

**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:

The City of Calgary, COMPLAINANT

and

Altus Group Ltd., RESPONDENT

before:

J. Gilmour, PRESIDING OFFICER

S. Rourke, MEMBER

P. Pask, MEMBER

This is a preliminary hearing to the Calgary 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:	009023516
LOCATION ADDRESS:	7575 - 8 St NE
HEARING NUMBER:	57612
ASSESSMENT:	\$17,860,000

This preliminary hearing was heard on October 15, 2010 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 8.

Appeared on behalf of the Complainant:

- B. Duban Assessor, The City of Calgary

Appeared on behalf of the Respondent:

- B. Ryan Agent, Altus Group Ltd.

Background and Preliminary Matter:

This matter is a question of late filing of evidence from the Respondent, pursuant to Section 8(2)(a) of the *Matters Relating to Assessment Regulation (MRAC)*.

On September 2, 2010 the Respondent sent a number of e-mail packages of evidence to the Complainant, which complied with the 42 day filing deadline in Section 8(2) of *MRAC*. The e-mail in question identified the subject property and requested the recipient "please see the attached evidence submission." As noted by the Respondent, by mistake the attachment to the e-mail was not forwarded to the City at the same time as the covering e-mail on September 2, 2010.

On September 27, 2010 an assessor for the City sent a letter to the Respondent, stating that since no evidence had been received by the City, the assessment was being confirmed. On the same day, the Respondent sent the City a copy of the original e-mail with the missing attachment included. There was no dispute between the parties of the above facts.

The Respondent acknowledged that the first time he became aware that the attachment had not been included was upon receiving the letter from the City on September 27, 2010. He acknowledged before the Board that he had failed to include the attachment of evidence in this case, but had forwarded by e-mail successfully a number of e-mail packages on similar properties in the northeast quadrant of Calgary to the Complainant. This was the only case where the entire evidence package had not been successfully transmitted to the City.

Board's Reasons for Decision:

As noted by the assessor, the agent for the Respondent had no prior history of failing to file evidence on time, pursuant to Section 8(2) of *MRAC*. The Respondent admitted that he filed his e-mail on time, but failed to include the evidence attachment.

Section 9(2) of *MRAC* states:

"A Composite Assessment Review Board must not hear any evidence that has not been disclosed in accordance with Section 8."

However, Section 10(2) of *MRAC* notes:

"Subject to the timelines specified in Section 468 of the Act, a Composite Assessment Review

Board may at any time by written order expand the time specified in Section 8(2)(a), (b) or (c)."

Based on the facts and evidence presented by both parties at this hearing, the Board is of the opinion that there was no intention or reasons for the Respondent to not comply with the filing of evidence described in Section 8(2)(a) of *MRAC*. The Respondent acknowledged that due to a technical mistake, he failed to include the attachment package of evidence in his e-mail of September 2, 2010. To his knowledge, until he received the letter of September 27, 2010 from the City, he had assumed the entire evidence package had been transmitted to the City in its entirety. There was no evidence before the Board which indicated that the Respondent did not wish to comply with the filing procedure described in *MRAC*.

The Board suggests that possibly the City could have a system in place to notify a Complainant that they received the covering note in the e-mail, but not the evidence attachment, in order for the Complainant to become aware the entire evidence file had not been received by the City. This process would then make a Complainant aware of his shortcomings without having to wait for several weeks to receive a letter stating that the original e-mail was defective.

Findings:

The Board, in accordance with Section 10(2) of *MRAC*, expands the time of filing as specified in Section 8(2)(a) of *MRAC* for the Respondent, beyond the 42 day filing period to the Complainant.

Board's Decision:

The complaint by the City is dismissed and the Board orders a merit hearing be convened as soon as possible before the Board.

DATED AT THE CITY OF CALGARY THIS 10 DAY OF November 2010.



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.*