

Edmonton Composite Assessment Review Board

**Citation: Brenda MacFarland Property Tax Consulting v The City of Edmonton, 2013
ECARB 00821**

Assessment Roll Number: 9998418
Municipal Address: 10004 Ellerslie Road SW
Assessment Year: 2013
Assessment Type: Annual New

Between:

Brenda MacFarland Property Tax Consulting

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

POSTPONEMENT DECISION OF Robert Mowbrey, Presiding Officer

Issue

[1] Should a postponement of the 2013 Annual New Realty Assessment hearing scheduled for June 26, 2013 be granted as requested by the Complainant?

Legislation

[2] The *Matters Relating to Assessment Complaints Regulation*, AR 310/2009 reads:

15(1) Except in exceptional circumstances as determined by an assessment review board, an assessment review board may not grant a postponement or adjournment of a hearing.

(2) A request for a postponement or an adjournment must be in writing and contain reasons for the postponement or adjournment, as the case may be.

(3) Subject to the timelines specified in section 468 of the Act, if an assessment review board grants a postponement or adjournment of a hearing, the assessment review board must schedule the date, time and location for the hearing at the time the postponement or adjournment is granted.

Position Of The Complainant

[3] The Complainant has requested a change in dates due to the unavailability of the Complainant and the Complainant's witness on the date scheduled for the hearing.

Position Of The Respondent

[4] The Respondent has agreed to the request and both parties have agreed that the hearing should be rescheduled to July 4, 2013 as this date would suit both parties.

Decision

[5] The Board grants the postponement request.

[6] The hearing is rescheduled to:

Date: **July 4, 2013**

Time: **9 A.M. to 12 P.M.**

Location: Edmonton Assessment Review Board Offices

Disclosure of Complainant's Evidence: **May 14, 2013**

Disclosure of Respondent's Evidence: **June 11, 2013**

Disclosure of Complainant's Rebuttal Evidence: **June 18, 2013**

[7] No new notice of the postponed hearing will be sent.

Reasons For The Decision

[8] In *City of Edmonton v. Edmonton (Assessment Review Board)*, 2010 ABQB 634, at paragraph 43, Justice Germain, providing guidance on the interpretation of section 15 of the *Matters Relating to Assessment Complaints Regulation* (MRAC, quoted above), stated at paragraph 43:

[43] The *Regulation* must therefore be interpreted in such a way that the definition of exceptional circumstances cannot be so narrow and restrictive as to prevent hearings that are fair to both litigants.

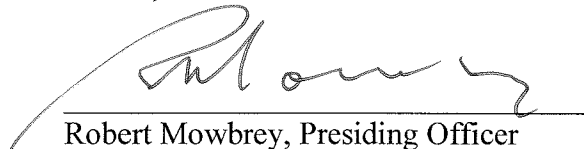
Justice Germain continued at paragraph 44:

[44]...if the currently scheduled hearing date does not allow a party sufficient time to prepare, that must be an exceptional circumstance as the failure to grant an adjournment could result in a miscarriage of justice.

The Complainant has indicated that the date of the hearing is available to the Complainant and the Complainant's witness and therefore requests a postponement. The Respondent agrees with this request. The Board therefore finds that this is an exceptional circumstance under section 15 of MRAC, and grants the postponement.

Heard commencing April 23, 2013.

Dated this 23rd day of April, 2013, at the City of Edmonton, Alberta.


Robert Mowbrey, Presiding Officer

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.