

## Edmonton Composite Assessment Review Board

**Citation: Matthew Pierson, DuCharme, McMillen & Associates Canada Ltd v The City of Edmonton, 2014 ECARB 00271**

**Assessment Roll Number:** 10013655

**Municipal Address:** 10190 104 Street NW

**Assessment Year:** 2014

**Assessment Type:** Annual New

Between:

**Matthew Pierson, DuCharme, McMillen & Associates Canada Ltd**

Complainant

and

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

Respondent

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### **POSTPONEMENT DECISION OF Petra Hagemann, Presiding Officer**

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#### **Issue**

[1] Should a postponement of the 2014 Annual New Realty Assessment hearing scheduled for May 28, 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 May 28, 2014. The Complainant will be unavailable because of a travel commitment that was unknown when the complaint was filed. Additionally, the Complainant believes that the complaint may still be

### **Position of the Respondent**

[4] The Respondent takes no position regarding the postponement request.

### **Decision**

[5] The Board grants the postponement request.

[6] The hearing is rescheduled to:

[7] Date: **June 3, 2014**

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

Location: Edmonton Assessment Review Board Offices

Disclosure of Complainant's Evidence: **April 22, 2014**

Disclosure of Respondent's Evidence: **May 20, 2014**

Disclosure of Complainant's Rebuttal Evidence: **May 26, 2014**

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

### **Reasons for the Decision**

[9] The Board finds that the Complainant's unavailability to attend the hearings for the subject (roll # 1001365) as well as for roll #3165289 constitutes an exceptional circumstance under section 15 of *MRAC*. Both hearings were scheduled for May 28, 2014, but due to a travel commitment which was unknown at the time of filing the complaint, the Complainant is unavailable. The fact that the Complainant believes the complaint may be resolved without a hearing, and the Respondent's decision to take no position respecting the request, must also be taken into consideration.

[10] 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).

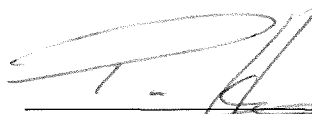
[11] Justice Germain also found that where the parties have consented to a postponement "such consent should be given some deference and not lightly ignored in the absence of compelling reasons" (at para 45).

[12] Finally, the fact that the parties may be able to resolve their dispute without a hearing must be given some weight. Justice Germain found that the "...ARB has no obligation to grant adjournments solely to give the parties more time to resolve their dispute, however it is good public policy on the part of all boards and tribunals to allow parties to resolve their own disputes" (at para 46). The Board finds that allowing more time for the parties to meet and inspect the property is grounds for a postponement in this case.

[13] Given the Complainant's unavailability on the date of the scheduled hearing, the fact that the Respondent takes no position respecting the Complainant's request, and the Complainant's expectation that meaningful discussions respecting the complaint may lead to a resolution, the Board finds that the exceptional circumstances required under section 15 of *MRAC* have been met. The matter is rescheduled to **June 3, 2014**.

Heard April 1, 2014.

Dated this 1<sup>st</sup> day of April, 2014, at the City of Edmonton, Alberta.

A handwritten signature in dark ink, appearing to read 'P. Hagemann', is written over a horizontal line.

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.*