Edmonton Composite Assessment Review Board

Citation: Altus Group v The City of Edmonton, 2013 ECARB 00783

Assessment Roll Number: 9961687
Municipal Address: 10235 101 Street NW
Assessment Year: 2013
Assessment Type: Annual New

Between:

Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
Tom Eapen, Presiding Officer
Brian Carbol, Board Member
Brian Frost, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer, the parties did not object to the composition of the Board. The Board members stated they had no bias with regard to this file.

Legislation

[2] For ease of reference all legislation referred to or relied upon in this decision is outlined in Schedule "A".

Preliminary Matters

a) Respondent's Application for Exclusion of Rebuttal/s. 9(4) Material

[3] At the outset of the hearing the Respondent asked for the exclusion of certain portions of the Complaint's rebuttal package. In the Respondent's view, materials respecting the exclusion of Respondent evidence pursuant to s. 299 of the *Municipal Government Act*, RSA 2000 c M-26 (MGA) and s. 9(4) of the *Matters Relating to Assessment Complaints Regulation*, Alta Reg 310/2009 (MRAC), were in fact "new evidence", and thus did not properly form part of the rebuttal. The Respondent argued this evidence should have been contained in the Complainant's original disclosure since the Complainant knew s. 299 and s. 9(4) would be in issue.

[4] The Complainant argued that the City was mischaracterizing the issue. The Complainant had raised the s. 299 matter in its original disclosure as a courtesy to the Respondent, but it could not have known it would actually become an issue until the Respondent filed its evidence 14 days before the hearing. Only once the Respondent filed its disclosure did the s. 299 issue crystallize, bringing s. 9(4) of MRAC into play. The Complainant denied it was splitting its case.

[5] The Respondent further argued that the Complainant should have requested the matter be heard before a one-member Composite Assessment Review Board pursuant to s. 36(2) of MRAC. The Complainant reiterated its position that characterizing the impugned materials as rebuttal was inaccurate, since they were actually submitted to initiate an application under s. 9(4) of MRAC. From the Complainant's perspective this was a preliminary matter that was not contemplated by the usual disclosure rules. In fact, their issue was analogous to the Respondent's current objection, which itself had been brought without notice.

[6] The Board decided in the circumstances the s. 9(4) issue is best understood as a preliminary matter that is outside the disclosure requirements of the legislation. The Complainant could not have concluded s. 9(4) would be in issue until the Respondent disclosed its evidence. The Board offered the Respondent more time to review the Complainant's evidence respecting the application for the exclusion of evidence under s. 9(4). However, counsel for the City stated they were prepared to proceed with the Complainant's preliminary application and the merit hearing.

b) Complainant's Application for Exclusion of Respondent Evidence

[7] The Complainant submitted to the Respondent a request for information pursuant to s. 299 of the MGA to which the City responded. Subsequently, the Complainant received the City's disclosure.

[8] The Complainant requested a ministerial compliance review under s. 27.6(1) of the *Matters Relating to Assessment and Taxation Regulation*, Alta Reg 220/2004 (MRAT) regarding this s. 299 request.

[9] The Complainant has made an application to have certain pages of the Respondent's evidence excluded pursuant to s. 9(4) of MRAC.

Issue

[10] Should information relating to capitalization rates in the Respondent's disclosure be excluded from evidence pursuant to s. 9(4) of MRAC as requested by the Complainant?

Complainant's Position on the Preliminary Matter

[11] The Complainant requested that pages 19 and 36-45 be removed from the Respondent's disclosure package (R-2). In support, exhibits C-1 (Witness Report/Notice of Preliminary review), C-2 (Authorities and Materials), and C-3 (Request for Information), were entered into evidence. It is the Complainant's position that the Respondent denied the request for certain information under s. 299. The Complainant submitted that the Respondent is required to disclose "sufficient information to show how the assessor prepared the assessment of that person's property", and that s. 300 requires the Respondent to disclose a summary of an assessment of any other property in the municipality.

