



ASSESSMENT REVIEW BOARD

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

NOTICE OF DECISION 0098 80/11 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 August 11, 2011 respecting a postponement or adjournment request for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for
2708030	10204 123 Street NW	Plan: RN22 Block: 20 Lot: 11 - 14	\$1,992,000	Annual New	2011
8769754	8931 83 Avenue NW	Plan: 5036S Block: 25 Lot: 28 - 32	\$1,302,500	Annual New	2011

Before:

Ted Sadlowski, Presiding Officer

Board Officer:

Annet Adetunji

Persons Appearing on behalf of Complainant:

No appearance

Persons Appearing on behalf of Respondent:

No appearance

ISSUE

Should a postponement of the 2011 merit hearings scheduled for September 13, 2011 be granted as requested by the Respondent?

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. It is the position of the Respondent that the merit hearings for these roll numbers cannot proceed until the Court makes a final decision in relation to the City's appeal application.

POSITION OF THE COMPLAINANT

The Complainant consents to the postponement of the merit hearings for the above roll numbers due to the fact that the ARB has postponed hearings of other complaints that are affected by the Respondent's court 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 to appeal the ARB decision made on the Roll Numbers presented herein to the Court of Queen's Bench. In accordance with Section 15(1) of MRAC, 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 Respondent's 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 notes that the Complainant agrees to the granting of the postponement request.

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

Date: November 21, 2011
Time: 9:00 am – 4:30 pm
Location: Edmonton

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

Dated this 11th day of August 2011, at the City of Edmonton, in the Province of Alberta.

Ted Sadlowski, 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: Mountain Equipment Co-operative
2792800 Canada Limited