

IN THE MATTER OF ASSESSMENT COMPLAINTS filed with the City of Grande Prairie Assessment Review Board pursuant to Part II of the *Municipal Government Act* (Act) being Chapter M-26 of the Revised Statutes of Alberta 2000.

This is a one member teleconference hearing which took place on July 5, 2011 for the City of Grande Prairie's Assessment Review Board.

Before:

J. Schmidt, Presiding Officer

Recorded Members Participating:

Applicant

Ms. Audrey Cerny, Clerk of the Court, City of Grande Prairie

Ms. Elizabeth Jones, Assessor, City of Grande Prairie

Mr. Scott Smith, Assessor, City of Grande Prairie

Complainant

Mr. Russ Reynolds, Property Owner's Agent

Observer

Mr. D. Woolsey, Municipal Government Board

Property owners and description

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|----|-----------|-----------------|--|
| 1. | H.L. REIT | Roll No. 824540 | Plan 062 0523, Block 2, Lot 10
Pomeroy Inn |
| 2. | H.L. REIT | Roll No. 777690 | Plan 022 5567, Block 1, Lot 6
Holiday Inn |
| 3. | H.L. REIT | Roll No. 749250 | Plan 9823213, Block 1, Lot 2
Best Western Hotel and Tony Roma's |
| 4. | H.L. REIT | Roll No. 798170 | Plan 042 6235, Block 2, Lot 23
Super 8 |

Background Information

- The four properties are entered on the municipal assessment roll under the name H.L. REIT (11710 – 102 Street) Inc. as the assessed person.
- On March 1, 2011 the property assessment notices were mailed with instructions respecting the right to submit a written complaint (Exhibit R3).
- On April 29, 2011, as agent for the assessed person, Altus Group filed assessment complaints against the properties as identified (Exhibit R10).

- On May 2, 2011 the Altus Group received notice from the owner of these properties that they did not wish to engage their services for the appeals (complaints) as filed on April 29, 2011. As a result, Altus Group advised the City of Grande Prairie that the appeals (complaints) for these properties are withdrawn and requested that the complaint application fee be refunded.
- On May 2, 2011, the final day for filing assessment complaints, the property owner filed Assessment Complaints on their own behalf (Exhibit R4).
- Subsequent to the May 2, 2011 filing of the assessment complaints, Mr. Russ Reynolds was retained to act as agent for the assessed person in this case.

This hearing application came forward on grounds the assessment complaints as filed are invalid.

Issue to be Considered

Are the assessment complaints as filed, valid complaints to be scheduled for assessment complaint hearings.

Applicant's Position

The Applicant took the position that the assessed person did not provide all of the information which is required on the regulated assessment complaint form. In support of this position, Exhibits R1 to R13 were submitted identifying, in particular, the requirements of the Act and Regulation thereto. It was argued that if an assessment complaint is to be heard by an Assessment Review Board the complaint form must be completed, including what information shown on an assessment or tax notice is incorrect, the specific issue related to the incorrect information and what the correct information is. None of this information was provided by the Complainant. As a result, the assessor is not able to respond to the complaint. In summation, it was tendered that the complaints, as filed, are invalid and should be dismissed.

Complainant's Position

The Complainant submitted that information supplied to property owners is not sufficient to file the issue and grounds suggested by the Applicant.

When asked if the property owners contacted the assessor to obtain assessment information, the Complainant stated he did not know. It was argued, however, that the assessment disclosure which was provided to Altus Group respecting the initial complaint filing as evidenced under Exhibit R12, should have been available at this hearing. While there was no dispute with the Applicant's submission respecting the Exhibits as entered, in closing the Complainant voiced a concern that property owners are at a disadvantage by not having assessment information available to file a complaint.

Legislation

In deciding this matter the Board must rely on the particular legislative requirement governing property assessment complaints.

Municipal Government Act

460(1) A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.

(5) A complaint may be about any of the following matters, as shown on an assessment or tax notice:

(c) an assessment;

(7) A complainant must

(a) indicate what information shown on an assessment notice or tax notice is incorrect,

(b) explain in what respect that information is incorrect,

(c) indicate what the correct information is, and

(d) identify the requested assessed value, if the complaint relates to an assessment.

467(2) An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 460(7).

Matters Relating to Assessment Complaints Regulation AR 310/2009 (MRAC)

Documents to be filed by a complainant

2(1) If a complaint is to be heard by an assessment review board, the complainant must

(a) complete and file with the clerk a complaint in the form set out in Schedule 1, and

(2) If a complainant does not comply with subsection (1),

(a) the complaint is invalid, and

(b) the assessment review board must dismiss the complaint.

Having given careful consideration to the evidence argument and facts which came forward at this hearing, the findings, reasons for the finding and decision is provided as follows.

Finding

1. The complaint as filed does not comply with s. 460(7) of the Act.
2. The complaint as filed does not comply with the provisions of the regulation assessment complaint form.
3. The complaints as filed are invalid.

Reasons

With respect to property assessment and taxation, the Act seems to anticipate an orderly process of valuing property for municipal tax purposes which includes the right to be heard respecting whether or not the assessed value is correct and has been determined in a fair and equitable

manner. To exercise the right to be heard, each year on receiving an assessment notice, the assessed person may file an assessment complaint by means of a regulated form.

To be scheduled for an assessment complaint hearing, a complainant must comply with the necessary requirements shown on the form. Where the complainant does not comply, the complaint is invalid and an assessment review board must dismiss the complaint.

In this case, the issue to be decided hinges on reviewing the Assessment Review Board Complaint form as filed (Exhibit R4).

In particular, a complaint must be filed within the time required for filing, provide the required filing fee, include required information on or with the form and, in part, a statement that the complainant and respondent have discussed the matters for complaint. The required information includes identifying specific issues related to the incorrect information respecting the assessed value exceeding market value and the grounds in support of these issues.

The Complainant's representative argued that information available to the property owner was not sufficient to file the issues and grounds for these complaints; however, it was conceded that he was not aware if the owner contacted the municipal assessor for information. The assessment notices (Exhibit R3) provided guidance beyond doubt as to the procedure in filing a complaint. The Complainant's argument is not persuasive given the fact that the assessed person had that information available since the mailing of the March 1, 2011 assessment notices and could have easily chosen to obtain the necessary information to file assessment complaints.

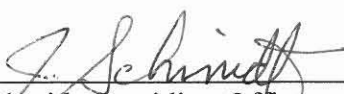
In this case, the evidence supports the fact that no information was provided why the assessed value exceeds the market value of the properties. There was no statement provided by the Complainant that the matters of complaint were discussed between the parties. In the absence of these and other filing requirements, the Applicant's position in this matter is compelling. The Board is therefore satisfied that the complaints as filed do not comply with the provisions of s. 460(7) of the Act or the Regulations thereto.

Decision

The complaints as filed are dismissed.

It is so ordered. No costs.

Dated in the City of Grande Prairie, in the Province of Alberta, this 14th day of July, 2011.



Jack Schmidt, 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.