



ASSESSMENT REVIEW BOARD

MAIN FLOOR CITY HALL
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NOTICE OF DECISION NO. 0068 368/10

Property Tax Appeal Services
10328 97 Avenue
Edmonton AB T5K 0B5

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 28, 2010 respecting a complaint for:

Roll Number 3061157	Municipal Address 12804 114 Avenue	Legal Description Plan: 8522173 Block: 6 Lot: 7
Assessed Value \$12,418,000	Assessment Type Annual – New	Assessment Notice for: 2010

Before:

Pat Mowbrey, Presiding Officer
Jack Jones, Board Member

Board Officer:

Segun Kaffo

Persons Appearing: Complainant

Michele Warawa-Handel
Chris Bataluk

Persons Appearing: Respondent

Michael Johnson, Assessor
Guo J. He, Assessor
Tanya Smith, Law Branch

PROCEDURAL MATTERS

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

BACKGROUND

On October 26, 2010 the Assessment Review Board received a request for postponement from the Respondent. The Respondent indicated that as a result of an accident the assessor/witness was placed on medical leave until October 31, 2010. Due to the complex history of the matter and the assessors' involvement in the preparation of the City's disclosure package, the Respondent submitted that involving a different assessor may jeopardize the fairness of the hearing.

However, the assessor had returned early from the medical leave and was present at the hearing. The Respondent accordingly indicated that the City was prepared to proceed with the merit hearing, or in the alternative seek a postponement, provided it was before the end of December 31, 2010.

ISSUES

Should a postponement of the Annual New Realty Assessment hearing scheduled for October 28, 2010 be granted as requested by the Respondent?

POSITION OF THE COMPLAINANT

The Complainant consented to the Respondent's request for postponement. However, the Complainant indicated that the hearing should be postponed to December 2010 or January 2011, to enable the Complainant time to review the decision from the 2009 hearing which was heard on October 15, 2010.

POSITION OF THE RESPONDENT

The Respondent argued that pursuant to the *Matters Relating to Assessment Complaints Regulation, Alberta Regulation 310/2009*, the hearing could not be postponed to January, 2011.

The Respondent further submitted that the 2009 appeal is independent of the current appeal and a review of the decision was insufficient grounds for postponement of the 2010 appeal.

LEGISLATION

The Municipal Government Act, R.S.A. 2000, c. M-26;

S.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.

DECISION

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

REASONS FOR THE DECISION

The Board accepts that the Respondent's reason for requesting a postponement constitutes an exceptional circumstance, and that involving a different assessor may jeopardize fair hearing.

The Board notes that the Complainant is not opposed to the postponement request.

The Board is of the opinion that postponing the merit hearing to November 2010 would satisfy the requirements of the MRAC, as well as allow the Complainant time to review the 2009 decision.

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

Date: November 23, 2010

Time: 9:00 am

Location: Edmonton

There will be no revised hearing notices sent out on these matters and current disclosure dates remain the same.

This Board is not seized with this matter.

Dated this 28th day of October 2010, at the City of Edmonton, in the Province of Alberta.

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: Municipal Government Board
1106088 Alberta Ltd.
Property Tax Appeal Services