



ASSESSMENT REVIEW BOARD

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

NOTICE OF DECISION NO. 0098 250/11

Paul K Wong, 827938 Alberta Ltd.
P.O. Box 1385
Edmonton, AB T5J 2N2

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 October 17, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
1080316	9255 41 Avenue NW	Plan: 8122283 Block: 16 Lot: 9	\$3,713,500	Annual New	2011

Before:

Steven Kashuba, Presiding Officer
Brian Hetherington, Board Member
Howard Worrell, Board Member

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

Paul Wong

Persons Appearing on behalf of Respondent:

Mary-Alice Nagy, Assessor – City of Edmonton
Steve Lutes, City of Edmonton Law Branch

PROCEDURAL MATTERS

Upon questioning by the Presiding Officer, the parties before the Board indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file.

PRELIMINARY MATTERS

Upon commencement of the hearing, the Respondent requested a dismissal of the complaint on the ground that the Complainant did not provide any disclosure of evidence within the legislated timelines in accordance with s.8 of the *Matters Relating to Assessment Complaints Regulation* (MRAC).

The Respondent also referred the Board to s. 9 (2) of MRAC, which provides that a Composite Assessment Review Board must not hear any evidence that has not been disclosed in accordance with s.8 of MRAC.

ISSUE(S)

Is the 2011 assessment correct?

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.*

Matters Relating To Assessment Complaints Regulation AR 310/2009;

s.8(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

- (a) the complainant must, at least 42 days before the hearing date,*
- (i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing,*

(c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause

(b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

s.9(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

POSITION OF THE COMPLAINANT

The Complainant made reference to the issues raised in the complaint form, and stated that he was prepared to speak to the issues identified on the complaint form.

POSITION OF THE RESPONDENT

The Respondent submitted that the Complainant had not disclosed any evidence within the legislated timelines in accordance with s. 8 of MRAC. Further, there is no evidence in support of the statements made on the complaint form and accordingly the Complainant has not discharged its burden of proof.

In addition, the Respondent also referred to s.9 of MRAC which precludes the Board from hearing any evidence that has not been disclosed in accordance with s. 8 of MRAC.

DECISION

It is the decision of the Board to dismiss the complaint.

REASONS FOR THE DECISION

Under questioning by the Board, the Complainant admitted that he had received the Notice of Hearing dated July 29, 2011 which indicated the disclosure requirements under MRAC.

In addition, the Complainant did not provide a summary of his testimonial evidence nor did he provide any documentary evidence to support the issues raised on the complaint form.

The Board found that the Complainant failed to provide any disclosure of evidence to the Respondent within the stipulated timelines in accordance with s. 8 of MRAC.

Pursuant to s. 9 (2) of MRAC, a Composite Assessment Review Board must not hear any evidence that has not been disclosed in accordance with s.8 of MRAC.

The onus of proving that an assessment is wrong or unfair lies with the Complainant. In the absence of any compelling and admissible evidence in support of the issues raised in the complaint form, the Board concludes that the Complainant failed to discharge its burden of proof, and accordingly dismisses the complaint.

DISSENTING OPINION AND REASONS

There was no dissenting opinion.

Dated this 17th day of October, 2011, at the City of Edmonton, in the Province of Alberta.

Steven Kashuba, 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: 827938 Alberta Ltd.