

Edmonton Composite Assessment Review Board

Citation: Jan Goresht, Cushman & Wakefield Ltd. for Husky Oil Ltd. v The City of Edmonton, 2014 ECARB 00273

Assessment Roll Number: 4072187
Municipal Address: 15303 73A Street NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: \$2,383,500

Between:

Jan Goresht, Cushman & Wakefield Ltd. for Husky Oil Ltd.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Tom Eapen, Presiding Officer
Mary Sheldon, Board Member
Randy Townsend, 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] At the commencement of the hearing, the Respondent advised the Board that no disclosure had been received from the Complainant and requested that the Board not admit any disclosure from the Complainant as it had not been served in accordance with s. 8 (2)(a) (i) *Matters Relating to Assessment Complaints* (MRAC). The Respondent noted that s 9(2) of MRAC prohibits a composite assessment review board from hearing any evidence that has not been disclosed in accordance with section 8.

[3] The Complainant submitted that both the Assessment Review Board and the Respondent had been served by the legislated date by means of email. The Complainant indicated that the disclosure had been file through a website to the Assessment Review Board and through an email address to the City of Edmonton assessment department.

[4] The Respondent advised that the City of Edmonton has a policy of not accepting email disclosure and that the Complainant had been made aware of this through the Notice of Hearing.

The Respondent stated that this position is supported by s 7(d) of MRAC which provides that the parties must be notified of the timelines and requirements for disclosure of evidence.

[5] The Respondent stated further that in any event, no disclosure by email or otherwise had been received by the City of Edmonton assessment department on this file.

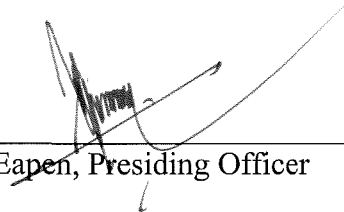
[6] The Complainant requested a recess in order to contact his office to confirm the email address to which disclosure to the Respondent had been sent.

[7] After a recess, the Complainant stated that the Complainant's disclosure to the Respondent had been sent in error to an incorrect email address and that the Respondent had therefore not been served in accordance with legislation.

[8] The Complainant requested that the complaint be withdrawn and signed the required withdrawal document.

Heard June 2, 2014.

Dated this 2nd day of June, 2014, at the City of Edmonton, Alberta.



Tom Eapen, Presiding Officer

Appearances:

Jan Goresht
for the Complainant

Alana Hemple
Amy Cheuk
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:

7(d) after a copy of the complaint form has been provided to the municipality in accordance with section 462 of the Act and to the Minister in accordance with clause (b), notify the municipality, the complainant and any assessed person other than the complainant who is affected by the complaint of the date, time and location of the hearing and the requirements and timelines for disclosure of evidence not less than 70 days before the hearing date.

8(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

9(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.

Exhibits

None.