

Edmonton Composite Assessment Review Board

Citation: ABS Truckwash And Lube Ltd v The City of Edmonton, 2014 ECARB 01754

Assessment Roll Number: 1223486

Municipal Address: 6024 125 Avenue NW

Assessment Year: 2014

Assessment Type: Annual New

Between:

ABS Truckwash And Lube Ltd

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF Larry Loven, Presiding Officer

Background

[1] The Board has determined that an assessment complaint with regard to the above roll number was filed on June 30, 2014. The deadline for filing was March 10, 2014.

[2] The Board has also determined that the filing fee prescribed by the City of Edmonton for assessment complaints of \$650.00 was not received before the filing deadline.

Issue(s)

[3] Is the complaint valid?

Legislation

[4] The *Municipal Government Act*, RSA 2000, c M-26 [MGA], reads:

Contents of assessment notice

309(1) An assessment notice or an amended assessment notice must show the following:

- (c) the date by which a complaint must be made, which date must be 60 days after the assessment notice or amended assessment notice is sent to the assessed person;

...

Publication of notice

311(1) Each municipality must publish in one issue of a newspaper having general circulation in the municipality, or in any other manner considered appropriate by the municipality, a notice that the assessment notices have been sent.

(2) All assessed persons are deemed as a result of the publication referred to in subsection (1) to have received their assessment notices.

...

Complaints

460(1) A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.

(2) A complaint must be in the form prescribed in the regulations and must be accompanied with the fee set by the council under section 481(1), if any.

...

Address to which a complaint is sent

461(1) A complaint must be filed with the designated officer at the address shown on the assessment or tax notice, not later than the date shown on that notice.

...

Decisions of assessment review board

467(2) An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 460(7).

...

Fees

481(1) Subject to the regulations made pursuant to section 484.1(q), the council may set fees payable by persons wishing to make complaints or to be involved as a party or intervenor in a hearing before an assessment review board and for obtaining copies of an assessment review board's decisions and other documents.

[5] The *Matters Relating to Assessment Complaints Regulation*, AR 310/2009 [MRAC], reads:

Documents to be filed by complainant

2(1) If a complaint is to be heard by an assessment review board, the complainant must

- (a) complete and file with the clerk a complaint in the form set out in Schedule 1, and
- (b) pay the appropriate complaint fee set out in Schedule 2 at the time the complaint is filed if, in accordance with section 481 of the Act, a fee is required by the council.

(2) If a complainant does not comply with subsection (1),

- (a) the complaint is invalid, and
- (b) the assessment review board must dismiss the complaint.

...

Complaint fees

11(1) The fees payable by persons wishing to make a complaint or be involved as a party in a hearing by an assessment review board are those fees set out in Schedule 2.

[6] Schedule 1 of MRAC [the Complaint Form] reads in part:

Section 6 — Complaint Filing Fee

If the municipality has set filing fees payable by persons wishing to make a complaint, the filing fee must accompany the complaint form or the complaint will be invalid and returned to the person making the complaint.

[7] The Complaint Form also reads:

IMPORTANT NOTICES

Your completed complaint form and any supporting attachments, the agent authorization form and the prescribed filing fee must be submitted to the person and address with whom a complaint must be filed as shown on the assessment notice or tax notice, prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete complaint form, complaints submitted after the filing deadline or complaints without the required filing fee are invalid.

Decision

[8] The assessment complaint was filed late and without the required fee and is therefore dismissed.

Reasons for the Decision

[9] Section 467(2) of the MGA requires that the Board dismiss a complaint filed after the deadline. The complaint was received on June 30, 2014 which is after the deadline of March 10, 2014 for 2014 annual assessments.

[10] In *Edmonton (City) v Assessment Review Board of the City of Edmonton*, 2012 ABQB 399, Justice Hillier held that the Assessment Review Board does not have discretion to extend the deadline for the filing of complaints. As Justice Hillier states at paragraph 79, “The ARB is required by the MGA to dismiss out of time complaints.”

[11] The Board is bound by decisions of the Court of Queen’s Bench, and therefore has no discretion to accept a complaint that has been filed out of time.

[12] The Board notes that under section 311 of the MGA, where the municipality has advertised that assessment notices have been sent out, all assessed persons are as a result of the publication deemed to have received notice of their assessment.

[13] Further, Section 2(2)(b) of MRAC requires the Board to dismiss a complaint that has been filed without the required fee. No fee has been received with regard to the complaint.

[14] In *Edmonton (City) v Assessment Review Board of the City of Edmonton*, 2012 ABQB 399, Justice Hillier interpreted a similarly worded section of the MGA and held that the Assessment Review Board does not have discretion to extend the deadline for the filing of complaints. On the basis on the reasoning in this decision, the Board finds that it does not have the discretion to accept complaints that have been filed without the required fee.

Heard commencing July 7, 2014.

Dated this 7th day of July, 2014, at the City of Edmonton, Alberta.

A handwritten signature in black ink, appearing to read 'LL', is written over a horizontal line.

Larry Loven, 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.