



ASSESSMENT REVIEW BOARD

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

NOTICE OF DECISION 0098 27/11 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 18, 2011 respecting a postponement or adjournment request for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
3881760	500 Manning Crossing NW	Plan: 9320637 Block: 54 Lot: 53	\$8,454,000	Annual New	2011
10045935	8204 109 Street NW	Plan: 0526142 Block: 143 Lot: 36	\$10,502,000	Annual New	2011
10015383	8118 118 Avenue NW	Plan: 0420166 Block: 1 Lot: 4	\$7,750,500	Annual New	2011
9988677	5821 Terrace Road NW	Plan: 0122121 Block: 3 Lot: 1A	\$10,216,500	Annual New	2011
9988014	2310 109 Street NW	Plan: 0121187 Block: 32 Lot: 10	\$1,400,000	Annual New	2011
10057052	2534 Guardian Road NW	Plan: 0620602 Block: 14 Lot: 11	\$10,444,000	Annual New	2011
3747276	15007 Stony Plain Road NW	Plan: 9022090 Block: 61 Lot: 5 / Plan: 9022422 Block: 61 Lot: 6	\$9,304,500	Annual New	2011
10057053	2460 Guardian Road NW	Plan: 0620602 Block: 14 Lot: 12	\$12,306,500	Annual New	2011
9983285	2310 109 Street NW	Plan: 0022923 Block: 32 Lot: 4A	\$8,972,500	Annual New	2011
9990079	12804 137 Avenue NW	Plan: 0123660 Lot: 7	\$11,388,500	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 August 8, 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.

In addition, the Respondent states that due to the size and nature of the material disclosed by the Complainant, the City will be unable to properly prepare a response by the current disclosure deadline.

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 June 28, 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 18th 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.
