

Edmonton Composite Assessment Review Board

Citation: THE TURKISH-CANADIAN SOCIETY v The City of Edmonton, 2012 ECARB 2401

Assessment Roll Number: 9998985
Municipal Address: 15450 105 AVENUE NW
Assessment Year: 2012
Assessment Type: Annual Revised

Between:

THE TURKISH-CANADIAN SOCIETY

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Lynn Patrick, Presiding Officer
Brian Carbol, Board Member
John Braim, Board Member

Preliminary Matters

[1] Upon commencement of the hearing the Respondent raised a preliminary matter relating to the lack of disclosure of any evidence by the Complainant, and also objected to the acceptance of a letter from the Complainant's solicitor that was not disclosed within the disclosure deadline.

Background

[2] The subject property is a community hall located at 15450 105 Avenue NW owned by the Turkish-Canadian Society, a non-profit organization.

Issue(s)

[3] Is the subject property exempt from taxation?

[4] Is the assessment of the subject property fair and equitable?

Legislation

[5] The Municipal Government Act reads:

Municipal Government Act, RSA 2000, c M-26

s 1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

s 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

s 467(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

a) the valuation and other standards set out in the regulations,

b) the procedures set out in the regulations, and

c) the assessments of similar property or businesses in the same municipality.

Matters Relating to Assessment Complaints Regulation, AR 310/2009

s 8(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 42 days before the hearing date,

(i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

s 9(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

Position of the Complainant

[6] The Complainant acknowledged that it did not provide any disclosure of evidence.

[7] The Complainant indicated that the society was struck off the Corporate Registry’s active list for failing to file required annual returns.

[8] The Complainant during oral submission stated that the property continues to be used for religious purposes, and is available to other communities at no charge, as well as to the public.

[9] The Complainant requested that the subject property be exempt from taxation, and also requested a reduction of the 2012 assessment to \$850,000.

Position of the Respondent

[10] The Respondent stated that no evidence had been disclosed by the Complainant to support either the request for exemption or the requested assessment amount. The Respondent submitted that the Board is precluded from hearing any evidence not disclosed pursuant to ss 8(2)(a)(i) and 9(2) of *Matters Relating to Assessment Complaints Regulation* (MRAC).

Accordingly, the Respondent elected not to present any evidence and instead requested the Board to dismiss the complaint.

Decision

[11] The complaint is dismissed and the property assessment is confirmed at \$1,017,500.

Reasons for the Decision

[12] The Board finds that the Complainant failed to comply with s 8(2) of MRAC by not providing disclosure within the legislated deadlines, and that the Board is precluded from accepting any evidence that was not disclosed pursuant to s 9(2) of MRAC.

[13] The Board accepts the Respondent's submission that the Complainant has no legal status to qualify for exemption, as it has been struck off the Corporate Registry active list, for failing to file required annual returns.

[14] The Board finds that the Complainant has not provided any evidence to support its request either for a reduction in the assessment of the subject property, or for an exemption from property taxation.

Dissenting Opinion

[15] There was no dissenting opinion.

Heard commencing December 10, 2012.

Dated this 13th day of December, 2012, at the City of Edmonton, Alberta.

Lynn Patrick, Presiding Officer

Appearances:

Robert Ergil
for the Complainant

Karin Lemke
Steve Lutes
for the Respondent

This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, RSA 2000, c M-26.