



ASSESSMENT REVIEW BOARD

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

NOTICE OF DECISION NO. 0098 319/11

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 November 14, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
1127745	10030 103 AVENUE NW	Plan: 4686S Block: OT / Plan: 4686S	\$114,000	Annual New	2011

Before:

Hatem Naboulsi, Presiding Officer

Board Officer: Jason Morris

Persons Appearing on behalf of Complainant:

John Trelford, Altus Group

Persons Appearing on behalf of Respondent:

Tanya Smith, Law Branch, City of Edmonton

ISSUE(S)

The Complainant requests that the deadlines for the submission of disclosure be modified in order to allow them to rectify a clerical error that was made in the submission of their disclosure documents.

POSITION OF THE COMPLAINANT

The Complainant indicated that there had been a clerical error made in the submission of the Complainant's disclosure documents. The Complainant sought permission under section 10(2) of the *Matters Relating to Assessment Complaints Regulation* AR 310/2009 [MRAC]. The Complainant indicated that they did not want to prejudice the City, and that they were asking for new deadlines to be set in accordance with the 42 days, 14 days, and 7 day deadlines specified in sections 8(2)(a), (b), and (c) of the MRAC.

POSITION OF THE RESPONDENT

The Respondent argued that the applicable section of MRAC is not section 10(2), which allows for an expansion of times set out in section 8(2)(a), (b), and (c), but section 10(3), which allows for those periods to be abridged with the written consent of the parties. The Respondent suggests that the word "abridge" in section 10(3) allows for the reduction of, for example, the 42 days specified in section 8(2)(a) to some number less than 42. The Respondent refers in support of this interpretation to a Black's Law Dictionary definition of the word "abridge" which states "to reduce or diminish." Similarly, the Respondent suggests the word "expand" in section 10(2) allows for that number to be increased.

With regard to the Complainant's request for a completely new set of disclosure deadlines, the Respondent argues that neither section 10(2) or (3) of MRAC allow for a rescheduling of the merit hearing, which is what is requested by the Complainant if a new set of deadlines were to be set. The Respondent rather suggests that a request to postpone the hearing would require exceptional circumstances under section 15 of MRAC, which governs requests for postponement, and that no such circumstances existed in this case.

In support of its position the Respondent referred to a decision of the Municipal Government Board, DL 044/10 interpreting an identically-worded section of MRAC where the board held that exceptional circumstances were not required when dealing with a request to expand the disclosure timelines set out in MRAC.

LEGISLATION

Disclosure of evidence

8(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(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, and

- (ii) provide to the respondent and the composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence;
- (b) the respondent must, at least 14 days before the hearing date,
 - (i) disclose to the complainant 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 respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and
 - (ii) provide to the complainant and the composite assessment review board an estimate of the amount of time necessary to present the respondent's evidence;
- (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.

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Abridgment or expansion of time

- 10(1)** A composite assessment review board may at any time, with the consent of all parties, abridge the time specified in section 7(d).
- (2)** Subject to the timelines specified in section 468 of the Act, a composite assessment review board may at any time by written order expand the time specified in section 8(2)(a), (b) or (c).
- (3)** A time specified in section 8(2)(a), (b) or (c) for disclosing evidence or other documents may be abridged with the written consent of the persons entitled to the evidence or other documents.

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Postponement or adjournment of hearing

- 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.

DECISION

The request is denied.

REASONS

The Board agrees with the Respondent that section 10(2) of MRAC deals only with expanding the time allowed for disclosure, as demonstrated by the above quoted MGB case. What the

Complainant is requesting, absent a change to the date for the hearing, is an abridgement of the deadlines for disclosure, which is dealt with in section 10(3), and requires the consent of the Respondent, which is not present here.

What the Complainant requested in oral argument in the hearing is in effect a postponement, because it would require the date of the hearing to be pushed back, with an associated change to the dates for disclosure. Such a request would require exceptional circumstances under section 15 of MRAC. The Board is not satisfied that the clerical errors spoken to constitute exceptional circumstances.

Dated this 15th day of November, 2011, at the City of Edmonton, in the Province of Alberta.

Hatem Naboulsi, 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: 672884 ALBERTA LTD