

Edmonton Composite Assessment Review Board

Citation: Aldo Zanoni, 573321 Alberta Ltd. v The City of Edmonton, 2014 ECARB 00008

Assessment Roll Number: 10188863

Municipal Address: 104 10301 109 Street NW

Assessment Year: 2014

Assessment Type: Annual New

Between:

Aldo Zanoni, 573321 Alberta Ltd.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

POSTPONEMENT DECISION OF Petra Hagemann, Presiding Officer

Issue

[1] Should a postponement of the 2014 Annual New Realty Assessment hearing scheduled for April 7, 2014 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 requests a postponement of the hearing scheduled for April 7, 2014 so that the complaint may be heard at the same time as his other complaints on July 14, 2014.

Position of the Respondent

[4] The Respondent consents to the postponement. However, the City requests that the original disclosure dates remain unchanged since both parties have already filed their disclosure.

Decision

[5] The Board grants the postponement request.

[6] The hearing is rescheduled to:

Date: **July 14, 2014.**

Time: **9:00 A.M.**

Location: Edmonton Assessment Review Board Offices

Disclosure of Complainant's Evidence: **February 24, 2013**

Disclosure of Respondent's Evidence: **March 24, 2014**

Disclosure of Complainant's Rebuttal Evidence: **March 31, 2014**

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

[8] The Board directs that no further evidence be submitted in regard to this matter.

Reasons for the Decision

[9] In determining this matter, the Board reviewed section 15(1) of *MRAC*, which deals with the postponement or adjournment of a hearing.

[10] The Board grants the Complainant's postponement request because of exceptional circumstances.

[11] The Board relies on *City of Edmonton v. Edmonton (Assessment Review Board)*, 2010 ABQB 634, a decision of Justice Germain which provides guidance on the interpretation of section 15:

The *Regulation* must therefore be interpreted in such a way that the definition of exceptional circumstance cannot be so narrow and restrictive as to prevent hearings that are fair to both litigants (at para 43).

[12] Justice Germain also found that where the parties have consented to a postponement "such consent should be given some deference and not lightly ignored in the absence of compelling reasons" (at para 45).

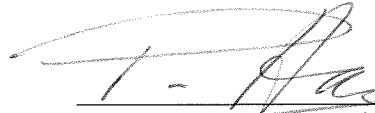
[13] The Board understands that the hearings for unit #104 (the subject property) as well as units #102 and #102A, also owned and being appealed by the Complainant, should have been scheduled at the same time. Inadvertently, it was not specified on the complaint form but rather at the time of the Complainant's disclosure. In the interest of efficiency and time of all the parties, the Board grants the postponement as per MRAC AR 310/2009.

[14] In addition to the exceptional circumstances, the Board notes that the Respondent consents to the Complainant's request. The Board is in agreement with the Respondent to maintain the original disclosure dates as both parties have filed all documents.

[15] Accordingly, the hearing is rescheduled to **June 14, 2014.**

Heard April 1, 2014.

Dated this 1st day of April, 2014, at the City of Edmonton, Alberta.



Petra Hagemann, 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.