

## Edmonton Composite Assessment Review Board

**Citation: Hernan Martinez v The City of Edmonton, 2013 ECARB 01175**

**Assessment Roll Number:** 2765808

**Municipal Address:** 11437 124 STREET NW

**Assessment Year:** 2013

**Assessment Type:** Annual New

Between:

**Hernan Martinez**

Complainant

and

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

Respondent

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### DECISION OF

**John Noonan, Presiding Officer**

**Darryl Menzak, Board Member**

**Lillian Lundgren, Board Member**

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### **Procedural Matters**

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

### **Preliminary Matters**

[2] The Complainant did not appear at the hearing. The Board determined that notification of the hearing had been properly given to the Complainant and no request for a postponement was received. As well, there was no indication from the Complainant on the complaint form that he would not be in attendance at the hearing. The Board proceeded to hear the matter in accordance with section 463 of the *Municipal Government Act*.

[3] The Complainant failed to disclose his evidence in accordance with the *Matters Relating To Assessment Complaints Regulation* section 8(2). As a result, the Respondent requested the Board to dismiss the complaint.

### **Issue(s):**

1. Should the hearing proceed in the absence of the Complainant?
2. Should the complaint be dismissed?

## **Legislation**

### **The *Municipal Government Act*, RSA 2000, c M-26, reads:**

s 463 If any person who is given notice of the hearing does not attend, the assessment review board must proceed to deal with the complaint if

- (a) all persons required to be notified were given notice of the hearing, and
- (b) no request for a postponement or an adjournment was received by the board or, if a request was received, no postponement or adjournment was granted by the board.

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### **The *Matters Relating To Assessment Complaints Regulation*, AR 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, and
  - (ii) provide to the respondent and the composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence.

## **Position of the Complainant**

[4] The Complainant did not appear and did not disclose any evidence to the Respondent or the Board. The complaint form identified problems with respect to vacancy and the condition of the roof; however, no evidence was submitted in support of these issues.

## **Position of the Respondent**

[5] The Respondent declined to present any evidence and requested that the complaint be dismissed on the basis that there was no evidence before the Board that could be considered by the Board in respect to the question of the correctness of the assessment.

## **Decision**

[6] The complaint is dismissed.

### **Reasons for the Decision**

[7] A hearing must proceed before a Board in the absence of a party pursuant to the provisions of section 463 of the Municipal Government Act, which requires that notice has been given and no adjournment request has been made.

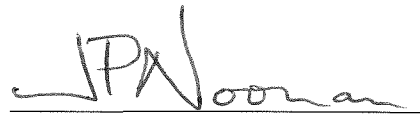
[8] The Board granted the Respondent's request to dismiss the complaint because the onus was not met. In a complaint such as this, the Complainant has the responsibility to provide enough evidence to convince the Board that the complaint has merit. The Board finds that the Complainant did not meet the initial burden of proof because the Complainant did not provide any evidence.

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[9] The property assessment is confirmed at \$527,500.

Heard July 22, 2013.

Dated this 22<sup>nd</sup> day of July, 2013, at the City of Edmonton, Alberta.

  
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John Noonan, Presiding Officer

### **Appearances:**

Did not appear  
for the Complainant

Tim Dueck  
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.*