



ASSESSMENT REVIEW BOARD

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

NOTICE OF DECISION NO. 0098 25/11 POSTPONEMENT/ADJOURNMENT REQUEST

AEC International Inc.
#112, 1212 1st Street SE
Calgary, AB T2G 2H8

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 July 4, 2011 respecting a postponement or adjournment request for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9995171	12408 - 62 STREET NW	Plan: 0221247 Block: 5 Lot: 5	\$5,664,500	Annual New	2011

Before:

Lynn Patrick, Presiding Officer

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

None

Persons Appearing on behalf of Respondent:

None

ISSUE

Should a postponement of the 2011 Annual New Realty Assessment hearing scheduled for August 22, 2011 be granted as requested by the Complainant?

POSITION OF THE COMPLAINANT

The Complainant's legal counsel requests a postponement of the merit hearing on the grounds that the Complainant requires time to obtain an updated engineering report which addresses issues relating to fill materials, as well as time to prepare and finalize a report from a quantity surveyor, both of which will be relevant to the merit hearing. Due to a family death there has been unavoidable delay in commissioning the expert reports required, so these reports will not be available until August and September respectively.

In addition, the Complainant submits that complete consultant reports may facilitate discussions between the parties and a possible resolution of the complaint.

POSITION OF THE RESPONDENT

The Respondent submits that the City of Edmonton takes no position regarding the postponement request.

LEGISLATION

s.15 of the *Matters Relating to Assessment Complaints Regulation*, Alberta Regulation 310/2009 (MRAC), states:

- (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

The Board is satisfied that there are significant and unusual issues with regards to this matter which require appropriate expert information. In consideration that commissioning of the consultants' reports were delayed by a family death, the Board finds an exceptional circumstance exists thereby warranting a rescheduling of the hearings. This is within the principles set forth by

Germaine, J. in the case of *Edmonton (City) v. Assessment Review Board of the City of Edmonton 2010 ABQB 634*:

[41] If the ARB is not given the opportunity to adjourn cases from time to time then they will have to, in a case such as this (where one adjournment is granted to obtain expert reports, and that implies similar reports in reply), ensure that the hearing is set so far into the future that the respondent will *always* have sufficient time to respond.

[44] Although this legislation is new, it would be inappropriate to set out a definitive list of what constitutes an exceptional circumstance, as exceptional circumstances are fact specific. However, here, if the currently scheduled hearing date does not allow a party sufficient time to prepare, that must be an exceptional circumstance as the failure to grant an adjournment could result in a miscarriage of justice.

As per s.15(3) of MRAC, the Board has rescheduled the hearing as follows:

Date: October 20, 2011
Time: 9:00 am
Location: Edmonton

A new Notice of Hearing with amended disclosure dates will be sent to the parties.

Dated this 6th day of July, 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, R.S.A. 2000, c.M-26.

cc: Premium Brands Operating Limited Partnership
Anthony L. Friend Q.C.