

Edmonton Composite Assessment Review Board

**Citation: Kulmit Singh Sangha, Sikh Federation of Edmonton v The City of Edmonton,
2013 ECARB 00161**

Assessment Roll Number: 3931672
Municipal Address: 9858 41 AVENUE NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

Kulmit Singh Sangha, Sikh Federation of Edmonton

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Steven Kashuba, Presiding Officer
Jack Jones, Board Member
Darryl Menzak, Board Member

Procedural Matter

[1] Before a Board can hear a Complaint, certain requirements must first be met by both the Complainant and the Respondent. If one of these requirements is not met, it results in a Preliminary Matter.

Preliminary Matter

[2] At the outset of the hearing, the Respondent requested that the Board dismiss the Complaint because:

[2.1] The Complainant failed to disclose their evidence in accordance with MRAC s. 8 and MRAC s.9, and

[2.2] The Complainant did not successfully complete their application for an exemption as a non-profit organization pursuant to COPTER s.16(1).

Background

[3] The subject property is located at 9858 – 103 Avenue NW in the City of Edmonton and is currently assessed at \$423,000. The Complainant submitted that the subject property should be exempt from taxation because it is used entirely for non-profit community services that are provided free of any cost to the users.

Issue(s)

[4] Did the Complainant disclose their evidence in accordance with MRAC s.8 and MRAC s.9?

[5] Did the Complainant successfully apply for an exempt status for the subject property under COPTER s.16?

Legislation

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

s 1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

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.

[7] **The *Matters Relating to Assessment Complaint Regulation*, Alberta Regulation 310/2009, reads:**

Disclosure of evidence

8 (1) In this section, “complainant” includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(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;

- b) the respondent must, at least 14 days before the hearing date,
 - (i) disclose to the complainant 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 respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and
 - (ii) provide to the complainant and the composite assessment review board an estimate of the amount of time necessary to present the respondent's evidence;
- c) the complainant must, at least 7 days before the hearing date, 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 rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

Failure to Disclose

9(1) A composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

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

(3) A composite assessment review board must not hear any evidence from a complainant relating to information that was requested by the assessor under section 294 or 295 of the Act but was not provided to the assessor.

(4) A composite assessment review board must not hear any evidence from a municipality relating to information that was requested by a complainant under section 299 or 300 of the Act but was not provided to the complainant.

[8] **The *Community Organization Property Tax Exemption Regulation* (Alberta Regulation 281/1998), reads:**

Conditions for exemption

16(1) A municipality must grant a non-profit organization an exemption from taxation in a taxation year in respect of property referred to in section 15 that is held by the organization if

- a) the non-profit organization makes an application for an exemption to the municipality by September 30 of the year preceding the taxation year and supplies the municipality with the following by November 30 of the year preceding the taxation year:
 - i. any information the municipality requires to determine if the organization meets the conditions for the exemption, and
 - ii. a description of any retail commercial areas in the facility,

- b) the facility on the property is one of the facilities described in section 15 and the non-profit organization operates the facility on a non-profit basis,
- c) the funds of the non-profit organization are chiefly used for the purposes of the organization and not for the benefit of the organization's directors and employees, and
- d) the property is not disqualified by virtue of subsection (2) or (3), and
- e) the requirements of subsections (4) and (5), if applicable, are met.

Position of the Complainant

[9] The Complainant submitted that they were currently in discussion with the City of Edmonton to exempt the subject property from taxation because it is used entirely for non-profit community services provided free of cost to users. In response to questions; however, the Complainant admitted that their application for an exempt status was not complete. Further to this, the Complainant was in agreement with the Respondent that evidence in support of this application had not been filed with the Respondent.

Position of the Respondent

[10] Noting that the Complainant neither received a non-profit status for the subject property nor had the Complainant disclosed evidence in support of this application, the Respondent requested that the Board dismiss the Complaint.

Decision

[11] It is the decision of the Board to dismiss the Complaint.

Reasons for the Decision

[12] The Complainant did not disclose their evidence in accordance with MRAC s.8 and MRAC s.9.

[13] Although the Complainant had initiated the process to obtain a non-profit status for the subject property in accordance with COPTER s.16, this process was not complete.

[14] As a result of the foregoing, the Board does not have the jurisdiction to consider the merits of the Complaint. Therefore, the Complaint is dismissed.

Dissenting Opinion

[15] There is no dissenting opinion.

Heard commencing May 23, 2013.

Dated this 23rd day of May, 2013, at the City of Edmonton, Alberta.

Steven Kashuba, Presiding Officer

Appearances:

Kulmit Singh Sangha, The Sikh Federation of Edmonton
for the Complainant

Cameron Ashmore, Counsel, City of Edmonton
Will Osborne, Assessor, City of Edmonton
for the Respondent

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.