

Edmonton Composite Assessment Review Board

**Citation: West Point Mall Ltd as represented by CVG v The City of Edmonton, 2014
ECARB 01651**

Assessment Roll Number: 9946842
Municipal Address: 9915 178 Street NW
Assessment Year: 2014
Assessment Type: Annual New

Between:

West Point Mall Ltd as represented by CVG

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

POSTPONEMENT DECISION OF James Fleming, Presiding Officer

Issue

[1] Should a postponement of the 2014 Annual New Realty Assessment hearing scheduled for November 12-14, 2014 be granted as requested by the Respondent?

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 Respondent

[3] The Respondent submitted a postponement request on September 9, 2014 indicating that counsel for the City was unavailable on the scheduled hearing dates.

Position of the Complainant

[4] The Complainant agreed to the postponement request and requested that the disclosure, response and rebuttal dates be moved forward accordingly.

Decision

[5] The Board grants the postponement request.

[6] The hearing is rescheduled to:

Date: November 19-20, 2014

Time: 9:00 a.m.

Location: Edmonton Assessment Review Board Offices

Disclosure of Complainant's Evidence: October 7, 2014

Disclosure of Respondent's Evidence: November 4, 2014

Disclosure of Complainant's Rebuttal Evidence: November 12, 2014

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

Reasons For The Decision

[8] The Board finds that the Respondent's counsel not being available on scheduled hearing dates constitutes exceptional circumstances.

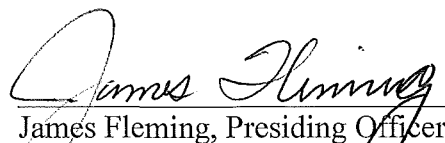
[9] The Board relies on the decision *City of Edmonton v. Edmonton (Assessment Review Board)*, 2010 ABQB 634 which provides guidance on the interpretation of section 15:

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] Given that the Complainant had agreed to the postponement and in the interest of fairness, the Board finds that the exceptional circumstances required under s 15 of MRAC are met. The matter is rescheduled with new disclosure dates as outlined above.

Heard commencing September 11, 2014.

Dated this 11th day of September, 2014, at the City of Edmonton, Alberta.


James Fleming, 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.