



ASSESSMENT REVIEW BOARD

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

NOTICE OF DECISION 0098 26/11 POSTPONEMENT/ADJOURNMENT REQUEST

Colliers International
#1000, 335 – 8th Avenue SW
Calgary, AB T2P 1C9

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 15, 2011 respecting a postponement or adjournment request for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
1032739	3404 99 Street NW	Plan: 8120822 Block: 1 Lot: 27	\$2,079,500	Annual New	2011
1068212	1330 Calgary Trail SW	Plan: 1388MC Block: F Lot: 3	\$1,817,000	Annual New	2011
1072842	2110 70 Avenue NW	Plan: 7620267 Block: 2 Lot: 3	\$3,830,000	Annual New	2011
1075456	9503 49 Street NW	Plan: 7622073 Block: 4 Lot: 2	\$4,600,999	Annual New	2011
1494509	14932 111 Avenue NW	Plan: 3340RS Block: B Lot: 2	\$11,425,999	Annual New	2011
1106061	15302 128 Avenue NW	Plan: 7015ET Block: 17 Lot: 2 / 2	\$2,412,999	Annual New	2011
1521608	16206 114 Avenue NW	Plan: 6097AH Block: 24	\$8,543,999	Annual New	2011
1544253	16936 110 Avenue NW	Plan: 2477KS Block: 5 Lot: 11 / 11	\$3,815,499	Annual New	2011
1560226	10235 172 Street NW	Plan: 7722579 Block: 2 Lot: 1	\$978,499	Annual New	2011
1560721	10220 172 Street NW	Plan: 7722579 Block: 4 Lot: 1	\$1,952,999	Annual New	2011
2223402	12523 St Albert Trail NW	Plan: 470KS Block: 28A Lot: 0	\$1,633,499	Annual New	2011
2452795	12928 127 Street NW	Plan: 5573KS Block: 62 Lot: 1 / 16 / 2U / 2	\$2,800,499	Annual New	2011

2566404	12504 126 Street NW	Plan: 1870AA Block: 3 Lot: 1 / 1	\$692,999	Annual New	2011
2707933	12328 102 Avenue NW	Plan: 489TR Block: 20 Lot: 7A	\$2,526,999	Annual New	2011
2708105	10224 123 Street NW	Plan: RN22 Block: 20 Lot: 14	\$562,499	Annual New	2011
3043742	10305 80 Avenue NW	Plan: 8520056 Lot: 5	\$2,121,499	Annual New	2011
3051901	11815 124 Street NW	Plan: 2870KS Block: 3 Lot: A / C	\$1,739,499	Annual New	2011
3567609	10079 Jasper Avenue NW	Plan: F Lot: 2	\$1,879,000	Annual New	2011
3860517	10375 51 Avenue NW	Plan: 9223412 Block: 1 Lot: 8	\$3,879,499	Annual New	2011
4041158	16725 Stony Plain Road NW	Plan: 8822509 Block: 37 Lot: 22	\$1,790,999	Annual New	2011
4071122	10450 178 Street NW	Plan: 8920482 Block: 18	\$8,006,999	Annual New	2011
4121356	17320 Stony Plain Road NW	Plan: 9020545 Block: 2 Lot: 14	\$2,759,499	Annual New	2011
7810401	5540 Gateway Boulevard NW	Plan: 3797RS Block: 88 Lot: 3A	\$2,211,499	Annual New	2011
8480550	4601 99 Street NW	Plan: 4187RS Block: 3 Lot: A	\$2,631,999	Annual New	2011
8768251	8940 82 Avenue NW	Plan: 5036S Block: 25 Lot: 1 and 10-13	\$4,017,999	Annual New	2011
9511007	7419 82 Avenue NW	Plan: 7884AH Block: 21 Lot: 19-22	\$1,674,499	Annual New	2011
9540105	4805 76 Avenue NW	Plan: 143HW Lot: A	\$827,999	Annual New	2011
9965142	6104 109 Street NW	Plan: 9826340 Block: 28 Lot: 1	\$793,999	Annual New	2011
9972798	7603 McIntyre Road NW	Plan: 9925652 Block: 3 Lot: 22	\$5,861,499	Annual New	2011
9983307	9451 49 Street NW	Plan: 0020034 Block: 4 Lot: 4A	\$4,714,499	Annual New	2011
9995104	8141 127 Avenue NW	Plan: 0221105 Unit: 0	\$2,299,499	Annual New	2011
9998418	10004 Ellerslie Road SW	Plan: 0225088 Block: 1 Lot: 2	\$6,298,999	Annual New	2011
10002588	8403 Ellerslie Road SW	Plan: 0226687 Block: 10 Lot: 50	\$1,725,999	Annual New	2011
10042206	16230 118 Avenue NW	Plan: 0525693 Block: 4 Lot: 13	\$5,217,499	Annual New	2011

Before:

Steven Kashuba, Presiding Officer

Board Officer: Segun Kaffo

Persons Appearing on behalf of Complainant:

No appearance

Persons Appearing on behalf of Respondent:

No appearance

ISSUE

Should a postponement of the 2011 Annual New Realty Assessment hearing scheduled for September 21, 2011 be granted as requested by the Respondent?

POSITION OF THE COMPLAINANT

The Complainant objects to the Respondent's request for a postponement of the merit hearings scheduled for the above tax roll numbers on the grounds that this matter has already been decided by the Assessment Review Board (ARB), and any further attempts to delay the merit hearings are prejudicial to the interests of the Complainant and their clients.

POSITION OF THE RESPONDENT

The Respondent requests an adjournment of the merit hearings scheduled for the above tax roll numbers on the grounds that the City of Edmonton has filed an application to appeal the Assessment Review Board (ARB) preliminary hearing decision made in relation to each of these roll numbers to the Court of Queen's Bench (Court). It is the position of the Respondent that these merit hearings for these roll numbers cannot proceed until the Court makes a final decision in relation to the City's appeal application.

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

It is the decision of the Board to grant the postponement request.

REASONS FOR THE DECISION

1. The Respondent (City of Edmonton) filed an application on July 6, 2011 to appeal the Assessment Review Board decision made on the Roll Numbers presented herein to the Court of Queen's Bench. In accordance with Section 15(1) *Matters Relating to Assessment Complaints Regulation*, Alberta Regulation 310/2009, the Board may grant a postponement of a hearing in exceptional circumstances. It is the opinion of the Board that this request for a postponement does constitute an *exceptional circumstance*.
2. In granting this postponement, the Board accepts the Applicant's (City of Edmonton) argument that a decision of the Court of Queen's Bench may have an impact upon the scheduled merit hearings for the said Roll Numbers.
3. In rendering its decision, the Board relies upon the Court of Queen's Bench of Alberta decision, *Edmonton (City) v. Assessment Review Board of the City of Edmonton*, 2010 ABQB 634, especially upon Paragraph 43, "*The Regulation must therefore be interpreted in such a way that the definition of exceptional circumstance cannot be so narrow and restrictive as to prevent hearings that are fair to both litigants...*"
4. Finally, the Board is aware that the Complainant, Colliers International, objects to the Respondent's request for a postponement to the scheduled merit hearings. Having regard for this objection, the Board must then decide what harm, if any, will come to the Complainant if a postponement is granted. In this case the Board concludes that little if any harm will come to the Complainant.

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

Date: October 31, 2011
Time: 9:00 am
Location: Edmonton

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

Dated this 15th day of July 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, R.S.A. 2000, c.M-26.
