

**CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

**between:**

***783858 Alberta Inc, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***J. Gilmour, PRESIDING OFFICER***

***Y. Coolidge, MEMBER***

***E. Reuther, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

**ROLL NUMBER: 048530620**

**LOCATION ADDRESS: 28 2333 – 18 Avenue NE**

**HEARING NUMBER: 55964**

**ASSESSMENT: \$557,500**

This complaint was heard on the 6<sup>th</sup> day of August, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom # 11.

Appeared on behalf of the Complainant: M. Crowe  
*783858 Alberta Inc.*

Appeared on behalf of the Respondent: B. Partridge  
*Assessor, The City of Calgary*

**A) Background and Preliminary Matters**

Prior to the onset of the scheduled rent hearing, the Respondent sought to ask the Board to dismiss the subject complaint on the following grounds:

- 1) the evidence of the Complainant was not filed within 30 days; and
- 2) the Complainant failed to complete the complaint form as per the required legislation.

**B) Board's Decision**

Both parties agreed that the final date of the Complainant's evidence to be filed with the Respondent was the 24 June 2010. This evidence package from the Complainant was not filed until July 9 2010.

Pursuant to section 8(2)(a) of the Matters Relating to Assessment complaints Regulation (MRAC) the complainant "must" at least 42 days before the hearing date disclose to the respondent his documentary evidence, a summary of the testimonial evidence...and any written argument that the complainant intends to present at the hearing.

Section 9(2) of MRAC states that a composite assessment review board "must" not hear any evidence that has not been disclosed in accordance with section 8.

Section 467(2) of the Municipal Government Act states that "an assessment review board must dismiss a complaint that was not made within the proper time."

The second issue raised by the Respondent was the Assessment Review Board complaint form was incomplete. This document was filed by the Complainant on February 16, 2010.

The complaint form, as described in Schedule I of MRAC, had box 3 at section 4 checked off in addition to the requested assessed value in section 5 of the application form. None of the other requirements listed in section 5 had been complied with by the Complainant.

There are several important provisions in the relevant legislation with respect to the filing of a complaint. The inclusion of the word "must" in the directions indicates an obligation for both the complainant and the board to ensure the complaint form is completed accurately and comprehensively.

Section 460(2) of the MGA states that the complaint "must" be in the form presented in MRAC. Section 460(7) states that the complaint "must" include the four presented prerequisites noted in that particular section. In section 460(7)(b) the complainant "must" explain in what respect the assessment notice information is incorrect. In section 5 of the Schedule I of MRAC, the complainant has the obligation "to include 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."

None of this information was provided by the Complainant to the Respondent or the Board.

Section 2(1) of MRAC holds that the complainant "must" file the complaint form set out in Schedule I of the regulation. Section 2(2) of MRAC then goes on to order that the CARB "must" dismiss the complaint if the form does not comply with Schedule I.

The provisions now established in the new assessment legislation makes it clear that the Respondent and the Board are provided the reasons and issues to be addressed in the form which is to be completed by the Complainant.

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

It is, however, noted in section 467(2) of the Act that the review board "must" dismiss a complaint if the complaint does not comply with section 460(7). Section 2(2) of the MRAC also states that if a complaint does not comply with section 2(1), the complaint is invalid and the review board "must" dismiss the complaint.

For the above reasons the complaint of the Respondent is found to be valid and the complaint is dismissed.

DATED AT THE CITY OF CALGARY THIS 20<sup>th</sup> DAY OF August, 2010.



for J. GILMOUR, PRESIDING OFFICER

*An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.*

*Any of the following may appeal the decision of an assessment review board:*

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

*An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to*

- (a) the assessment review board, and*
- (b) any other persons as the judge directs.*