

**NOTICE OF DECISION      NO. 0098 86/12**

DOUGLAS SOLLOWS  
DOUGLAS SOLLOWS ARCHITECT INC.  
#220 - 10220 156 ST  
EDMONTON, AB T5P 2R1

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 July 20, 2012, respecting a complaint for:

<b>Roll Number</b>	<b>Municipal Address</b>	<b>Legal Description</b>	<b>Assessed Value</b>	<b>Assessment Type</b>	<b>Assessment Notice for:</b>
4110722	10220 156 Street NW	Plan: 6818ET Block: 14 Lot: 1	\$2,885,000	Annual New	2012

*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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cc: 1014477 ALBERTA LTD

## **Edmonton Composite Assessment Review Board**

**Citation: Douglas Sollows v The City of Edmonton, 2012 ECARB 1440**

**Assessment Roll Number:** 4110722

**Municipal Address:** 10220 156 Street NW

**Assessment Year:** 2012

**Assessment Type:** Annual New

Between:

**Douglas Sollows**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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### **PRELIMINARY DECISION OF Robert Mowbrey, Presiding Officer**

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#### **Procedural Matters**

[1] The Board asked the parties present if they had any objection to the composition of the Board, and the parties present indicated that they did not. The Board member indicated that he had no bias to declare with regard to this matter.

#### **Background**

[2] On March 13, 2012 the Assessment Review Board received a complaint form for the above roll number. This complaint form was accompanied by 11 pages of evidence. A hearing was scheduled for August 7, 2012.

[3] In preparing for this hearing the Respondent reviewed this evidence attached to the complaint form and came to the conclusion that the evidence was not properly related to the above roll number, noting that the municipal address associated with that roll number was not the municipal address written on the complaint form. The Respondent contacted the Complainant for clarification, and informed the Assessment Review Board administration. Administration requested a hearing before a single-member Composite Assessment Review Board to address the preliminary issues raised.

#### **Issue(s)**

[4] The issues for the Board's consideration at the preliminary hearing were:

- a. Is there a valid complaint, and if so for which property?

- b. If there is a valid complaint, should the hearing scheduled for August 7, 2012 to proceed?

### **Legislation**

[5] The *Municipal Government Act*, RSA 2000 c M-26 [MGA] reads:

303 The assessment roll must show, for each assessed property, the following:

- (a) a description sufficient to identify the location of the property;
- (b) the name and mailing address of the assessed person;
- (c) whether the property is a parcel of land, an improvement or a parcel of land and the improvements to it;
- (d) if the property is an improvement, a description showing the type of improvement;
- (e) the assessment;
- (f) the assessment class or classes;
- (f.1) the liability code assigned by the assessor, in the form and manner prescribed by the regulations;
- (g) whether the property is assessable for public school purposes or separate school purposes, if notice has been given to the municipality under section 156 of the School Act;
- (g.1) if the property is linear property, the date the Minister declares the linear property assessment complete;
- (h) if the property is exempt from taxation under Part 10, a notation of that fact;
- (i) any other information considered appropriate by the municipality or by the Minister, as the case may be.

...

309(1) An assessment notice or an amended assessment notice must show the following:

- (a) the same information that is required to be shown on the assessment roll;

...

460(1) A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.

(2) A complaint must be in the form prescribed in the regulations and must be accompanied with the fee set by the council under section 481(1), if any.

...

(7) A complainant must

- (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.

...

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.

(2) An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 460(7).

(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.

(4) An assessment review board must not alter any assessment of farm land, machinery and equipment or railway property that has been prepared correctly in accordance with the regulations.

### **Position of The Complainant**

[6] The Complainant did not appear at the preliminary hearing, however the Respondent provided the Board with their understanding of the Complainant's position.

[7] The Respondent indicated that they had been informed after contacting the Complainant that the Complainant was the owner of two properties, and when filing a complaint for one of those properties had inadvertently included the roll number for another of his properties. The Complainant indicated that this was an error, and asked that the Board correct the error by having the existing hearing scheduled for August 7, 2012 amended so that it deals with roll number 1393172.

[8] The Board understands that the Complainant seeks that the hearing should be declared valid, for roll number 1393172, and that the August 7, 2012 hearing should proceed.

### **Position of The Respondent**

[9] The Respondent made numerous submissions to the Board, but emphasized that it took no position on what the outcome of the preliminary hearing should be.

[10] The Respondent noted for the Board that the two roll numbers are for two different types of property, the implication being that the information would have come to the attention of different assessors for the City of Edmonton.

[11] The Respondent noted that there was nothing in the legislation either prohibiting or enabling the Assessment Review Board to make changes to a complaint form to address errors.

[12] The Respondent suggested that the question of whether the complaint was validly filed could be answered by determining whether it was the roll number or the property that was primary in the complaint form. In support of the argument that the roll number is primary, the Respondent referred the board to the *2011 Recording and Reporting Information for Assessment Audit and Equalized Assessment Manual* from the Government of Alberta, enacted by Ministerial Order L:206/11. At page 25, this document lists roll numbers as mandatory and unique.

[13] The Respondent suggested that this requirement for unique and mandatory roll numbers was imported by various sections of the MGA that made reference to things being done in accordance with the regulations.

