

Edmonton Composite Assessment Review Board

Citation: Mike Pecuh for Westload Transport Ltd. v The City of Edmonton, 2014 ECARB 01212

Assessment Roll Number: 1160613
Municipal Address: 11235 222 Street NW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: \$720,000

Between:

Mike Pecuh for Westload Transport Ltd.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
John Noonan, Presiding Officer
Jack Jones, Board Member

Preliminary Matters

[1] At the commencement of the hearing, the Respondent advised that no disclosure of evidence had been received from the Complainant. The Respondent pointed out that the Board must not hear any evidence that was not disclosed and asked the Board to dismiss the complaint.

[2] A review of the case folder showed that the Composite Assessment Review Board (CARB) likewise had not received disclosure of evidence from the Complainant. A copy of the complaint form showed at Section 5 – Reason for Complaint a comment that the subject property was a muddy field.

[3] The Complainant advised that he had submitted disclosure.

Decision

[4] The complaint is dismissed.


Reasons for the Decision

[5] While the Complainant took the position that disclosure had been sent, the Board finds it unlikely that both Respondent and CARB administration would both misplace this disclosure. The Board believes the Complainant has confused the complaint form with the required evidence disclosure.

[6] The Board decided the hearing could not proceed as there had been no disclosure of evidence from the Complainant. Consequently, there was no evidence that the Board could hear. The *Matters Relating to Assessment Complaints* AR 310/2009 (MRAC) regulation at section 8 sets out clearly what and when evidence must be disclosed to the other party and the CARB prior to a hearing. Section 9 of MRAC is equally clear that the CARB must not hear any evidence that was not disclosed in accordance with section 8.

Heard July 7, 2014.

Dated this 14th day of July, 2014, at the City of Edmonton, Alberta.


John Noonan, Presiding Officer

Appearances:

Mike Pecuh
for the Complainant

Amy Cheuk
Cherie Skolney
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.

s 458(2) The provincial member and one other member of a composite assessment review board referred to in section 453(1)(c)(i) constitutes a quorum of the composite assessment review board.

The *Matters Relating to Assessment Complaints Regulation*, Alta Reg 310/2009, reads:

s 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

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