

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

Assessment Amount: \$4,552,000

Between:

Carrington Holdings LTD.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Peter Irwin, Presiding Officer
Dale Doan, Board Member
Taras Luciw, 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] The Respondent reviewed the events leading up to the scheduled hearing date of June 4th, 2014:

[3] A Request for Postponement of a hearing scheduled for May 22, 2014, was granted by the Composite Assessment Review Board (CARB) on April 22nd, 2014 due to the Complainant having to be in discovery for a court case on the same day. The hearing was rescheduled for June 4th, 2014. The Respondent took no position respecting the Complainant's request.

[4] The postponement request made no mention of disclosure deadlines. Knowing that they were due on April 22nd, 2014, the Complainant should have requested new disclosure dates if it foresaw having problems complying with the original dates. The Complainant's missing of their disclosure date indicates that they may have assumed that the Board was going to grant the postponement, which, if so, would have been a dangerous assumption.

[5] On the morning of the June 4th hearing, at 10:54 AM, the Assessment Review Board office received an email stating that the Complainant would not be able to attend the hearing due to a funeral of one its employees.

[6] The Respondent submitted that, in the absence of any disclosure documents from the Complainant, the burden of proof or onus had not been met and accordingly requested that the Board dismiss the Complaint.

Background

[7] The subject property is a non-residential property located at 4075 – 106 Street NW.

Issue

[8] Should the Board proceed with the hearing given that the Complainant failed to provide a disclosure in support of his complaint and his non-attendance at the hearing?

Position of the Complainant

[9] On the complaint form, the Complainant stated: "When compared to similar properties this office building is not in the proper classification for assessment purposes and there should be an increase in value over the 2013 assessment. Our 2013 assessment was \$3,880,500 which I have put in the requested assessment value; please note that I have put the 2013 value in for the purpose of filling the box and I am requesting you to assess the value for 2014 going by the 2013 assessment."

Position of the Respondent

[10] The Respondent submitted that, in the absence of any disclosure documents from the Complainant, the burden of proof or onus had not been met and accordingly requested that the Board dismiss the Complaint.

Decision

[11] The Board concurs with the Respondent's request to dismiss the complaint and confirms the 2014 Assessment at \$4,552,000.

Reasons for the Decision

[12] The Board finds that the Complainant provided only a statement, without any supporting documentation, that the subject property was not in the correct classification.

[13] The Complainant failed to provide disclosure of evidence and argument as required by s. 8(2)(a)(i) of the *Matters Relating to Assessment and Taxation Regulation*, Alta Reg 220/2004 (MRAC). Accordingly, the provisions of s. 9(2) of MRAC apply, and the Board cannot hear any evidence that was not disclosed. With no evidence before it, nor any consent from the Respondent to abridge the time and allow the Complainant to present materials on hand at the hearing, the Board dismissed the complaint.

Heard June 4, 2014.

Dated this 25th day of JUNE, 2014, at the City of Edmonton, Alberta.


Peter Irwin, Presiding Officer

Appearances:

Did not appear
for the Complainant

Cam Ashmore, City of Edmonton
Darren Davies, City of Edmonton, Assessor
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 Relation to Assessment and Taxation Regulation*, Alta Reg. 220/2004, reads:

s 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;
- (b) the respondent must, at least 14 days before the hearing date,
 - (i) disclose to the complainant 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 respondent intends to present at the hearing in

sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

(ii) provide to the complainant and the composite assessment review board an estimate of the amount of time necessary to present the respondent's evidence;

(c) the complainant must, at least 7 days before the hearing date, 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 rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

s 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.

(3) A composite assessment review board must not hear any evidence from a complainant relating to information that was requested by the assessor under section 294 or 295 of the Act but was not provided to the assessor.

(4) A composite assessment review board must not hear any evidence from a municipality relating to information that was requested by a complainant under section 299 or 300 of the Act but was not provided to the complainant.

Exhibits

No exhibits were entered.