[12] The Complainant indicated the Respondent provided some documentation in response to the s. 299 request; however, the Respondent denied the Complainant's request for some of the information, in particular specifics on how the capitalization rate was "prepared" for the subject (C-1, p. 6). The Respondent only provided the Complainant with a "generic Valuation Guide", and the Respondent is now seeking to include specific information respecting the derivation of capitalization rates in its disclosure. The Complainant argued that this denial is contrary to the

intent of sections 299 and 300, and that the appropriate remedy is exclusion of the withheld material pursuant to s. 9(4) of MRAC (C-1, p. 6).

Respondent's Position on the Preliminary Matter

[13] In support of its position, the Respondent submitted R-2 (Disclosure Brief), R-3 (299/300 Compliance Package) and R-4 (Letter from Municipal Affairs re: Compliance Review). The Respondent argued that the City fully complied with the s. 299 request. Further, s. 299 states that the City must disclose only the key factors, components and variables of the valuation applied, not all documents, records and other information about how they are created. The Respondent added this is further covered under s. 27.3 of MRAT. The City is not required to provide raw data, and s. 27.3 does not say that raw data must be disclosed. Section 299 of the MGA uses the term "sufficient." It is quite clear that this does not refer to every available piece of information. Additionally, in the Respondent's view, the information requested by the Complainant does not meet the objectives of an assessment appeal.

Decision on the Preliminary Matter

[14] The Board denies the Complainant's application for the exclusion of pages 19 and 36-45 from the Respondent's disclosure (R-2).

Reasons for the Decision on the Preliminary Matter

[15] The Board was persuaded by the Respondent's primary argument that the City had complied with the s. 299 request. Further, compliance was confirmed in the letter from Municipal Affairs dated July 22, 2013 (R-4).

[16] Both the Complainant and the Respondent are entitled to a very narrow range of information under ss. 294, 295 and ss. 299 and 300.

[17] An assessor is entitled *only* to the "information necessary" for the preparation of an assessment or for the determination of whether or not a property is to be assessed. The consequences for not providing this information are:

1. The preclusion of making a complaint in the following year (s. 295(4), MGA); and
2. The preclusion of relying upon this info in the context of a current complaint (s. 9(3), MRAC).

[18] These exclusionary provisions apply only to a narrow range of "necessary information". A complainant would therefore be entitled to rely on any information or evidence, properly disclosed pursuant to MRAC, that was not necessary for the assessor's production of a *particular* assessment, or for determining that an assessment of a particular property is necessary. This was what the Court of Appeal determined in *Boardwalk v. Edmonton (City)*, 2008 ABCA 220 and what the Court of Queen's Bench determined in *Edmonton (City) v. Innvest Properties*, 2010 ABQB 459 (*Innvest*).

[19] For instance, in its discussion of sections 294 and 295 of the MGA, the Court of Queen's Bench in *Innvest* found that "The Legislature's intention, on proper interpretation of these sections, is to provide the assessor with all the information he or she needs to prepare the

particular assessment at issue, not to provide all information that would or could assist the City Assessor to assess all property in more general terms" (at para 30). The Board is satisfied that a similar interpretation can be applied to sections 299 and 300.

[20] As argued by both parties, the corollary to sections 294 and 295 are sections 299 and 300. These sections allow an assessed person to ask a municipality for *sufficient* information to show how the assessment was prepared for that person's property. Again, like sections 294 and 295, the scope of information that must be produced upon request is narrow. Information that must be produced under these provisions, and that is not produced by the City, would then be caught by section 9(4) of MRAC and excluded by the Board.

[21] However, there is nothing to suggest that information that does not fall within the scope of s. 299, and is therefore not disclosed by the City, cannot be relied upon by the City in defending its assessment.

