

NOTICE OF DECISION NO. 0098 41/12

Altus Group
780-10180 101 ST NW
Edmonton, AB T5J 3S4

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 June 29, 2012, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9971414	18330 102 Avenue NW	Plan: 9923740 Lot: 1E / SW 4-53-25-4	\$4,285,500	Annual New	2012

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: York Realty Inc.

Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2012 ECARB 1061

Assessment Roll Number: 9971414

Municipal Address: 18330 102 Avenue NW

Assessment Year: 2012

Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

POSTPONEMENT DECISION OF Lynn Patrick, Presiding Officer

Issue

[1] Should a postponement of the 2012 Annual New Realty Assessment hearing scheduled for July 16, 2012 be granted as requested by the Complainant/Respondent?

Legislation

[2] The *Matters Relating to Assessment Complaints Regulation, AR 310/2009* reads:

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.

Position of the Complainant

[3] The Complainant arrived at the hearing after it had been commenced. In the Complainant's absence, the Board reviewed the Postponement Request form submitted. No

other disclosure had been received respecting the postponement request. The Complainant arrived in the midst of the Respondent's submissions.

[4] The Postponement Request indicated that the subject property is one of three roll numbers being appealed that are in the same complex with the same issues. The Request further indicates that "it would make the most sense to have all 3 heard at the same time. I would like to have 997141 to be postponed to August 7th to be heard with the other two roll numbers."

Position of the Respondent

[5] The Respondent objected to the postponement request on the basis that there were no exceptional circumstances to warrant rescheduling the hearing. The postponement request was merely a matter of scheduling.

[6] The Respondent argued that the Complainant should have brought a postponement request at the earliest opportunity. She advised that the hearing notice for the subject property was sent in early March, while the other two notices were sent in mid-May. The Complainant should have recognized his scheduling concern when these notices were sent out and made a timely postponement request, rather than waiting until June.

[7] The Respondent argued that the postponement request was based upon a matter of inconvenience, not an exceptional circumstance. Further, the Respondent advised that the City assessor had already been scheduled, and that, should the hearing be rescheduled to August 7th, there was the potential that the Assessor would be double-booked.

[8] Accordingly, the Respondent requested that the merit hearing continue as scheduled on July 16, 2012.

Decision

[9] The Board does not grant the postponement request. The hearing will continue as scheduled on July 16, 2012.

[10] No new notice of the postponed hearing will be sent.

Reasons for the Decision

[11] The Board in this matter fully considered the question of whether exceptional circumstances are present such that a postponement of the merit hearing may be granted pursuant to MRAC s. 15. Exceptional circumstances are to be interpreted widely so as to prevent unfairness to one or both of the parties.

[12] In this case, there is no evidence of any matter having arisen, that affects the Complainant's position other than it appears the scheduling of the hearing for this role number is

inconveniently scheduled separately from the hearings of other roll numbers in the same complex. This is not an exceptional circumstance within the meaning of s. 15 of MRAC.

[13] The Respondent opposes the Complainant's postponement request, largely based upon the resultant scheduling problems that would arise with the City Assessor. The Board finds it would be unfair to accommodate the Complainant's schedule and not the Respondent's. Accordingly, the hearing shall occur as originally scheduled.

Heard commencing June 29, 2012.

Dated this 29 day of June, 2012, at the City of Edmonton, Alberta.

Lynn Patrick, Presiding Officer

Appearances:

Walid Melham
for the Complainant

Tanya Smith, Legal Counsel
for the Respondent