

NOTICE OF DECISION NO. 0349 001/2010

**WHEATLAND COUNTY
COMPOSITE ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act* (Act), Chapter M.26, Section 460(4).

Between

1351043 Alberta Ltd. Wandering Rose Developments, Complainant

and

Wheatland County, Respondent

Before

Lillian Lundgren, Presiding Officer

A preliminary hearing was held on September 23, 2010 at the Wheatland County office with respect to the following:

Roll Number 3598100

Appeared on behalf of the Complainant:

- E.L. Sonmor, Agent

Appeared on behalf of the Respondent:

- D. Klem, Senior Assessor
- J. Deak, Clerk of the Assessment Review Board
- M. Desaulniers, Observer
- J. Laslo, Observer

Legislation

Municipal Government Act (Act)

309(1) An assessment notice or an amended assessment notice must show the following:

- (c) the date by which a complaint must be made, which date must be 60 days after the assessment notice or amended assessment notice is sent to the assessed person;*

481(1) Subject to the regulations made pursuant to section 484.1(q), the council may set fees payable by persons wishing to make complaints or to be involved as a party or intervenor in a hearing before an assessment review board and for obtaining copies of an assessment review board's decisions and other documents.

(2) If the assessment review board makes a decision in favour of the complainant, the fees paid by the complainant under subsection (1) must be refunded.

(3) If

(a) the assessment review board makes a decision that is not in favour of the complainant, and

(b) on appeal, the Court of Queen's Bench makes a decision in favour of the complainant;

the fees paid by the complainant under subsection (1) must be refunded.

Matters Relating to Assessment Complaints Regulation (MRAC)

2(1) If a complaint is to be heard by an assessment review board, the complainant must

(a) complete and file with the clerk a complaint in the form set out in Schedule 1, and

(b) pay the appropriate complaint fee set out in Schedule 2 at the time the complaint is filed if, in accordance with section 481 of the Act, a fee is required by the council.

(2) If a complainant does not comply with subsection (1),

(a) the complaint is invalid, and

(b) the assessment review board must dismiss the complaint.

Background

The final date for complaint was June 30, 2010 and the complaint was received by Wheatland County on July 14, 2010 with no appeal fee enclosed. The Respondent Municipality, Wheatland County, requested an administrative hearing to determine the validity of the complaint.

Issue

Was the complaint filed in accordance with sections 309 and 481 of the Act?

Complainant's Position

The Complainant agreed that the complaint was filed after June 30, 2010 with no fee enclosed. The Complainant explained that he was very busy with business operations and farming activities which may have contributed to the late filing of the complaint.

Respondent's Position

The Respondent requests that this complaint be deemed invalid because the complaint was not received until July 14, 2010, well after the final date for complaint. The Property Assessment and

Tax Notices were mailed on April 16, 2010 indicating June 30, 2010 as the final date for complaint. The Respondent argued that the Complainant had more than 60 days after the assessment notice was sent to file a complaint. Further, no complaint fee was paid at the time of the complaint. In this case, the complaint fee is \$100.00 based on the fee schedule required by Wheatland County Council. The Respondent requests the Composite Assessment Review Board to dismiss the complaint according to MRAC 2(2) (a) and (b).

Decision

The complaint is invalid and the complaint is dismissed.

Reasons

Section 309 of the Act deals with the contents of the assessment notice, and the Board is satisfied that Wheatland County met the legislative requirement to identify the final date for complaint on the front of the Property Assessment and Tax Notice. Following the April 16, 2010 mailing of the assessment and tax notice, the assessed person had approximately 74 days to file a complaint, which in the Board's view is ample time to file a complaint. Nevertheless, the complaint was filed after the deadline for complaint.

Section 481 of the Act enables the municipality to set fees payable by persons wishing to make complaints. The Complainant failed to file the complaint fee required by Wheatland County.

Accordingly, the Board finds that the complainant did not comply with sections 309 and 481 of the Act and the complaint must be dismissed pursuant to section 2(2) of MRAC.

No costs to either party.

Dated this 29th day of September, 2010.

COMPOSITE ASSESSMENT REVIEW BOARD

(SGD.) Lillian Lundgren, Presiding Officer

cc: Composite Assessment Review Board, Wheatland County

This Decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470 of the Municipal Government Act, R.S.A. 2000, c.M-26. This section requires an application for leave to be filed with the Court of Queen's Bench within 30 days of receipt of this decision.