

**TOWN OF HINTON
INTER-MUNICIPAL ASSESSMENT REVIEW BOARD
JURISDICTIONAL BOARD ORDER**

**CARB – 0151-001/2010
CARB – 0151-002/2010
CARB – 0151-003/2010**

IN THE MATTER OF A COMPLAINT filed with the Town of Hinton 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:

St. Regis Group Inc. – Complainant

and

Town of Hinton –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 complaints about the assessments of the following property tax roll numbers:

Roll #	Address	Assessed Value	Owner
0020000400	112-114 Tamarack Avenue	1,166,640	Aspen Equities Limited
0020000600	144 Tamarack Drive	3,791,940	St. Regis Equities Limited
0050649200	416 Collinge Road	3,260,160	St. Regis Residential Inc.

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 properties (multi-family residential apartments).

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The Respondent has raised this preliminary matter to the Board requesting that these complaints 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.

PROCEDURAL or JURISDICTIONAL MATTERS

At the commencement of the hearing, the Respondent indicated the three complaints be heard together as the evidence and argument pertaining to this property owner was the same. The Board agreed with the Respondent's request.

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 complaints 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 three properties under complaint are multi-family residential apartment buildings located in the Town of Hinton. He presented a letter dated September 4, 2009 that was sent to the property owner for each of the properties, 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 spoke with the property owner, Mr. Guy Maris, on or about September 8, 2009 and advised him that the letters requesting the information had been sent. During that telephone conversation, the assessor testified that he verified the mailing address with the owner and advised the owner to contact him directly if he did not receive the letters. He also advised that the property located at 112- 114 Tamarack Avenue (roll #20000400) which was destroyed by fire in 2008 but was since rebuilt, would be placed back on the assessment roll. The assessor indicated that he had not heard from the property owner since that date. The assessor also submitted that he tried to contact Ms. Elizabeth Simpson who filed the 2010 complaints for these properties but was unable to speak with her.

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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 complaints 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 as there was no evidence provided to the contrary. The Board is also satisfied that the property owner was well aware that the assessor was requesting such information, as the assessor had spoken to the property owner on or about September 8, 2009.

Upon questioning from the Board, 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.

The Board finds that the letter clearly sets out the assessor's request for information and he included the required forms for the property owner to complete and return to him within 60 days. He also had his contact information clearly identified on the letter so the Board is satisfied that the property owner had that information as well if there were questions regarding how to complete the forms. The Board finds that the Complainant failed to provide such information in this instance.

In his closing statements, the assessor made reference to the fact that this information is necessary 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 information is easily obtainable for the property owner and there was no evidence put forth to this Board by the Complainant as to why he failed to provide such information to the assessor. The Board notes that there has been no communication or documentation from the property owner to either the assessor or the Clerk of the Assessment Review Board except for the filing of the 2010 complaints for the three properties.

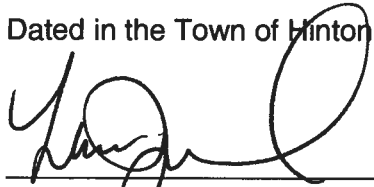
The Board finds that the property owner's failure to respond to the assessor's request for information in 2009 prevents him from making complaints for these three properties in accordance with section 295(4).

As such, the Board dismisses these complaints and the merit hearings scheduled for November 24, 2010 are hereby cancelled.

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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:

NO.

ITEM:

- | | |
|---------------|---|
| 1. Exhibit R1 | Evidence Package for Respondent |
| 2. Exhibit R2 | Letters dated July 10, 2010 attached to complaint forms |

APPENDIX “B”

PERSON APPEARING:

CAPACITY:

- | | |
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| 1. Al McNaughton | Town of Hinton’s appointed assessor of Compass
Assessment Consultants Inc. |
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