

**TOWN OF HINTON COMPOSITE ASSESSMENT REVIEW BOARD
NO. 0151 002/2011**

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:

Altamart Investments (1993) Ltd.- Complainant

-and-

Town of Hinton – Respondent

BEFORE:

L. Patrick, Presiding Officer

PRESENT:

For the Complainant:

S. Gavigan, Vice President, Finance 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:

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|-------------------|----------------------------|
| ROLL NUMBER: | 80909400 |
| HEARING NUMBER: | CARB 0151-002/2011 |
| LEGAL DESCRIPTION | Plan 0740042 Block 3 Lot 1 |
| ASSESSMENT | \$8,007,000 |

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 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

Altamart Investments (1993) Ltd is the owner of the subject property which contains an IGA Supermarket outlet and a Shoppers' Drug outlet. The Respondent sent the Complainant an information request (RFI) pursuant to section 295(1) of the Act on September 13, 2010, addressed to 9020 90 Street Peace River, Alberta 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 19, 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. 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 multi-tenanted and the assessor noted he is mandated to ensure the assessment is fair and equitable compared to other multi-tenanted 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.

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

The Complainant took the position that either the request for information was not received by the Complainant or in any event that the information requested was not necessary for the assessor to prepare the assessment. The Complainant advised the hearing panel that part of the corporate office that had been located in Peace River Alberta had been re-located about the time of the RFI mailing and in may have gone astray during some concurrent renovations. The Peace River office remains the office to receive all property assessment matters relative to Alberta locations including the subject property. There were experienced staff at that office at the time and they were familiar with such requests for information, the time limits for response and the consequences of not responding to a properly made request. In every case respecting the 15 locations in the Province tax assessments and notices and RFIs have been received and dealt with without incidence thus leaving the Complainant with the conclusion that the RFI in question was not received. The complainant noted that there had been no follow up reminder from the assessor or the Respondent and the Complainant had not been alerted to the matter until notice of this preliminary hearing had been received.

The Complainant further submitted that inasmuch as the assessment had been performed without that further information for one year was evidence that the information was not necessary within the meaning of the Act.

The Complainant requested that the CARB reject the request by the Respondent to dismiss the complaint on the grounds that the information was not necessary or in the alternative that the request for information had not been received by the Complainant.

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 Complainant's position that it must not have been delivered was not supported by any documented evidence nor by any staff member of the Complainant's office delegated to attend to these matters. The comment that there was an office re-location and renovation taking place at that time is not a sufficient occurrence to support the contention that it was not received. The Complainant is a substantial property owner and operates a large business entity and has indicated that there were well established office procedures for such matters regardless of the other activities. The Complainant acknowledged it had not responded to the request. If a clerical error occurred that is not grounds to justify the lack of response.

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:

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| 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

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|------------------|-----------------------------------|
| 1. Warren Powers | Assessor, Town of Hinton |
| 2. Shawn Gavigan | Vice President of the Complainant |