



**ASSESSMENT REVIEW BOARD  
JURISDICTIONAL BOARD ORDER**

**CARB - 0203-0001/2012**

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

**BETWEEN:**

1291746 Alberta Inc. - Complainant

- a n d -

City of Lethbridge - Respondent

**BEFORE:**

Members:

Tom Hudson, Presiding Officer

A Jurisdictional Hearing was held on April 19, 2012 in the City of Lethbridge in the Province of Alberta; to consider the jurisdiction of the CARB to hear the complaint about the assessment of the following property tax roll number:

Roll No./ Property identifier	Assessed value	Owner
2-0-240-2641-0100 Plan 1013803 Lot 61	\$1,667,900	1291746 Alberta Inc.

Appeared on behalf of the Complainant:

- Terry Collier, Gardens at West Highlands

Appeared on behalf of the Respondent:

- Lance Wehlage, City of Lethbridge

**PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

**The subject property is a multi-family development accommodating senior citizens and known as the “the Gardens at West Highlands”; and located at 2641 Garry Drive West.**

**PART B: PROCEDURAL or JURISDICTIONAL MATTERS**

The CARB derives its authority to make decisions under Part 11 of the Act. The hearing was convened to determine if the subject property assessment complaint was filed after the deadline, and, if the complaint should be dismissed prior to merit hearing.

There is no dispute between the parties that the assessment complaint was in fact filed two days (i.e. March 29, 2012), after the filing deadline of March 27, 2012.



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The respondent took the position that the assessment complaint should be dismissed without a merit hearing because of the late submission.

The representative of the complainant requested that the assessment complaint be allowed to proceed to a merit hearing, because the late filing was due, at least in part, to his need to attend to a significant family health issue.

**PART C: CARB FINDINGS**

The CARB considered the complaint form, together with the representations and materials submitted by the parties.

The representative of the complainant submitted letters dated April 11 and April 12, 2012 and an email also dated April 12, 2012, sent to the Clerk for the Lethbridge Assessment Review Board (ARB). See Exhibits marked C1.

The correspondence, authored by the representative of the complainant, describes the family health issue which required prolonged absence from both his job and the community; during the period of time allowed for the filing of property assessment complaints in Lethbridge. However, he also acknowledged that he was aware of the March 27, 2012 filing deadline, and that he could have, and should have, made contact with the respondent or the Clerk for the ARB, before the deadline had passed.

The respondent submitted considerable materials with respect to the Act and Regulations, as well as previous tribunal decisions with respect to late filing of complaints. See Exhibits marked R1.

Based on these considerations the CARB finds as follows:

1. The 2012 Property Assessment Notice was mailed by the City of Lethbridge to the Complainant on January 27, 2012.
2. The City of Lethbridge established March 27, 2012, being sixty days after the notice, as the deadline for receipt of assessment complaint applications. This action is in compliance with Section 309(1) (c) of the Act.
3. The Act further directs in Section 467 (2) that "an assessment review board must dismiss a complaint that was not made within the proper time".
4. If the Lethbridge ARB and/or Assessment Department had been made aware of the difficult circumstances being experienced by the representative for the complainant before the deadline for filing had passed, it seems likely that the complaint could have been accepted. However, Section 309(1)(c) and Section 467(2) of the Act require compliance with the deadline for filing of complaint applications; and do not provide the CARB any discretion to waive or modify the timeframe.



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**PART D: FINAL DISPOSITION OF THE COMPLAINT**

**In view of the findings, it is the decision of the CARB that the Complaint be dismissed because the complainant failed to file the complaint application within the lawful time frame specified by the City of Lethbridge, and further, because the Act does not allow the CARB to waive or modify the time frame.**

It is so ordered.

Dated at the City of *Lethbridge* in the Province of Alberta, this 16<sup>th</sup> day of May, 2012

A handwritten signature in black ink, appearing to read "M. Hudson", written over a horizontal line.

Presiding Officer



**CARB - 0203-0001/2012**

NO.	ITEM
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- | <b><u>PERSON APPEARING</u></b> | <b><u>CAPACITY</u></b> |
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