

## Edmonton Composite Assessment Review Board

**Citation: Mathew Pierson, DuCharme, McMillen & Associates Canada, Ltd v The City of Edmonton, 2014 ECARB 00281**

**Assessment Roll Number:** 8598559

**Municipal Address:** 9908 71 Avenue NW

**Assessment Year:** 2014

**Assessment Type:** Annual New

Between:

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

Complainant

and

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

Respondent

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### **POSTPONEMENT DECISION OF Robert Mowbrey, Presiding Officer**

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#### **Issue**

[1] Should a postponement of the 2014 Annual New Realty Assessment hearing scheduled for May 29, 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] Due to circumstances unknown to the Complainant at the time of filing, he will be unable to attend the hearing scheduled for May 29, 2014. The Complainant also expects to conduct a joint inspection of the property with the assessor, and is confident a resolution to this complaint can be reached without a formal hearing. The Complainant therefore also requests a postponement in order to schedule a meeting with the assessor and to conduct an inspection of the property.

### **Position Of The Respondent**

[4] The Respondent takes no position respecting this request.

### **Decision**

[5] The Board grants the postponement request.

[6] The hearing is rescheduled to:

Date: **July 14, 2014**

Time: **9:00 AM**

Location: Edmonton Assessment Review Board Offices

Disclosure of Complainant's Evidence: **June 2, 2014**

Disclosure of Respondent's Evidence: **June 30, 2014**

Disclosure of Complainant's Rebuttal Evidence: **July 7, 2014**

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

### **Reasons For The Decision**

[8] The Board finds that the Complainant's unavailability constitutes an exceptional circumstance under section 15 of *MRAC*. 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.

[9] 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).

[10] 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).

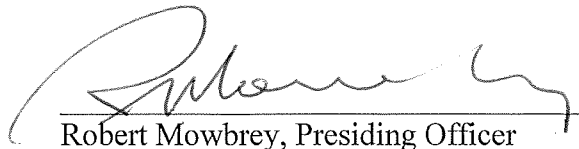
[11] Finally, the fact that the parties may be able to resolve their dispute without a hearing must be given some weight. Justice Germain found that the "...ARB has no obligation to grant adjournments solely to give the parties more time to resolve their dispute, however it is good public policy on the 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.

[12] 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* are met. The matter is rescheduled to **July 14, 2014**.

Heard March 24, 2014.

Dated this 24<sup>th</sup> day of March, 2014, at the City of Edmonton, Alberta.



Robert Mowbrey, 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.*