

## Edmonton Composite Assessment Review Board

**Citation: AEC International Inc. v The City of Edmonton, 2013 ECARB 01991**

**Assessment Roll Number:** 9152109

**Municipal Address:** 5004 98 Avenue NW

**Assessment Year:** 2011

**Assessment Type:** Annual New

Between:

**AEC International Inc.**

Complainant

and

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

Respondent

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### POSTPONEMENT DECISION OF Larry Loven, Presiding Officer

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

[1] Should a postponement of the 2011 Annual New Realty Assessment hearing scheduled for January 27, 2014 be granted as requested by the Respondent?

#### **Legislation**

[2] The *Matters Relating to Assessment Complaints Regulation (MRAC)*, 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.

#### **Background**

[3] The decision of the Assessment Review Board in relation to the 2011 complaint was appealed to the Court of Queen's Bench by the Complainant. As a result of the court's decision, a re-hearing of this matter was scheduled before the Board on January 27-29, 2014. The Court of

Queen's Bench decision has since been appealed by the Respondent to the Alberta Court of Appeal.

### **Position of the Respondent**

[4] The Respondent submitted a Request for Postponement dated December 4, 2013.

[5] It is the Respondent's position that the re-hearing should not proceed until after the Court of Appeal has rendered its final decision. The Respondent referred to Section 2 of the Board's Policy Manual which states:

Unless it offends the requirements of natural justice, and Assessment Review Board shall deny requests for postponements of adjournments made solely on the ground that there exists an incomplete judicial or quasi-judicial matter, other than an appeal of the complaint in question, the conclusion of which could affect the result of the matter before that Board.

The Respondent indicated that because the appeal to the Court of Appeal is in relation to the complaint in question, the Board's policy noted above would apply, and a postponement should be granted.

[6] The Respondent submitted that the final decision of the Court of Appeal as it relates to the Board's ability to increase an assessment will directly affect the evidence and issues in this matter.

[7] The Respondent provided several previous Board decisions in which postponements were granted in similar situations.

### **Position of the Complainant**

[8] The Complainant responded to the Request for Postponement in a fax dated December 10, 2013. The Complainant indicated that they do not oppose the request for postponement.

### **Decision**

[9] It is the decision of the Board to grant the postponement request.

[10] The hearing is rescheduled to:

Date: **September 15-17, 2014**

Time: **9:00 a.m.**

Location: **Edmonton Assessment Review Board Offices**

Disclosure of Complainant's Evidence: **August 5, 2014**

Disclosure of Respondent's Evidence: **September 2, 2014**

Disclosure of Complainant's Rebuttal Evidence: **September 8, 2014**

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

[12] The Board directs that disclosure be submitted according to the dates noted above.

[13] This Board is not seized of the matter.

**Reasons For The Decision**

[14] The Board recognizes that a previous postponement, granted to re-hear the complaint, was scheduled for January 27-29, 2014, as a result of appeal to the Court of Queen's Bench by the Complainant.

[15] Regarding the Edmonton *Assessment Review Boards Policies Manual, Policy B9 1*, the Board finds: the Respondent's request is consented to by the Respondent; that the request is made in good faith; and, the effect of granting the request is to allow the Respondent's appeal to Alberta Court of Appeal to be heard.

[16] Regarding the Edmonton *Assessment Review Boards Policies Manual, Policy B9 2*, the Board finds that the request for postponement is "...an appeal of the complaint in question..."; and, the conclusion of the appeal to the Alberta Court of Appeal "...could affect the result of the matter before the Board." and potentially "...offend the requirements of natural justice...".

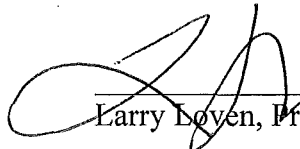
[17] The Board finds that the Respondent's request for postponement meets requirements of *MRAC s 15(2)*.

[18] Regarding the requirements of *MRAC s 15(1)*, the Board finds the circumstances of an appeal of a Court of Queen's Bench decision of the 2011 ECARB 01991 decision regarding the subject roll number, appealed by the Respondent to the Alberta Court of Appeal, to be exceptional.

[19] Based on its consideration of the above reasons, the Board's decision is to grant the Respondent's request of postponement.

Heard commencing December 12, 2013.

Dated this 12<sup>th</sup> day of December, 2013, at the City of Edmonton, Alberta.

  
Larry Boyen, 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.*

cc: Gilbert Laycraft, Wilson Laycraft (via fax: 1-403-290-0828)