[22] The Board finds that a cap rate study, as stated in the July 22, 2013 letter from Municipal Affairs, does not fall within the scope of s. 299 of the MGA. This does not mean that the Respondent is precluded from using this information in the defense of its assessment. Therefore, to exclude the evidence as requested by the Complainant would be irrational and unfair. The Complainant's recourse after discovering the City has relied upon a cap rate study is to respond in its rebuttal pursuant to s. 8(2)(c) of MRAC. Excluding this information entirely cannot have been the intention of the legislature, as it would undermine the disclosure provisions of MRAC and lead to manifestly absurd results.

Background

[23] The subject property is zoned CCA. It is an office tower constructed in 1978 and is located in the downtown financial district of the City of Edmonton. The lot is 30,138 square feet. The improvement consists of a high-rise office tower with a total building area of 330,995 square feet. The 2013 assessment of the property is $117,813,000. It is considered a "AA" class building.

Issues

Issue 1, Exemption:

[24] Is the exemption as applied to the subject property correct?

Both parties agreed to amend the exemption from 0.76 % to 0.772%, (Exhibit R-1).

Issue 2, Office Space:

[25] Is the office portion of the subject property correctly allocated?

Both parties agreed to amend the office space portion of the property from 324,141 sq ft to 321,943 sq ft.

Issue 3, Parking Spaces:

[26] Is the number of parking stalls associated with the subject property correct?

Both parties agreed to amend the number of parking spaces from 175 to 196 stalls.

Issue 4, Cap Rate:

[27] Is the cap rate used in the assessment correct?

Issue 5, Segregation of Electrical Service:

[28] Is a $3,300,000 deduction from the assessment appropriate in order to reflect the physical condition of the subject property as of the condition date December 31, 2012?

Position of the Complainant

[29] In support of their appeal, the Complainant presented the Board with a witness report and preliminary issue brief, (Exhibit C-1, 51 pages), Section 299/300 materials, (Exhibit C-2, 324 pages), Section 299 request and response, (Exhibit C-3, 151 pages), Disclosure Brief, (C-4, 428 pages) and CARB and QB decisions (Exhibit C-5, 33 pages). Only Exhibits C-4 and C-5 related to the assessment issues.

Issue 4, Cap Rate:

[30] The Complainant stated that the cap rate of 5.50% applied by the City is too low and is inconsistent with the market indicators as of the valuation date. The Complainant provided Network documents for the sale of the subject property in December 2011, six and a half months prior to the valuation date of July 01, 2012. The cap rate exhibited in this document is 6.44% (Exhibit C-4, page 20).

[31] The Complainant directed the Board to the sales validation questionnaire as provided by the purchaser to the City. The purchaser indicates the Cap rate used to derive the sale price of $115,000,000 was 7.0%, much higher than the assessed cap rate of 5.50%.

[32] The Complainant stated that both the subject property and the Bell Tower were purchased by the current owner as part of the same agreement. The blended cap rate for both properties is 6.70% as shown in the summary within the Network data sheet, (Exhibit C-4, page 21).

[33] The Complainant submitted that the Network reported cap rates for the office properties in the downtown and government districts that sold in 2010 and 2011 ranged between 6.12% and 7.0%. The exception was with the Enbridge tower, where the reported lease rates were well below the market rates, and resulted in a cap rate that was regarded as an outlier.

[34] The Complainant referred the Board to the Colliers International cap rate report (Exhibit C-4, page 30) for Q2, 2012, which indicates cap rates of between 6.00% and 6.50% for downtown class A office properties.

[35] The Complainant stated the 5.50% cap rate used to assess the subject is inconsistent with both the general market indicators and the indicators involving the subject property in December 2011. This results in a capitalized value that is even higher than the price paid by the owner in connection with the purchase of the property. The Complainant stated the indicated cap rate applied by an investor in connection with the sale of the subject in December of 2011, prior to six and one-half months to the valuation date, would suggest the application of a capitalization rate of no less than 6.0% in valuing the subject property.

[36] To support the requested reduction of the assessment based upon a 6.0% cap rate, the Complainant discussed income derivation.

[37] The Complainant advised that the Net Operating Income (NOI) calculated on the Network sales data for the subject property is $7,403,000. This is consistent with the actual results for 2012 which were $7,489,519.

