

**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-26.1, Section 460(4).

between:

Environmentally Yours Inc., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

S. Barry, PRESIDING OFFICER

H. Ang, MEMBER

I. Fraser, MEMBER

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

ROLL NUMBER: 068105907

LOCATION ADDRESS: 105 8 Av. S.W., Calgary, AB

HEARING NUMBER: 56639

ASSESSMENT: \$3,230,000

This complaint was heard on the 30th 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:

- Marga Betz, Environmentally Yours Inc.

Appeared on behalf of the Respondent:

- D. Thistle, City of Edmonton
- B. Tang, City of Edmonton

Board's Decision in Respect of Procedural or Jurisdictional Matters:

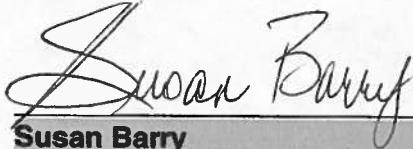
After the introduction of the complaint, the Respondent argued that the Board had no jurisdiction to hear the Complainant's arguments because the disclosure evidence was not received by the Composite Assessment Review Board or the Respondent within the time frames established in s.8(2)(a)(i) of *Matters Relating to Assessment Complaints Regulation* AR 310/2009 (M.R.A.C.). S.8(2)(a)(i) requires that the complainant disclose documentary evidence and written argument "at least 42 days before the hearing date". The deadline for disclosure on this complaint was July 19, 2010 and the Complainant's materials were not received until August 16, 2010. The Respondent provided to the Board a copy of the Notice of Hearing dated April 13, 2010 and containing the due date for disclosure, a copy of a letter dated July 27, 2010 which was sent by courier to the Complainant advising of the failure to file evidence on time, as well as a copy of the Respondent's Inquiry Detail Report recording a conversation with the Complainant with respect to the matter on July 29, 2010. Pursuant to M.R.A.C. s.9(2) "a composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8".

The Complainant argued that the Notice of Hearing had never been received and it was not until she received the failure to disclose letter that she realized the time had begun. The Board confirmed that the address on the various notices and the complaint form were correct and verified with the CARB staff that the Notice of Hearing had not been returned to the Office as undelivered. The Board verified the relevant dates from the computer "screen shot" that records the progress of the Complaint after filing. The Board also noted that while the Complainant's submission was dated July 10, 2010, its transmittal letter was not dated until August 13, 2010 and stamped "received" on August 16 by the Assessment Review Board. Further, there was no record in the Clerk's file that the Complainant had contacted the Assessment Review Board to seek an extension of time or a postponement. The Board read into the record the Reasons for Complaint contained on the Complaint form but did not permit the Complainant to address those reasons through the late disclosure documents.

The Respondent did not file an Assessment Brief and did not speak to the merits of the assessment, merely requesting that the assessment be confirmed.

The Board notes that the *Interpretation Act, RSA 2000, Chapter 1-8*, puts the onus on the addressee to prove that the document was not received. It is a difficult burden and it was not met with any certainty in this case, particularly since other documentation with respect to this complaint was received by the Complainant at the same address. In this case, the Board is bound by M.R.A.C. not to hear the evidentiary materials submitted by the Complainant and in the absence of any evidence to the contrary, confirms the assessment at \$3,230,000

DATED AT THE CITY OF CALGARY THIS 31 DAY OF August 2010.



Susan Barry
Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB:

NO.	ITEM
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- | | |
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| 1. | Assessment Review Board Complaint |
| 2. | Notice of Hearing, dated April 13, 2010 |
| 3. | Letter dated July 27, 2010 re non-filing of Complainant Evidence |
| 4. | Inquiry Detail Report dated July 29, 2010 |
| 5. | Computer "screen shot" |

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.*