

IN THE MATTER OF A COMPLAINT filed with the Regional Municipality of Wood Buffalo Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

BETWEEN:

Budget Rent-A-Car - Complainant

- a n d -

Regional Municipality of Wood Buffalo – Applicant

BEFORE:

Member:

J. Noonan, Presiding Officer

A hearing was held on June 21, 2010 in Fort McMurray in the Province of Alberta to consider preliminary matters about the assessment complaints of the following property tax roll numbers:

8330000300	RMWB file 10-014
8330001400	RMWB file 10-015
8330001980	RMWB file 10-016

PART A: BACKGROUND

The Regional Municipality applied to the CARB to find the complaints invalid by reason that the Complaint forms are incomplete. The Complainant was represented by two local managers, both unfamiliar with the complaint process, and who were under the impression the hearing would deal with the complaint. They understood the Applicant thought not enough information had been provided and had disclosed by letter June 14 further information.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

The CARB derives its authority to make decisions under Part 11 of the *Act*. During the course of the hearing, the Applicant raised the following jurisdictional issue, which is addressed below.

- Preliminary issue 1: Should the complaints be found invalid and thus dismissed by reason of incomplete complaint forms?

The CARB examined the complaint forms relating to the three roll numbers and found in each case that box 3 at section 4 of the complaint had been checked, indicating the assessment amount was under complaint. For the first roll number, at section 5, Reasons for Complaint, was the sentence “2009 Assessment is \$126,340, 2010 Assessment is \$386,240 which is a 206% increase in one year!!!!” For the second and third rolls, the increases were noted as 1392%, from \$4400 and \$4390 to \$65,480. The Requested assessed value box was blank. The forms were signed by Budget’s controller, the complaints were filed on time and the required fees were paid, \$100 in each case.

In order to determine whether an Assessment Review Board has jurisdiction to hear a complaint, the Applicant submitted that a Board must first consider whether a complaint meets the requirements of the *Municipal Government Act (MGA)* and *Matters Relating to Assessment Complaints Regulation (MRAC)*. A plain reading of the legislation is required of the CARB and consideration of legislative intent in determining the correct interpretation of the legislation. Here, the pertinent legislation is *MGA* s 460(7) and *MRAC* ss 2(1) and (2). Section 460(7) details what a complainant must do:

- (a) indicate what information shown on an assessment notice or tax notice is incorrect,
- (b) explain in what respect that information is incorrect,
- (c) indicate what the correct information is, and
- (d) identify the requested assessed value, if the complaint relates to an assessment.

MRAC specifies that 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 fee...

and if these are not done:

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

At Schedule 1 of *MRAC*, the four requirements of s 460(7) are laid out with the elaboration regarding incorrect information, “including identifying the specific issues related to the incorrect information that are to be decided by the assessment review board, and the grounds in support of these issues”.

The Applicant concedes that the Complainant has indicated what information is incorrect, the assessment amounts. However, the complaint forms do not identify in what respect the information is incorrect, specific issues, what the correct information is, nor what the assessed value should be. The complaint form is incomplete and should thus be found invalid. The intent of the new regulation and the re-writing of the parts of the *MGA* dealing with assessments and complaints were to promote efficiency and transparency of process while imposing new obligations on both parties to a complaint. The Applicant asked the Board to find the complaints invalid and dismiss them.

The Complainant's representatives candidly admitted the complaint forms had been filed at the last minute, but believed they had properly filled out the forms, leaving the "requested assessed value" box blank as they simply did not know, not being assessors. They had inquired at several other businesses at the airport to determine if other assessments had similarly increased, but were unable to obtain any information.

Decision:

The dismissal of a complaint is a decision not lightly taken after an assessed person has taken the action of filing the complaint and paying the required fee.

The CARB finds merit in the Applicant's position that the re-writing of the *Act* and the adoption of the new *MRAC* regulation signify greater obligations for both parties to an assessment complaint. The new legislation expanded the complaint filing period from 30 to 60 days, defined new reporting requirements for the municipality in response to requests for assessment information, and introduced the Schedule 1 complaint form.

Dealing with the issue of completion of the complaint form, the decisions to date of the CARBs in other municipalities have adopted a liberal interpretation of how complete a form must be. These complaints note a substantial increase in year-over-year assessments, and as an assessment is an estimate of market value, it is no great leap to infer that the complainant questions whether the market value of the subject properties has increased by the stated amounts. Although ARBs at merit hearings have traditionally found an argument of year-over-year increase a weak one if unsupported by market evidence, it is nonetheless a reason for complaint. The assessor knows at this early stage what the complaint is about, and so is not disadvantaged.

It is problematic to the Board that no amount was identified in the box for requested assessed value. Though it was explained that the Complainant's representatives had no special knowledge of property values, the Board notes the assessed person is Budget Rent-A-Car, and with the forms signed by a controller, presumably a company. One would also presume that a company would have available the resources to conduct some cursory research. The CARB sees the intent of the new legislation as requiring a complainant to give careful consideration as to why a complaint is justified, and by the filing deadline to have developed sufficient or at least preliminary information in support of the reason or reasons advanced. A complainant need not assemble a complete case by filing deadline, that being called for at the evidence disclosure stage.

Section 460 (7) of the *Municipal Government Act* is very specific: a complainant must identify the requested assessed value, if the complaint relates to an assessment. The CARB may feel great sympathy for the current situation where assessments have increased by substantial amounts, and may feel the taxpayer is due some explanation. However, the CARB has no authority to order such explanation. Had the Complainant availed itself of opportunities to investigate why the assessments increased or what happened in the local market, perhaps an answer would have surfaced, or at least some useful evidence for a hearing might have been found. Convening a full

CARB hearing with all the resources that such requires is not an appropriate substitute for the effort that should properly have been spent in the preparation of these complaints.

In the Applicant's written submission it is suggested that if the complaints are not dismissed, the CARB exercise discretion and order the production of new complaint forms either under the Board's ability to control its own procedures, or *MGA* s 465. The CARB sees no leeway in those avenues to allow for the production of a new complaint form after the filing deadline has passed. Ordering a new or revised complaint form under Board procedures would be akin to allowing a complaint fee to be paid late; s 465 is a facility which allows the production of evidence necessary for a fair hearing, for instance, information which a municipality holds but is reluctant to provide due to confidentiality concerns. *MRAC* s 2 is not written, "Subject to s 465..."

The Complainant's letter of June 14, 2010 was not relevant to the outcome of this preliminary hearing, being more in the nature of argument that might be presented at a merit hearing.

In the re-writing of assessment complaint legislation, the legislators clearly introduced a complaint procedure designed to see some fail.

For the reasons explained above, the complaints are found invalid and are dismissed.

It is so ordered.

Dated at Fort McMurray in the Province of Alberta, this 5th day of July 2010.

Rebecca J. MacDonald, Clerk of the Assessment Review Board
For: Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE MGB:

NO.	ITEM
1.	Subject complaint forms
2.	Applicant's Submission
3.	Complainant's letter – June 14, 2010

APPENDIX 'B'

ORAL REPRESENTATIONS

PERSON APPEARING	CAPACITY
1. T. Epple	Senior Municipal Solicitor, Regional Municipality of Wood Buffalo
2. Anny Giguere	Manager, Budget Rent-A-Car
3. Cornelius King	Manager, Budget Rent-A-Car