

**TOWN OF HINTON COMPOSITE ASSESSMENT REVIEW BOARD
NO. 0151 001/2011**

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

BETWEEN:

1184720 Alberta Ltd.- Complainant

-and-

Town of Hinton – Respondent

BEFORE:

L. Patrick, Presiding Officer

PRESENT:

For the Complainant:

No one appeared on behalf of the Complainant

For the Respondent:

W. Powers, Powers & Associates, Town of Hinton Assessor

Also Present: R. West, CARB Clerk

This is a preliminary matter concerning a complaint to the Town of Hinton Composite Assessment Review Board in respect of property assessment prepared by the Assessor appointed by the Town of Hinton and entered in the 2011 Assessment roll as follows:

ROLL NUMBER:	0090600200
HEARING NUMBER:	CARB 0151-001/2011
LEGAL DESCRIPTION	5-25-51-13-NE
ASSESSMENT	\$3,570,000

This Preliminary Hearing was heard on the 22nd day of September, 2011 at Hinton Alberta in the council chambers.

OVERVIEW

This Preliminary Hearing was convened by the CARB at the request of the Town of Hinton and concerns a complaint made by Altus Group, agent for the Complainant respecting the assessment for the tax year 2011 of the subject property. Section 295(1) of the Act allows the assessor for the Town of Hinton to request information necessary to prepare an assessment or to determine if a property is to be assessed. The request must be complied with within a specified time period and, if it is not, section 295(4) of the Act bars a complaint against the assessment in the following year, resulting in the loss of the complaint right. The hearing was conducted by a CARB consisting of only one member as provided in section 36(2)(c) of MRAC.

BACKGROUND

1184720 Alberta Ltd is the owner of the subject property which contains a hotel. The Respondent sent the Complainant an information request (RFI) pursuant to section 295(1) of the Act on September 13, 2010, addressed to 600 – 185 Carlton Street, Winnipeg Manitoba which is the address on the certificate of title and the Town of Hinton tax roll for the subject property. The RFI consisted of a letter from the assessor for the Town of Hinton and included an extract of section 295 of the Act and a 3 page form providing detail of the information requested. Both the letter and the extract of section 295 provided reference to the requirement to respond within 60 days from the date of the request. The Notice of Assessment of the subject property was sent to the Complainant on May 27, 2011 and the Complaint in this matter was received on July 15, 2011. The merit hearing for the complaint was set for November 14, 2011 and notice of that hearing was sent by the CARB clerk to the parties. In the case of the Complainant notice was sent to the agent Altus Group at its address for service in Calgary Alberta. By letter dated July 20, 2011 the assessor for the town of Hinton notified the CARB clerk that a preliminary matter existed regarding the complaint and requested that the CARB hold a preliminary hearing in respect of a matter regarding the lack of response to the RFI of September 13, 2010.

ISSUES

1. Did the Complainant comply with the request?
2. Was the requested information necessary to prepare the assessment?

LEGISLATION

295 1) A person must provide, on request by the assessor, any information necessary for the assessor to prepare an assessment or determine if property is to be assessed.
(2) An agency accredited under the Safety Codes Act must release, on request by the assessor, information or documents respecting a permit issued under the Safety Codes Act .
(3) An assessor may request information or documents under subsection (2) only in respect of a property within the municipality for which the assessor is preparing an assessment.

(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.

SUMMARY OF THE RESPONDENT'S POSITION

The Respondent provided documentary evidence that the request had been made by the assessor pursuant to section 295(1), that the purpose of the request was clear and unequivocal and the consequences of failure to comply were highlighted and thus identified. The Respondent noted that the assessment is done on an income basis thus justifying the need for income information respecting the property. The property is a hotel and accordingly the assessor identified income, expenses room rates and occupancy rates for the 3 most current years and the assessor noted he is mandated to ensure the assessment is fair and equitable compared to other hotel properties. The assessor gave oral evidence that the RFI was mailed to the address on the Tax Roll which is the same address that appears on the certificate of title in evidence. No response or inquiry was made to the assessor as a result of the RFI having been made. No return of undelivered mail occurred in respect to the RFI. The assessor advised the hearing that RFIs made in 2007, 2008 and 2009 had not been responded to although taxes had been paid as have the current taxes levied.

On the basis that the information was necessary and that no response to the RFI was forthcoming within the time required or at all and that the legislation in such case provides that no person may make a complaint in the year following then the Respondent asks that the CARB declare that the complaint is invalid.

SUMMARY OF THE COMPLAINANT'S POSITION

Neither the Complainant nor its agent were in attendance at the hearing and no written submissions were received.

FINDINGS

Upon hearing and considering the representations and the evidence shown on Appendix A, and upon having read and considered the documents shown on Appendix B, the CARB makes the following findings:

1. The information was necessary to prepare the assessment.
2. The Complainant did receive the RFI and did not comply with the request.

DECISION

The Complainant has failed to comply with a valid request for information pursuant to section 295(1) and has by virtue of section 295(4) lost the right to make a complaint of the assessment for the tax year 2011. The complaint made by the Complainant dated July 15, 2011 is therefore invalid and is dismissed.

REASONS:

Based upon the evidence presented, the request for information was clear and complete and that it had been duly sent to the Complainant at the address supplied by the Complainant for tax roll purposes.

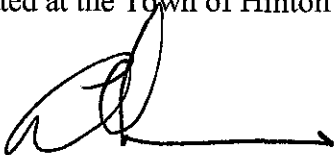
The assessor is obligated by the legislation to assess individual properties using mass appraisal. In carrying out the obligation the assessor is required to amass a data base from which typical data is determined. The assessment must be based upon market value under typical market conditions. The legislation requires that the valuation standard is market value.

The absence of information impairs the creation of a useful data base to determine typical market conditions. The correctness and fairness of assessments on individual properties will be driven by the amount of information that owners provide to the data base. It is important that the functioning of the mass appraisal system be not compromised. As such the right to a complaint for the 2011 tax year has been lost and the complaint is dismissed and the merit hearing scheduled for November 14, 2011 is cancelled.

No costs to either party.

It is so ordered.

Dated at the Town of Hinton in the Province of Alberta, this 30th day of September 2011.

A handwritten signature in black ink, appearing to be 'L. Patrick', written over a horizontal line.

L. Patrick, Presiding Officer

APPENDIX A

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

Exhibit 1A	Assessor submissions containing request letter, certificate of title and request for preliminary hearing.
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APPENDIX B

PERSONS APPEARING AND GIVING EVIDENCE HEARD BY THE CARB

1. Warren Powers	Assessor, Town of Hinton
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