[14] The Respondent also noted that section 303 of the MGA requires a description of the property to appear on the assessment roll, but that there is no specific requirement for a roll number, and that section 309(1)(a) which sets out what must be shown in an assessment notice imports the requirements of section 303.

[15] The Respondent also drew the Board's attention to section 460(2) of the MGA which states that complaints must be in the specified form. The Board is aware that the form specified in the Matters Relating to Assessment Complaints Regulation in Schedule 1 includes a space for a Roll Number to be specified, and that the same roll number is included in assessment notices in the City of Edmonton.

[16] The Respondent suggested that the scope of the Board's jurisdiction was set out in section 467 of the MGA. Specifically, the Respondent suggested that section 467(1) did not seem to indicate that the Board could make a change to any roll number as a result of any complaint on any other roll number. Further, the Respondent suggested that if the Board were to dismiss the complaint, the authority to do that would have to be found in section 467(2) of the MGA.

[17] In terms of outcome the Respondent suggested that the Board had three options available to it.

- a. Find the authority to dismiss the complaint as invalid in section 467(2) of the MGA,
- b. Proceed with the existing complaint on the roll number 4110722, or
- c. Change the existing complaint so that it would be for roll number 1393172.

[18] The Respondent submitted that if the Board were to select either b or c, the August 7, 2012 hearing could not proceed due to a failure of notice. The Respondent pointed out that the notice of hearing for the original roll number did not include notice to the owner of that property, and that there was no notice to the City of a hearing on the second roll number.

[19] Further, the Respondent noted that there are two additional roll numbers associated with roll 1393172, and that the Complainant had suggested that these additional roll numbers should be heard at the same time as roll 1393172. The Respondent indicated that they agreed with this submission.

[20] The Respondent indicated that there was a risk of allowing individuals to act nefariously to make false errors on complaint forms that would provide them with some advantage to the prejudice of the City. However, the Respondent indicated that they did not believe that was the case in this instance, and that they took the Complainant at his word that he was the owner of both properties, and had made an error in good faith.

## **Decision**

### **1. Is there a valid complaint, and if so for which property?**

[21] A valid complaint has been filed. The ARB administration will amend the complaint for roll number 4110722 to be against roll number 1393172.

### **2. If there is a valid complaint, should the hearing scheduled for August 7, 2012 to proceed?**

[22] Given the lack of notice to the City for this hearing, the existing hearing scheduled for August 7, 2012 is cancelled, and the complaint is referred to ARB administration to schedule a new date appropriate for both parties taking into account the associated roll numbers.

## **Reasons For The Decision**

[23] The Respondent submitted that roll numbers are a critical part of the complaint form, and that an error in the roll number may effectively make a complaint invalid. The Board was not compelled by this argument. The Board reviewed the manual referred to by the Respondent. It seems to the Board that this manual is essentially a data definition used to facilitate communications between municipalities and the province with regard to assessment audits. It has little bearing on the requirements placed on Complainants by the MGA and its regulations for Complaints.

[24] The question is not whether it is the roll number or the municipal address that is most important. The question is whether the complaint is valid. Though it was not referred to by the parties, the Board notes that the test for validity of a complaint is described in the recent decision of Justice Germain in *Edmonton (City) v. Edmonton Composite Assessment Review Board*, 2012 ABQB 154, where he says at paragraph 45:

Review of the CARB decision clearly indicates the tribunal was conscious of its obligation to reject defective complaints. The decision notes that it must review each complaint to determine whether the complaint has met the requirements of MGA, s. 460(7): June 3 reasons at pp. 7-8. In other words the CARB has identified the correct test. The CARB identifies a standard for that test, substantial compliance, in reference to the Alberta Court of Appeal decision of *Boardwalk Reit LLP v. Edmonton (City)*. [Emphasis added]

[25] The correct test for whether a Board can dismiss a complaint is therefore section 460(7), which has four requirements:

(7) A complainant must

- (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.

[26] The inconsistent roll number and address cause confusion regarding the property that is being complained about, but do not violate any of the requirements of section 460(7). The Board finds that the complaint form meets the requirements of section 460(7), and that the complaint is therefore valid.

[27] It would be unfair to the Complainant to deny the opportunity to have his complaint heard on the basis of an error that violates no legislated requirement. The Board has the inherent authority, where it is reasonably necessary for the performance of its legislated function, to make corrections to complaint forms. It is the Board's responsibility to promote a fair assessment complaint process. Therefore, the Board uses its inherent authority to correct the roll number on this complaint.

[28] The Board recognizes the risk alluded to by the Respondent of individuals making intentional errors that prejudice the City, and agrees that the Board must be aware of the risk that an error on a complaint form is in fact being used in order to obtain a strategic advantage. However, the Board finds that is not happening in this case as a matter of fact.

[29] The Board agrees with the Respondent that whether the hearing is for the original or the corrected roll number, there has been a failure to provide the required notice. As such, the existing hearing cannot be allowed to proceed. The parties are also in agreement that this matter should be heard with two associated matters. For that reason, no new date is set for the new hearing, but the matter is referred back to the ARB administration to schedule an appropriate date and time for the hearing of this matter.

Heard commencing July 20, 2012.

Dated this 24<sup>th</sup> day of July, 2012, at the City of Edmonton, Alberta.

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Robert Mowbrey, Presiding Officer

**Appearances:**

None

for the Complainant

Cameron Ashmore

James Cumming

for the Respondent