

Edmonton Composite Assessment Review Board

Citation: Harold Rebman v The City of Edmonton, 2014 ECARB 00220

Assessment Roll Number: 7658982

Municipal Address: 11004 51 Avenue NW

Assessment Year: 2014

Assessment Type: Annual New

Assessment Amount: \$11,478,000

Between:

Harold Rebman

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 Respondent indicated no objection 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 had been received from the Complainant, and the Complainant was not in attendance at the hearing. The Board proceeded with the merit hearing in accordance with s. 463 of the *Municipal Government Act*. The matter in front of the Board is should the complaint be dismissed and the 2014 assessment confirmed?

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 11004 51 Avenue NW as being \$11,748,000.

Issues

[4] Should the complaint be dismissed, and the 2014 assessment of the subject property confirmed at \$11,748,000?

Position of the Complainant

[5] The Complainant was not in attendance at the hearing and had not submitted an evidentiary disclosure package.

Position of the Respondent

[6] The Respondent advised that neither the Assessment Branch nor the Assessment Review Board had received a disclosure from the Complainant.

[7] 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). The Respondent emphasized that s. 9(2) of MRAC uses mandatory language when declaring that "*A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.*" This provision did not allow the composite assessment review board any discretion to abridge the timelines.

[8] The Complainant had identified reasons for the complaint on the complaint form but had provided no evidence in support of his position that the assessment was incorrect.

[9] In response to a Board question, the Respondent advised that other than discussions that had taken place prior to the complaint being filed, no other contact with the Complainant had taken place after the complaint had been filed.

[10] The Respondent stated that the email address shown on the property owner's business card was not valid.

[11] It was the position of the Respondent that onus had not been met, and consequently the complaint should be dismissed and the 2014 assessment at \$11,748,000 be confirmed.

Decision

[12] The decision of the Board is to dismiss the complaint and to confirm the 2014 assessment of the subject property at \$11,748,000.

Reasons for the Decision

[13] The "burden of proof" or "onus" is on the Complainant to provide sufficient and compelling evidence that the assessment is incorrect to legislatively permit an Assessment Review Board to reduce an assessment. This burden was not met.

[14] Section 9(2) of MRAC is very clear in its direction "*A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.*"

[15] Without properly disclosed evidence, even if the Complainant had been present, the Board could not have proceeded with the merit hearing.

Dissenting Opinion

[16] 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:

No appearance
for the Complainant

Devon Chew
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;

463 If any person who is given notice of the hearing does not attend, the assessment review board must proceed to deal with the complaint if

- (a) all persons required to be notified were given notice of the hearing, and
- (b) no request for a postponement or an adjournment was received by the board or, if a request was received, no postponement or adjournment was granted by the board.

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.