted in an adjournment of the Preliminary Hearing to August 23-25, 2011.

The Altus Group Ltd., agreed in July to restrict its request for information to a specific part of the complaint process documents resulting in the new response deadline being August 18, 2011. However, the City of Edmonton did not meet that response deadline and obtained an extension of the date for response to September 14, 2011. Altus consequently requested a further adjournment of the Preliminary Hearing to October 10-12, 2011. The Board rescheduled the Preliminary Hearing to October 6 – 11, 2011.

ISSUE

Should a postponement of the 2011 Annual New Realty Assessment hearings scheduled for various dates between October 25 and November 1, 2011 be granted as requested by the Respondent?

POSITION OF THE RESPONDENT (APPLICANT)

The Applicant (Respondent) requests a postponement of the scheduled merit hearings on the grounds that these hearings cannot take place prior to the Preliminary Hearing scheduled for October 6 – 11, 2011. The Applicant proposed a postponement to dates after November 15, 2011 to give sufficient time for the Preliminary Hearing decision to be rendered.

The Respondent argues that even if the decision is rendered prior to the merit hearings, they will not have sufficient time to adequately prepare for the merit hearings.

POSITION OF THE COMPLAINANT (RESPONDENT)

The Complainant (Respondent) does not consent to the postponement request in the interest of procedural fairness and natural justice. The Complainant argues that there are at least two weeks after the Preliminary Hearing and the earliest scheduled merit hearing, and based on the time it has taken other Boards to render decisions on similar Preliminary Hearings dealing with the same issue, it is reasonable to expect the Board will not require the full 30 days to render a decision.

The Complainant also states that the postponement request is premature and should be granted only when it has been determined that the Preliminary Hearing decision has not been rendered prior to the commencement of the merit hearing.

The hearings have been delayed too long and further delay is unacceptable. The Complainant is booked for hearings every day through December 15, 2011 and there will be insufficient time to hear the balance of its complaints, in line with the legislative requirement that all hearings must be completed by December 31, 2011.

The Complainant states in conclusion that in the event a postponement is granted, all original disclosure dates must be preserved and adhered to, as the Complainant has already provided discloses for all of the roll numbers in accordance with legislation.

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.*

The Municipal Government Act, R.S.A. 2000, c. M-26;

- 468(1) *Subject to the regulations, an assessment review board must, in writing, render a decision and provide reasons, including any dissenting reasons,*
- (a) *within 30 days from the last day of the hearing, or*
- (b) *before the end of the taxation year to which the complaint that is the subject of the hearing applies, whichever is earlier.*

DECISION

The Board grants the postponement request.

REASONS FOR THE DECISION

The issues to be determined in the Preliminary Hearing that is underway in respect to these roll numbers and others remain outstanding inasmuch as the Preliminary Hearing has been adjourned until October 6, 2011. The disposition of the Preliminary Hearing is an exceptional circumstance in respect to these merit hearings going forward and hence within the provisions of MRAC.

While the Board is cognizant of the fact that Boards have rendered decisions well within the 30 day deadline, this cannot constitute a reason to deny the postponement request, as the possibility exists that a different Board may very well require more time given the complexity of each case.

The Board is mindful of the legislative requirement that all hearings must be completed by December 31 pursuant to s. 468(1) of the MGA. However, the Board must be guided by the duty to ensure a fair hearing and “for this reason must both have the power, as well exercise the power appropriately, to ensure that the parties have a fair, complete, and comprehensive hearing. By inference, this must include sufficient time to prepare”: per Germain J., *Edmonton (City) v. Assessment Review Board of the City of Edmonton, 2010 ABQB 634*,

Accordingly, the Board grants the postponement request for the various roll numbers on the dates and time set out in schedule A

There will be no new disclosure dates and a new hearing notice will not be sent.

Dated this September 29, 2011, at the City of Edmonton, in the Province of Alberta.

Lynn Patrick, 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: Taz Holdings ltd

SCHEDULE A

Date: November 16, 2011

Time: 9:00 am

8636250	2178135
2206357	9980649
9992554	1040997
1075092	8703159
10015908	1075514
9960133	9985679
10018592	1522200
3876448	2195279

Date: November 17, 2011

Time: 9:00 am

9995677	2219350
2219087	9977586
9984373	9956618
4143491	9956619
9995438	9973955
8622904	8956773
9944678	3047370
2219400	3027182

Date: November 18, 2011

Time: 9:00 am

1007699	1481506
1204528	1510007
1560804	1595479
3047420	1615251
3845468	4124061
7097611	4149266
7138506	9953876
10087519	9990051

Date: November 21, 2011

Time: 9:00 am

1103464	6411599
1612407	6411615
3044906	9941113
3118965	9960366
3185642	9971652
3196805	9976334
3630209	9986817
3788239	9994219
3811726	10005798
4028718	10041841
4310462	10044964
6411524	10067707
6411557	10127345

Date: November 22, 2011

Time: 9:00 am

1127745	3192606	3577608	10014609	10014632
3041233	3192705	3577707	10014612	10014633
3068608	3196557	3577806	10014615	10014636
3068756	3196706	4037198	10014616	10014637
3068905	3197902	4041125	10014618	10014941
3072709	3199601	9942675	10014623	10014942
3073012	3199908	9951182	10014624	10045285
3124898	3200003	9954108	10014625	10045286
3124906	3200102	9961224	10014628	10045288
3124914	3223500	9961244	10014629	10143127
3130200	3225208	10014602	10014630	
3167608	3577251	10014604	10014631	