



## ASSESSMENT REVIEW BOARD

Churchill Building  
10019 103 Avenue  
Edmonton AB T5J 0G9  
Phone: (780) 496-5026

### NOTICE OF DECISION NO. 0098 220/11

HARVEY VICTOR SASKIW,  
TRIUMPH HOLDINGS INC

3310 93 STREET NW  
EDMONTON, AB T6N 1C7

The City of Edmonton  
Assessment and Taxation Branch  
600 Chancery Hall  
3 Sir Winston Churchill Square  
Edmonton AB T5J 2C3

This is a decision of the Composite Assessment Review Board (CARB) from a hearing held on September 19, 2011, respecting a complaint for:

Roll Number	Municipal Address	Legal Description	Assessed Value	Assessment Type	Assessment Notice for:
9988681	3250 93 STREET NW	Plan: 0122212 Block: 5 Lot: 10A	\$6,795,000	Annual New	2011

#### Before:

Dean Sanduga, Presiding Officer  
Jack Jones, Board Member  
Jasbeer Singh, Board Member

**Board Officer:** Karin Lauderdale

#### Persons Appearing on behalf of Complainant:

Did not appear

#### Persons Appearing on behalf of Respondent:

Luis Delgado, City of Edmonton, Assessor  
Cam Ashmore, City of Edmonton, Law Branch

## **PROCEDURAL MATTERS**

Upon questioning by the Presiding Officer the parties before the Board indicated no objection to the composition of the Board. In addition, the Board members indicated no bias with respect to this file.

## **PRELIMINARY MATTERS**

The Respondent raised a preliminary matter in regards to the disclosure of evidence pursuant to section 8(2)(a)(i) of *Matters Relating to Assessment Complaints Regulation* AR 310/2009 (MRAC).

The Respondent argued that the Complainant failed to disclose evidence in a timely manner as required by legislation (section 8(2)(a)(i)) and therefore no evidence received after the notified due date could not be heard or entertained by the Board in accordance with s. 9(2) of MRAC.

## **DECISION ON THE PRELIMINARY MATTER**

The Board reviewed the Complainant's evidence on file and noted that the evidence had been filed on September 6, 2011 and it should have been disclosed to the Assessment Branch and the Assessment Review Board no later than August 8, 2011.

The decision of the Board was to disallow the Complainant's evidence which was received on September 06, 2011 as it was not disclosed in accordance with the section 8(2)(a)(i) of *Matters Relating to Assessment Complaints Regulation* AR 310/2009 (MRAC).

## **ISSUE(S)**

Is the 2011 assessment in respect of the subject property at \$6,795,000 fair and equitable?

## **LEGISLATION**

### ***The Matters Relating To Assessment Complaints Regulation 310/2009***

s.8 (2) *If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:*

(a) *the complainant must, at least 42 days before the hearing date,*

(i) *disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and*

*(ii) provide to the respondent and the composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence;*

*s.9 (2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.*

**The *Municipal Government Act*, R.S.A. 2000, c. M-26;**

*S.467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.*

*S.467(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration*

- a) the valuation and other standards set out in the regulations,*
- b) the procedures set out in the regulations, and*
- c) the assessments of similar property or businesses in the same municipality.*

### **POSITION OF THE COMPLAINANT**

The Complainant did not attend the hearing and no timely evidence or argument was provided by the Complainant for the Board's review and consideration.

In the Complainant's absence, the Board reviewed the complaint form which indicated a request to have the 2011 assessment revised to \$4,900,000.

### **POSITION OF THE RESPONDENT**

The Respondent attended the hearing and noted that no evidence had been received from the Complainant (within the required timeline) to support the requested assessment reduction.

The Respondent requested the 2011 assessment of \$6,795,000 be confirmed as the Complainant has not met the required onus or burden of proof.

### **DECISION**

The decision of the Board is to confirm the 2011 assessment of the subject property at \$6,795,000 as fair and equitable.

### **REASONS FOR THE DECISION**

- 1) The Board finds that the Complainant has not provided sufficient evidence to persuade the Board that the 2011 assessment of the subject property is incorrect.
- 2) The Board finds that the Complainant has not met the required onus or burden of proof and therefore the 2011 assessment for the subject property is confirmed.

## **DISSENTING OPINION AND REASONS**

There was no dissenting opinion.

Dated this 5<sup>th</sup> day of October, 2011, at the City of Edmonton, in the Province of Alberta.

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Dean Sanduga, Presiding Officer

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*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.*

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