

Edmonton Composite Assessment Review Board

**Citation: Robert James Dawe, Mammoth Properties Inc v The City of Edmonton, 2013
ECARB 01190**

Assessment Roll Number: 3688504

Municipal Address: 9664 106 Avenue NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

Robert James Dawe, Mammoth Properties Inc

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

George Zaharia, Presiding Officer

Judy Shewchuk, Board Member

Randy Townsend, Board Member

Procedural 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 matter before them.

Preliminary Matters

[2] At the commencement of the hearing, the Respondent advised the Board that the Complainant's deadline for submitting his disclosure was July 29, 2013; however the disclosure was not filed with both the Assessment Branch and the Assessment Review Board administration until August 9th, 2013.

[3] The Respondent referred the Board to regulations that govern the submitting of disclosures in a timely manner, and the consequences for not adhering to the regulations. Section 8 of the Matters Relating to Assessment Complaints Regulation (MRAC) provides direction to Complainants as to when and how a disclosure must be filed. MRAC s.8(2)(a) states:

"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 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*

The Respondent went on to advise that the notice of hearing sent out to the Complainant sets out the “deadline dates”.

MRAC also sets out the consequences of not adhering to the deadlines stipulated in MRAC s.8(2)(a). MRAC s.9(2) states:

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

[4] The Complainant explained that this was the first time that he had filed a complaint and acknowledged that he had missed the deadline. He explained that he had received the notice of hearing first by email that referred him to a city website. He did admit that the written notice of hearing was filed by his secretary who had not informed him of the notice of hearing until after the deadline. The Complainant conceded that even if he had filed his disclosure in time, having now seen the Respondent’s disclosure, his evidence may not have been adequate to generate a reduction in the assessment. He argued that this Board was not bound by the rules of evidence that direct the courts and therefore this Board should be able to hear his complaint.

[5] Upon questioning by the Chair whether the Respondent was prepared to abridge time pursuant to MRAC s.10(2), the Respondent responded “no” because of the danger of setting a precedent.

[6] The Respondent reminded the Board that the provisions in the regulations outlining responsibilities and consequences related to disclosure of evidence was mandatory, not discretionary.

[7] The Board concurred with the Respondent that it was bound by the regulations and in light of the fact that the Respondent was not prepared to abridge time the Board had no choice but to dismiss the complaint.

Background

[8] No evidence was presented.

Issue(s)

[9] No evidence was presented.

Legislation

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

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.

Position of the Complainant

[11] No evidence was presented.

Position of the Respondent

[12] No evidence was presented.

Decision

[13] The decision of the Board was to dismiss the complaint, with the resulting effect that the 2013 assessment was not amended.

Reasons for the Decision


[14] As discussed under preliminary matters.

Dissenting Opinion

[15] There was no dissenting opinion.

Heard September 9, 2013.

Dated this 15th day of September, 2013, at the City of Edmonton, Alberta.


George Zaharia, Presiding Officer

Appearances:

Robert James Dawe, Mammoth Properties Inc
for the Complainant

Gail Rookes
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.