

**OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/02/2010-J**

**IN THE MATTER OF A COMPLAINT** filed with the Town of Okotoks Composite Assessment Review Board (CARB) pursuant to the *Municipal Government Act (Act)*, Chapter M-26.1, Section 460(4).

**BETWEEN:**

Home Depot Holdings Inc., Complainant

and

The Town of Okotoks, Respondent

**BEFORE:**

R. Irwin, Presiding Officer  
D. Howard, Member  
D. Rasmussen, Member

This is a complaint to the Assessment Review Board in respect of property assessment prepared by the Assessor and entered in the 2010 Assessment Roll as follows:

<b>Roll Number</b>	<b>Address</b>	<b>Assessment</b>
<b>Roll Number: 0094110</b>	<b>101 Southbank Boulevard</b>	<b>\$11,501,000</b>

This complaint was set to be heard on the 15<sup>th</sup> day of October, 2010 at the Town of Okotoks Council Chambers at 5 Elizabeth Street, Okotoks, Alberta.

Appearing on behalf of the Complainant:

- AEC International (Agent for the Complainant) – A. Kiegler
- AEC International (Agent for the Complainant) – B. Soulier

Appearing on behalf of the Respondent:

- P. Huskinson, Assessor – Town of Okotoks

**Preliminary Matters:**

The Claimant requested a postponement of the hearing. The Complainant claimed that they had not received the Respondent's Evidence in the time set out in the Act and advised that this was due to limitations in the Complainant's email systems. The Respondent stated that they believed they had complied as they had complied and sent

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the evidence to the email address supplied by the Complainant and that they wished to proceed.

### **BOARD'S FINDINGS:**

The Board considered the Complainant's statement that they knew their system could not handle large email. The Complainant stated that they had not advised the Respondent that AEC International could not receive large email packages. The Complainant disclosed that there had been email communications with the Respondent both before and after the evidence package had been sent.

### **BOARD'S DECISION:**

The Board agreed that it appeared that the Respondent had attempted in good faith to exchange the evidence package in compliance with the legislation regarding disclosure by sending the evidence package to the Complainant prior to the deadline.

The Board also agreed that the inability of AEC International to receive the transmission is an AEC problem and the onus is on AEC International to resolve the issue. In addition, this issue of "electronic disclosure not being received" will be brought to the attention of the Municipal Government Board in order to ensure this action does not continue or become an abuse of the complaint procedure.

The Board was set to hear the Complainant's evidence and argument on October 15, 2010 but decided to postpone the hearing until November 2, 2010 at 9 a.m. in order to be fair to the taxpayer.

In accordance with The Municipal Government Act Section 465(1) (b) "when in the opinion of an assessment review board...the production of a document or thing is required..." the Board requested written submissions from both parties in reference to the Board considering applying for costs from the Complainant for the hearing delay. This includes costs of staff and facilities, as well as travel and accommodation expenses incurred by the assigned Board members. This is described in the Municipal Government Act in Section 468.1. "a composite assessment review board may, or in the circumstances set out in the regulation must, order that costs of and incidental to any hearing before it be paid by one or more of the parties in the amount specified in the regulations."

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The Board requests that both parties outline the timelines regarding exchange of correspondence that occurred and/or should have occurred since the inception of this complaint.

Both parties were directed to submit the written submissions on or before November 1, 2010.

Dated at the Town of Okotoks in the Province of Alberta, this <sup>th</sup> 27 day of October, 2010.

(for)   
\_\_\_\_\_  
R. Irwin  
Presiding Officer

*An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.*

*Any of the following may appeal the decision of an assessment review board:*

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

*An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to*

- (a) the assessment review board, and*
- (b) any other persons as the judge directs.*