

## Edmonton Composite Assessment Review Board

**Citation: ECO-INDUSTRIAL BUSINESS PARK INC v The City of Edmonton, 2014  
ECARB 00121**

**Assessment Roll Number:** 1150986, 1340637, 10150275,  
10274072, 10274073

**Assessment Year:** 2014

**Assessment Type:** Annual New

Between:

**ECO-INDUSTRIAL BUSINESS PARK INC**

Complainant

and

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

Respondent

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### **POSTPONEMENT DECISION OF Harold Williams, Presiding Officer**

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

[1] Should a postponement of the 2014 Annual New Realty Assessment hearings scheduled for May 26 - 30, 2014 be granted as requested by the Respondent?

#### **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 Respondent**

[3] The Respondent requested that the hearing be rescheduled because the lawyer for the Respondent municipality is not available on either May 29 or 30 since he is at a conference and speaking on one of those dates.

[4] Additionally, both parties are in agreement that a postponement of this matter is necessary given the nature of the evidence, the experts involved, and in order to facilitate expanded disclosure timelines as a result of the nature of the evidence.

[5] The parties are in agreement that rescheduling the matter for one week starting November 10, 2014 would be in the best interest of both parties. If this week is not available, they ask that the Board have their administration contact the parties for other available dates prior to making and issuing a decision.

[6] If the Board consents to the request, the parties have agreed to the following disclosure dates:

Appellant Disclosure Due: July 14, 2014  
City Disclosure Due: October 6, 2014  
Appellant Rebuttal Due: October 27, 2014

### **Position of the Complainant**

[7] The Complainant is in agreement with the Respondent's postponement request.

### **Decision**

[8] The Board grants the postponement request.

[9] The hearings are rescheduled to:

Date: **November 10 – 14, 2014**

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

Location: Edmonton Assessment Review Board Offices

Disclosure of Complainant's Evidence: **July 14, 2014**

Disclosure of Respondent's Evidence: **October 6, 2014**

Disclosure of Complainant's Rebuttal Evidence: **October 27, 2014**

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

### **Reasons For The Decision**

[11] The Board finds that the Respondent's unavailability constitutes an exceptional circumstance under section 15 of *MRAC*. The fact that the Respondent and Complainant both agree to new hearing dates and disclosure timelines must also be taken into consideration.

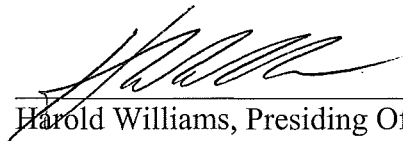
[12] In *City of Edmonton v. Edmonton (Assessment Review Board)*, 2010 ABQB 634 Justice Germain provided guidance on the interpretation of section 15:

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).

[13] 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).

[14] Given that the Complainant agrees to the Respondent’s request, and in the interest of fairness to both parties, the Board finds that the exceptional circumstances required under section 15 of *MRAC* are met. The matter is rescheduled to November 10 - 14, 2014.

Dated this 22nd day of April, 2014, at the City of Edmonton, Alberta.

  
Harold Williams, 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.*