

**TOWN OF GRANDE CACHE
INTER-MUNICIPAL ASSESSMENT REVIEW BOARD
JURISDICTIONAL BOARD ORDER**

CARB – 0131-001/2010

IN THE MATTER OF A COMPLAINT filed with the Town of Grande Cache Composite Assessment Review Board (CARB) pursuant to Part 11 of the Municipal Government Act being Chapter M-26, Revised Statutes of Alberta 2000 (Act).

BETWEEN:

Grande Cache Shoppers Park Ltd. – Complainant

and

Town of Grande Cache – Respondent/ Applicant

BEFORE:

Lana Wood, Presiding Officer

A Jurisdictional Hearing was held on Monday, October 25, 2010 in the Town of Hinton in the Province of Alberta to consider a complaint about the assessment of the following property tax roll number:

Roll #	Address	Assessed Value	Owner
347001	1300 Shoppers' Park Mall	\$2,898,620	Grande Cache Shoppers' Park Ltd.

Appeared on behalf of the Complainant:

- No One Appeared

Appeared on behalf of the Applicant:

- Mr. Al McNaughton

BACKGROUND

On or about September 4, 2009, the Respondent sent a letter with attached forms to the Complainant requesting information pursuant to section 295(1) of the *Municipal Government Act* for the above stated property (a shopping mall).

The Respondent has raised this preliminary matter requesting that this complaint be dismissed pursuant to section 295(4) on the basis that the Complainant failed to provide any information within 60 days from the date of the request.

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PROCEDURAL or JURISDICTIONAL MATTERS

There were no procedural or jurisdictional matters raised by the party during the hearing.

ISSUE

Did the Complainant fail to comply with the assessor's request pursuant to section 295(1) of the *Municipal Government Act*? If so, should the complaint be dismissed?

LEGISLATION

Municipal Government Act, Chapter M-26, R.S.A. 2000

Duty to provide information

295(1) *A person must provide, on request by the assessor, any information necessary for the assessor to prepare an assessment or determine if the property is to be assessed.*

295(4) *No person may make a complaint in the year following the assessment year under section 460 or, in the case of linear property, under section 492(1) about an assessment if the person has failed to provide the information requested under subsection (1) within 60 days from the date of the request.*

RESPONDENT'S POSITION

The Respondent submitted that the property under complaint is a shopping centre located in the Town of Grande Cache. He presented a letter dated September 4, 2009 that was sent to the property owner, requesting information on vacancy levels, rental rates, potential/actual income and operating expenses for all revenue generating properties to be completed within 60 days (Exhibit R1). With this letter, he included a Property Questionnaire, Confidential Expense Statement, and a Confidential Apartment Rental Schedule. The letter also sets out sections 295(1) and (4) of the *Municipal Government Act* that authorizes an assessor to request such information necessary to prepare the assessment and the consequences that occur if the property owner fails to comply with the request (i.e. barring a complaint to be heard on the properties the following year).

The assessor submitted that he tried to reach the property owner, Mr. Garth Woronuk, several times after the letter was sent but was not able to speak with him until February 2010. At that time, the assessor stated that if the information was sent immediately, he would consider it before the assessments were declared at the end of February 2010. The property owner indicated that he would but it was not until the 2010 complaint was filed on July 20, 2010 were the forms completed as attached to the complaint form.

The submitted this is the only shopping centre in the Town of Grande Cache. Other freestanding retail buildings have 2-4 tenants as opposed to the subject property with a cross-section of tenants, approximately 15 tenants with 2 or more units and 3 vacancies. The assessor indicated that he did survey some of the tenants in the shopping centre who readily had income information which assisted him in setting the assessment. The assessor also

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submitted that this property owner has never responded to assessor's requests for information in the past.

Based on the Complainant's failure to comply with the section 295(1) request, the assessor has requested that the Board dismiss the complaint in accordance with section 295(4).

COMPLAINANT'S POSITION

The Complainant failed to attend the hearing and there was no evidence presented to the Board to be considered in his absence on this preliminary matter.

DECISION

The decision of the Board is to dismiss the complaint pursuant to section 295(4) based on the property owner's failure to comply with section 295(1) of the *Municipal Government Act*.

REASONS

The Board is satisfied that the property owner received the letter dated September 4, 2009 from the assessor by the fact that the Complainant attached the completed forms to his complaint which he filed on July 20, 2010.

The Board finds that the letter clearly sets out the assessor's request for information and he also included the necessary forms for the property owner to complete and return to him within 60 days. This was not done in this instance. The Board notes that the assessor did indicate to the Complainant in February 2010 that the information, if provided immediately, would be used and could possibly result in a setting of a new assessment for the subject property. That information was not provided by the Complainant until the filing of his complaint on July 18, 2010. This is not compliance with section 295(1) of the Act in the Board's view.

The assessor indicated that he did clearly identify the consequences to the property owner for failing to comply with the assessor's request for information pursuant to section 295(1) of the *Municipal Government Act* during their conversation. The consequences are clearly identified in section 295(4) of the Act. The Board notes that these sections were also identified in the assessor's letter. He also had his contact information clearly identified on the letter as well so the Board is satisfied that the property owner had that information if there were questions regarding how to complete the forms.

The assessor made reference to the fact that this information is required for the assessors to do a proper job in assessing properties within a municipality. The Board agrees. This information was being requested for revenue producing properties that are assessed based on the income approach to value. The fact that this is the only shopping centre of its kind within this municipality indicates that the market data is quite limited and therefore this information would have been quite useful in preparing the assessment for the subject property.

Moreover, the information is easily obtainable for the property owner as evidenced by the owner attaching the completed forms to his complaint; yet, there was no evidence put forth to this Board by the Complainant as to why he failed to provide such information to the assessor in a timely manner. The Board notes that there has been no communication or documentation from

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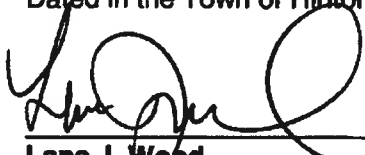
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the property owner to either the assessor or the Clerk of the Assessment Review Board except for the filing of the 2010 complaint for the property.

The Board finds that the property owner's failure to respond to the assessor's request for information in 2009 in a timely manner prevents him from making a complaint for this property in accordance with section 295(4) of the Act in 2010.

As such, the Board dismisses this complaint and the merit hearing scheduled for November 30, 2010 is hereby cancelled.

Dated in the Town of Hinton, in the Province of Alberta, this 1st day of November, 2010.



Lana J. Wood
Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

<u>NO.</u>	<u>ITEM</u>
1. Exhibit R1	Respondent's Evidence Package

APPENDIX "B"

<u>PERSON APPEARING</u>	<u>CAPACITY</u>
1. Mr. Al McNaughton	Town of Grande Cache appointed assessor of Compass Assessment Consultants Inc.