

## **Edmonton Composite Assessment Review Board**

**Citation: Ernest Blasette v The City of Edmonton, 2013 ECARB 00045**

**Assessment Roll Number:** 1122993  
**Municipal Address:** 2461 76 Avenue NW  
**Assessment Year:** 2013  
**Assessment Type:** Annual New

Between:

**Ernest Blasette**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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**DECISION OF**  
**Lynn Patrick, Presiding Officer**  
**Brian Hetherington, Board Member**  
**Lillian Lundgren, Board Member**

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### **Preliminary Matters**

[1] When asked by the Presiding Officer, the parties did not object to the composition of the Board. In addition, the Board Members indicated no bias in the matters before them.

[2] The Respondent requested that the Board dismiss the complaint on the basis that the Complainant failed to comply with s. 8(2)(a)(i) of the *Matters Relating to Assessment Complaints Regulation*, Alta Reg 310/2009 (MRAC). The Complainant failed to disclose evidence that he intended to present at the hearing, thereby invoking s. 9(2) of MRAC, and prohibiting the Board from considering any evidence not disclosed in accordance with the regulation.

[3] The Respondent further argued that the complaint form as submitted is defective since the Complainant omitted matters required to be addressed in Section 5 of the form pursuant to s. 460(7) of the *Municipal Government Act*, RSA 2000, c M-26 (MGA). The Respondent argued that pursuant to s. 9(1) of MRAC the Board could not hear any matter not properly identified on the complaint form.

### **Background**

[4] The subject property of this complaint is an industrial property located at 2461 76 Avenue NW in the City of Edmonton. The subject is adjacent to another parcel of land bearing the same address, which is the subject of a complaint on a separate Roll No., being 1122977. The parties noted the issues and the Preliminary matters are the same for both complaints and that the submissions of the parties would be carried forward to this complaint.

## **Issues:**

- [5]     1. Did the Complainant fail to provide disclosure of evidence as required by MRAC?
2. Did the Complainant fail to complete the complainant form as required by the MGA?

## **Legislation**

- [6]     **The *Municipal Government Act*, RSA 2000, c M-26, reads:**

s 460(7) A complainant must

- (a) indicate what information shown on an assessment notice or tax notice is incorrect,
- (b) explain in what respect that information is incorrect,
- (c) indicate what the correct information is, and
- (d) identify the requested assessed value, if the complaint relates to an assessment.

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.

- [7]     **The *Matters Relating to Assessment Complaints Regulation*, Alta Reg 310/2009 reads:**

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(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

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**

- [8]     The Complainant acknowledged that the only document that had been filed in this matter was the Complaint Form and that it was intended that the Complainant would rely upon that form and copies of materials to be submitted to the Board by the Respondent in support of the complaint.

### **Position of the Respondent**

[9] The Respondent submitted that the Complainant's lack of disclosure of evidence as required by s. 8(2)(a)(i) of MRAC, results in the application of the provisions of s. 9(2) of MRAC. That section directs that the Board must not hear any evidence that has not been properly disclosed. The Respondent indicated it would not provide consent to abridge the disclosure period. The result is that there would be no evidence before the Board to support the matters being complained of and therefore the complaint ought to be dismissed. The Respondent did not submit any evidence in respect to the matters under complaint.

[10] In respect to issue number two, the Respondent noted that an allowance requested by the Complainant in the complaint form with respect to power line and pipe line crossings of the subject is not quantified nor is the requested assessment amount identified in Section 5 of the complaint form.

### **Decision**

[11] The Complaint is dismissed.

### **Reasons for the Decision**

[12] The Complainant failed to provide disclosure of evidence and argument as required by s. 8(2)(a)(i) MRAC. Accordingly, the provisions of s. 9(2) of MRAC applied, and the Board could not hear any evidence that was not disclosed. Having no evidence before it, nor any consent to abridge the time and allow the Complainant to present materials on hand at the hearing, the Board dismissed the complaint.

[13] The disclosure process has been developed in the legislation to ensure that each party has a clear understanding of the case they will face. The consequences of non-disclosure are harsh, but also unavoidable.

[14] Since the complaint has been dismissed for a lack of disclosure, the Board determined it was not necessary to consider the second issue respecting the insufficiency of the complaint form.

### **Dissenting Opinion**

[15] There was no dissenting opinion.

Heard commencing May 6, 2013.

Dated this 16<sup>th</sup> day of May, 2013, at the City of Edmonton, Alberta.

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Lynn Patrick, Presiding Officer

### **Appearances:**

Ernest Blasette

Raymond Blasette

for the Complainant

Aaron Steblyk

Joel Schmaus

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.*