[38] The Complainant agrees with the office vacancy allowance of 7.5% and the retail vacancy allowance of 5% used in the assessment for the subject property. Further, the Complainant indicated the vacancy shortfall rate for the office area of $19.00 per sq. ft. and $21.00 per sq. ft. for the retail area is also acceptable.

[39] The Complainant modified the City's pro-forma, which after having been amended to correct the office space and parking stalls, reflected an NOI of $6,504,978. When a cap rate of 6.0% was applied it resulted in a value on a fee simple interest basis of $108,416,000 (Exhibit C-4, page 14).

[40] The Complainant stated the sale price of $115,000,000 in December of 2011 was based on the purchase of a leased fee interest as it was based on an NOI that was much higher than the typical NOI used by the Respondent, which was based on the fee simple estate using market indicators. Accordingly, the leased fee value was expected to be much higher than the fee simple value of $108,416,000.

Issue 5, Segregation of Electrical Service:

[41] In the alternative to a reduction of the assessment, the Complainant requested a capital deduction of $3,300,000. This would account for the estimated cost of segregating the electrical service from Edmonton Centre North. In the Complainant's view, this needed to be deducted from the Respondent's proposed revised assessment of $118,272,000 to account for the deficiencies in the building as of the condition date of December 31, 2012.

[42] To support this request the Complainant provided the Board with an estimate from an engineering firm (CIMA) dated June 11, 2012. This report addressed the segregation of power for the subject from City Centre North, which was originally owned along with the subject by the same entity. The Complainant stated that one of the conditions of the sale and purchase agreement was the segregation of the subject's electrical supply. The recommended probable cost for this work is $3,279,513.92 (Exhibit C-4, page 105).

[43] The Complainant stated the current assessment must reflect the cost of remedying this power issue by deducting the cost from the assessed value as of December 31, 2012. When applied to the revised assessment of $118,272,000, the cost of remedying this deficiency results in an assessment of $114,972,000, which is consistent with the purchase price of $115,000,000. The Complainant further stated the time adjustment factor of 1.000 applied by the assessor at the time of purchase (December, 2011) is acceptable.

Position of the Respondent

[44] In support of the assessment, the Respondent submitted the recommendation for exemption increase (Exhibit R-1, 16 pages), the Respondent's Disclosure Brief (Exhibit R-2, 115 pages), Section 299/300 compliance package (Exhibit R-2, 230 pages), the ministerial review

response letter (Exhibit R-4, 2 pages), and two court decisions that were not entered into evidence (*Boardwalk* and *Innvest* – as cited above).

Issue 4, Cap Rate:

[45] The Respondent stated the 5.5% cap rate as utilized in the assessment is the typical cap rate used for quality AA downtown office buildings. In support, the Respondent provided a Downtown Capitalization Rate Analysis. The adjusted cap rate range was between 4.13 and 5.63% with a median of 5.37% which supports the 5.50% typical cap rate (Exhibit R-2, page 36). In the same analysis, the Respondent provided information for five quality AL and AH properties which reflected a median cap rate of 6.02%. The Respondent stated this is appropriate for lower classified properties when compared to AA office buildings.

[46] In response to the Complainant's argument regarding the cap rate for the sale of the subject property, the Respondent provided an analysis of the sale utilizing typical lease rates and expenses in accordance with mass appraisal practice. The Respondent concluded that the sale reflected a 5.63% cap rate. The Respondent then compared the analysis with the Complainant's analysis of the sale, wherein the Complainant utilized actual income and the resultant cap rate was 6.45%. The Respondent explained how deviation from typical income parameters can skew data (Exhibit R-2, page 37).

[47] The Respondent provided a chart showing the income parameters used in the assessment of eleven AA class downtown office buildings including the subject. These confirmed that a 5.50% cap rate was utilized in all instances, (Exhibit R-2, page 49).

