

Edmonton Composite Assessment Review Board

**Citation: Harchand Singh Grewal, Canada West Courts v The City of Edmonton, 2014
ECARB 00090**

Assessment Roll Number: 4873550
Municipal Address: 7315 Yellowhead Trail NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: \$6,907,500

Between:

Harchand Singh Grewal, Canada West Courts

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF

Shannon Boyer, Presiding Officer

Mary Sheldon, Board Member

Randy Townsend, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties stated they did not object to the Board's composition. In addition, the Board members stated they had no bias with respect to this file.

Preliminary Matters

[2] There were three preliminary matters which included the Complainant's application to postpone the hearing; the Respondent's application for dismissal; and the Complainant's application to have an appraisal entered into evidence.

Issue 1

[3] The *Matters Relating to Assessment Complaints Regulation, AR 310/2009 (MRAC)*, 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.

[4] The Complainant requested a postponement of the hearing because he had not filed his disclosure of evidence in compliance with the deadline of March 31, 2014 for the reasons that from February 4, 2014 to March 18, 2014 he was in India visiting his sick sister-in-law and from March 27, 2014 to April 8, 2014, he was on a family vacation in Hawaii. He stated that he had corrective eye surgery on April 9, 2014 and needed to recuperate.

[5] Under questioning, the Complainant acknowledged that his application for postponement was not in writing; no notice of the application was given to the Board or the Respondent; he had not contacted the Respondent in any manner to request a postponement; and he had an appraisal and other evidence in his possession prior to the disclosure deadline. The Complainant informed the Board that he is a 13% shareholder in the subject and the remainder is owned by his son and his son's company(ies).

[6] The Respondent objected to the postponement application, advising that the Respondent sent the Complainant an email dated April 24, 2014 reminding him of the hearing date and attaching the Respondent's evidence brief. The Respondent did not receive a reply from the Complainant. None of the other owners has contacted the Respondent.

Decision

[7] In making its determination, the Board reviewed Section 15 MRAC and is mindful of the guidance provided by Justice Germain in *City of Edmonton v Edmonton (Assessment Review Board)*, 2010 ABQB 634. Justice Germain commented that an interpretation of s. 15 MRAC "cannot be so narrow and restrictive as to prevent hearings that are fair to both litigants" (para 43).

[8] In the opinion of the Board, the circumstances leading up to the Complainant's failure to file evidence by the deadline of March 31, 2014, do not constitute an "exceptional circumstance" as required by s. 15(1) MRAC for several reasons: the Complainant had an appraisal and other evidence in his possession prior to the filing deadline; the corrective eye surgery took place well after the filing deadline; the other owners failed to file evidence before the deadline; the Respondent accepts fax filing of evidence, therefore, evidence can be filed while travelling abroad; and the Respondent was in Edmonton from March 18, 2014 to 27, 2014.

[9] In addition, the Board found that the postponement application was not submitted in writing. No request or notice was given to the Board or to the Respondent although the Complainant had opportunity to follow the requirements of MRAC, Section 15(2).

[10] For these reasons, the Board denied the Complainant's application for a postponement of the hearing.

Issue 2

[11] The Respondent made an application for dismissal of the appeal for lack of evidence. The Complainant objected and asked to enter the Complaint Form into evidence.

Decision

[12] The Board concluded that the Complaint Form was filed prior to the production deadline and potentially contained evidence, therefore, the Board denied the Respondent's application for dismissal.

Issue 3

[13] The Complaint Form was entered as an Exhibit. The Complainant attempted to enter into evidence an appraisal that was mentioned in the Complaint Form, arguing that he brought the appraisal to a meeting with the Respondent's assessor in January 2014, so it was effectively disclosed. Under questioning, the Complainant agreed that a copy of the appraisal was not given to the assessor.

[14] The Respondent objected, stating that the appraisal had not been disclosed by the deadline of March 31, 2014.

Decision

[15] The Board reviewed Sections 8 and 9 of the *Matters Relating to Assessment Complainants Regulation*. The Board determined that the appraisal report had not been disclosed under the requirements of Section 8. Pursuant to Section 9, the Board must not hear any evidence that is not disclosed in accordance with Section 8.

[16] The Board denied the Complainant's application to enter the appraisal report into evidence.

Background

[17] The municipal address of the Subject is 7315 Yellowhead Trail NW.

Issue

[18] Is the Subject's 2014 assessment fair and equitable?

Position of the Complainant

[19] In support of the appeal, the Complainant presented written evidence in the form of the Complaint Form (C-1) and oral argument for the Board's review and consideration. The Complaint Form showed that the Subject was a residential property with 4 or more dwellings and that the assessment amount is in dispute. In Section 5, the Respondent wrote, "I got the property appraised by an accredited appraiser. The appraised evaluation is way less than the city assessment. That is why I want to get it reviewed."

[20] The Complainant did not submit any other evidence.

Position of the Respondent

[21] In support of its assessment, the Respondent presented oral argument only for the Board's review and consideration, declining to tender its disclosure brief into evidence. The Respondent advised the Board that the legislation places the onus on the Complainant to show that the assessment was not fair or equitable; the Complainant failed to enter any evidence; therefore, the Complainant failed to shift the onus.

Decision

[22] The Board confirms the 2014 assessment of \$6,907,500.

Reasons for the Decision

[23] The Board finds that the Complainant failed to enter evidence that the 2014 assessment was unfair or inequitable. The Complaint Form merely states that an appraisal had been done and that it was lower than the 2014 assessment.

[24] In order to be successful at an appeal, the onus rests on the Complainant to prove on the balance of probabilities what information is incorrect; how that information is incorrect; the correct information; and the requested assessed value.

[25] The statement on the Complaint Form does not meet this burden. The Board is not persuaded that the 2014 assessment is unfair or inequitable.

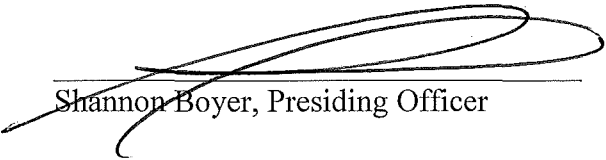
[26] The Board must not alter an assessment that is fair and equitable.

Dissenting Opinion

[27] There was no dissenting opinion.

Heard May 12, 2014.

Dated this 11th day of June, 2014, at the City of Edmonton, Alberta.



Shannon Boyer, Presiding Officer

Appearances:

Harchand Grewal
for the Complainant

Amy Cheuk
Andy Lok
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.

Appendix

Legislation

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.

The *Matters Relating to Assessment Complaints Regulation*, Alta Reg 310/2009, reads:

8(1) In this section, “complainant” includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(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;

9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

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

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.

Exhibits

C-1 – Complaint Form

R-1 – Email to Complainant