

Edmonton Composite Assessment Review Board

Citation: Carrington Holdings LTD. v The City of Edmonton, 2014 ECARB 00303

Assessment Roll Number: 9982843

Municipal Address: 4075 106 STREET NW

Assessment Year: 2014

Assessment Type: Annual New

Between:

Carrington Holdings LTD.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

POSTPONEMENT DECISION OF Jerry Krysa, Presiding Officer

Issue(s)

[1] Should a postponement of the 2014 Annual New Realty Assessment hearing scheduled for June 4, 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.

Background

[3] On April 8, 2014, the Complainant requested a postponement of the 2014 Annual New Realty Assessment hearing, originally scheduled for May 22, 2014, citing a scheduling conflict with the Courts.

[4] The Respondent took no position in respect of the Complainant's postponement request.

[5] On April 22, 2014, the Board granted the Complainant's postponement request to June 4, 2014, directing that no further evidence be submitted in regard to the matter.

Position of the Complainant

[6] The Complainant submitted the subject request for postponement on May 14, 2014, citing that in granting the previous postponement request to June 4, 2014, the Board did not revise any of the legislated disclosure dates to coincide with the re-scheduled hearing date.

[7] Accordingly, the Complainant asks the Board to revisit the matter and further postpone the hearing as well as amend the evidence and rebuttal disclosure dates to correspond with a rescheduled hearing date.

Position of the Respondent

[8] The Respondent opposes the Complainant's second postponement request. The Respondent submits that the Complainant should have been aware that the legislated disclosure date for their submissions was near, and should have requested new disclosure dates if they would have difficulty complying with the original dates.

[9] The Respondent further submits that it has now submitted its disclosure, and if the hearing were to be postponed with new disclosure dates for the Complainant, this would be inconsistent with the legislation and the Board's previous postponement decision.

Decision

[10] The Board denies the Complainant's postponement request.

Reasons For The Decision

[11] The Board finds the Complainant's reasons do not constitute an exceptional circumstance under section 15 of MRAC.

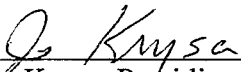
[12] The Board has granted a postponement of the original May 22, 2014 hearing date in accordance with the Complainant's initial request, finding the Complainant's required attendance in court on that day to be an exceptional circumstance. In its postponement request of April 8, 2014, the Complainant provided no valid reason to extend the disclosure date for its submission, which was due the following day.

[13] The Complainant's April 9, 2014 disclosure requirement was clearly set out in bold print on the notice of hearing dated March 11, 2014. Notwithstanding the Complainant's conflict on the original hearing date, the Board finds that the Complainant had ample time to submit their disclosure in accordance with the legislation.

[14] Notwithstanding, had the Board, in granting the postponement on April 22, 2014, not specifically directed that no new evidence be exchanged, the Complainant's new legislated disclosure date would be the same day, April 22, 2014.

[15] The Board advises that the parties' disclosure dates are part of a larger legislated process that includes a minimum number of days notice of a scheduled hearing, as well as a series of staggered disclosure exchange dates set out in advance of the scheduled hearing date. The dates set out in legislation ensure that both parties have sufficient time to prepare their submissions, and their responses to the opposing parties' submissions, in advance of the hearing.

Dated this 23rd day of May, 2014, at the City of Edmonton, Alberta.



Jerry Krysa, 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.