[48] The Respondent stated the cap rate is derived by dividing the stabilized typical NOI by the time adjusted sale price, adding that the Complainant's leased fee cap rates come from network information based on the reported NOI. The Respondent stated the Complainant's combination of typical lease rates and a Network derived cap rate was inconsistent and served to highlight the consistency achieved by the Respondent in its analysis and use of typical rates.

[49] The Respondent provided a copy of the Request For Information (Exhibit R-2, pp. 21-26). When compared with the information included within the Complainant's information package, four different NOIs were evident. The Respondent stated there was no consistency to the Complainant's calculations. The Respondent indicated MRAT requires standard procedures and the use of typical market factors in creating an assessment.

Issue 5, Segregation of Electrical Service:

[50] The Respondent did not agree with the Complainant that the segregation of the subject's electrical supply from the rest of the complex was a condition of the sales agreement. In support, the Respondent provide a copy of the Sales Validation Questionnaire (Exhibit R-2, pages 59 & 61) which indicated in response to questions 15, 16 and 17 that there were no known defects, structural problems or additional capital expenditures associated with or after the purchase of the property.

[51] The Respondent stated the proposed change in electrical service as contemplated in the CIMA report involves relocation of a 13.8kV service, regarded as medium voltage, to another medium voltage installation, and this does not indicate a deficiency in the power supply service.

[52] The Responded stated the Complainant was requesting only a 2.8% reduction in the assessment due to the segregation of electrical service. The Respondent stated the assessment is permitted to be within 5% plus or minus and that there are numerous decisions that support not altering an assessment if the requested change is less than 5%.

[53] In summary the Respondent stated that the change in the amount of office space and number of parking stalls (as agreed to by the Complainant), resulted in an increase in the assessment from $117,813,000 to $118,272,000. The Respondent requested that the Board confirm the increased assessment.

Decision

[54] The Board reduced the 2013 assessment for the subject property to $115,000,000.

Reasons for the Decision

Issue 4, Cap Rate:

[55] In determining whether the 5.5% cap rate used to prepare the assessment is correct and equitable, the primary consideration is comparability. The Board finds that the Complainant's sales comparables are not sufficiently comparable to test the subject.

[56] The Board finds the Respondent's capitalization rate is more reliable because the Respondent consistently used the 2013 stabilized NOI and the time adjusted sale price to derive the capitalization rate for the comparable sales. The Board further concluded the Complainant did not provide sufficient evidence to prove that the 5.50% cap rate is incorrect.

Issue 5, Segregation of Electrical Service:

[57] The Board considered the evidence put forward by the Complainant, in particular regarding the timing of the elements within the transaction. The sale occurred in December 2011. The purchase/sale agreement was not included within the evidence. The CIMA report was dated June 2012. In the absence of any evidence pertaining to the purchase/sale transaction, there is nothing to suggest that one event hinged upon the other, nor was there information that the purchase/sale was conditional upon segregation of the electrical service. This was confirmed in the sales validation document wherein it was stated that there were no known defects, structural problems or additional capital expenditures associated with or after the purchase of the property.

[58] The Board found that segregation of the electrical service was not a factor to be considered in the 2013 assessment.

[59] The Board disagreed with the Complainant's position that the cost for segregation of electrical service should be subtracted from the total assessment in arriving at a reduced assessment.

[60] However, the Board nevertheless concluded that a reduction was appropriate. The Board relied upon *697604 Alberta Ltd v. Calgary (City of)*, ABQB 2005 512 (697604) in reaching this decision. In *697604*, the court found that the Municipal Government Board erred when it failed to rely "on the evidence of value provided by the recent sale of the Property [the subject]" (at para 24). In reaching this conclusion, the Court relied upon *Re Regional Assessment*

Commissioner, Region No. 11 v. Nesse Holdings Ltd. et al. (1984), 47 O.R. (2d) 766 (Ont. H.C.J. Div. Ct.), wherein the following comments were made:

> ...the price paid in a recent free sale of the subject property itself, where, as in this case, there are neither changes in the market nor to the property in the interval, must be very powerful evidence indeed as to what the market value of the property is. It is for that reason that the recent free sale of a subject property is generally accepted as the best means of establishing the market value of that property.
>
> ...
>
> I think that generally speaking the recent sale price, if available as was the case, is in law and, in common sense, the most realistic and most reliable (at p. 767).

