

Edmonton Composite Assessment Review Board

Citation: Pace Property Group Limited v The City of Edmonton, 2014 ECARB 00218

Assessment Roll Number: 9955638

Municipal Address: 9604 41 Avenue NW

Assessment Year: 2014

Assessment Type: Annual New

Assessment Amount: \$4,088,000

Between:

Pace Property Group Limited

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
George Zaharia, Presiding Officer
Dale Doan, Board Member
Taras Luciw, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer the parties indicated 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] No disclosure has been received from the Complainant, and the Complainant alleged that no notice of hearing had been received by the property owner. The matter in front of the Board is whether a postponement of the hearing should be granted.

Background

[3] No evidence was submitted to describe the subject property other than the Complaint Information that identified the 2014 assessment of the subject property located at 9604 41 Avenue NW as being \$4,088,000.

Issue

[4] Should the merit hearing scheduled for 10:30 a.m. June 2, 2014 be postponed?

Position of the Complainant

[5] The Complainant argued that the owner had not received notification of the hearing.

[6] In support of this position, the Complainant submitted "Microsoft Exchange Troubleshooting Assistant" requests with Message Tracking Parameters set for emails received from both arbnoreply@edmonton.ca and assessmentreviewboard@edmonton.ca between Tuesday, May 21, 2013 and Wednesday, May 21, 2014. The Message Tracking Results showed that three emails had been received by "dramkhelawa" on May 21, 2014 from assessmentreviewboard@edmonton.ca but that no emails had been received from arbnoreply@edmonton.ca during the same time period.

[7] The Complainant provided a copy of an email that was sent to the Assessment Review Board requesting a copy of the original email that had been sent to the property owner, Robb Ferguson, advising of the hearing date. The Complainant wrote that this email would be used as proof that the owner had never received this email, and would be used in support of their position that a postponement should be granted.

[8] It was the position of the Complainant that a postponement of the hearing scheduled for June 2, 2014 should be granted.

Position of the Respondent

[9] The Respondent drew the Board's attention to the disclosure requirements outlined in the *Matters Relating to Assessment Complaints Regulation* (MRAC). Section 8 of MRAC details the "disclosure of evidence" obligations of both the Complainant and the Respondent. Section 9 of MRAC identifies the consequences of not adhering to the disclosure requirements (for the full text, please see the Appendix at the end of this decision).

[10] It was the position of the Respondent that although the consequences of the regulation may be harsh, they are clear and that the system works.

[11] The Respondent opposed the postponement request.

Decision

[12] The request for postponement of the merit hearing scheduled for June 2, 2014 is denied, and the 2014 assessment of the subject property at \$4,088,000 is confirmed.

Reasons for the Decision

[13] Although the Complainant submitted "Microsoft Exchange Troubleshooting Assistant" requests with Message Tracking Parameters set for emails received from both arbnoreply@edmonton.ca and assessmentreviewboard@edmonton.ca between Tuesday, May 21, 2013 and Wednesday, May 21, 2014, the recipient rferguson@pacetechnologies.com as identified on the complainant form was not shown on the message tracking requests.

[14] The Message Tracking Results showed that three emails had been received by "dramkhelawa" on May 21, 2014 from assessmentreviewboard@edmonton.ca but that no emails had been received from arbnoreply@edmonton.ca. However, the recipient should have been rferguson@pacetechnologies.com and not dramkhelawa.

[15] A "screenshot" displaying the information sent March 4, 2014 was referenced in the Complainant's submission that identified the hearing notification being sent by

arbnoreply@edmonton.ca to rferguson@pacetechnologies.com on March 4, 2014 with the message "ok: Message 3791357 accepted".

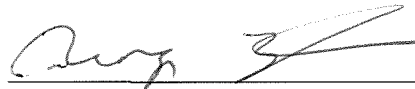
[16] The Board was satisfied that the notice of hearing was received by the property owner at the email address rferguson@pacetechnologies.com as shown on the complainant form which had been submitted electronically, prompting the Assessment Review Board administration to electronically notify the property owner.

Dissenting Opinion

[17] There was no dissenting opinion.

Heard June 2, 2014.

Dated this 17th day of June, 2014, at the City of Edmonton, Alberta.


George Zaharia, Presiding Officer

Appearances:

Denise Ramkhelawan
for the Complainant

Jason Baldwin
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.

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.