[61] The Board noted the sale of the property for $115,000,000 occurred in December 2011, seven months prior to the July 1, 2012 valuation date. The time adjustment factor for December 2011 to July 2012 as set out in the City time adjustment chart is 1.000. For these reasons, the Board is persuaded that the recent sale of the subject provides the best evidence of market value.

[62] The Board also considered the Respondent's position regarding 5% leeway either way on an assessment. The Board finds that this is a guideline and is certainly not intended to restrict the ability of the Board to reduce the assessment in a fair and reasonable manner.

[63] The Board therefore reduced the assessment based on the sale price.

Dissenting Opinion

[64] There was no dissenting opinion.

Heard commencing July 29, 2013.

Dated this 16th day of August, 2013, at the City of Edmonton, Alberta.

Tom Eapen, Presiding Officer

Appearances:

Kerry Reimer
Robert Brazzell
for the Complainant

Tanya Smith
Vasily Kim
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.

Schedule "A"

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 294(1) After giving reasonable notice to the owner or occupier of any property, an assessor may at any reasonable time, for the purpose of preparing an assessment of the property or determining if the property is to be assessed,

(a) enter on and inspect the property,

(b) request anything to be produced to assist the assessor in preparing the assessment or determining if the property is to be assessed, and

(c) make copies of anything necessary to the inspection.

(2) When carrying out duties under subsection (1), an assessor must produce identification on request.

(3) An assessor must, in accordance with the regulations, inform the owner or occupier of any property of the purpose for which information is being collected under this section and section 295.

s 295(1) A person must provide, on request by the assessor, any information necessary for the assessor to prepare an assessment or determine if property is to be assessed.

(2) An agency accredited under the *Safety Codes Act* must release, on request by the assessor, information or documents respecting a permit issued under the *Safety Codes Act*.

(3) An assessor may request information or documents under subsection (2) only in respect of a property within the municipality for which the assessor is preparing an assessment.

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of linear property, under section 492(1) about an assessment if the person has failed to provide the information requested under subsection (1) within 60 days from the date of the request.

s 299(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive sufficient information to show how the assessor prepared the assessment of that person's property.

(1.1) For the purposes of subsection (1), "sufficient information" in respect of a person's property must include

(a) all documents, records and other information in respect of that property that the assessor has in the assessor's possession or under the assessor's control,

(b) the key factors, components and variables of the valuation model applied in preparing the assessment of the property, and

(c) any other information prescribed or otherwise described in the regulations.

(2) The municipality must, in accordance with the regulations, comply with a request under subsection (1).

s 300(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive a summary of the assessment of any assessed property in the municipality.

(1.1) For the purposes of subsection (1), a summary of an assessment must include the following information that the assessor has in the assessor's possession or under the assessor's control:

(a) a description of the parcel of land and any improvements, to identify the type and use of the property;

(b) the size of the parcel of land;

(c) the age and size or measurement of any improvements;

(d) the key factors, components and variables of the valuation model applied in preparing the assessment of the property;

(e) any other information prescribed or otherwise described in the regulations.

(2) The municipality must, in accordance with the regulations, comply with a request under subsection (1) if it is satisfied that necessary confidentiality will not be breached.

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.

The *Matters Relating to Assessment Complaints Regulation*, Alta Reg 310/2009, reads:

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;

(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.

s 9(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.

s 9(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.

s 36(2) A one-member composite assessment review board may hear and decide one or more of the following matters:

(a) a complaint about a matter shown on an assessment notice, other than an assessment;

(b) a procedural matter, including, without limitation, the scheduling of a hearing, the granting or refusal of a postponement or adjournment, an expansion of time and an issue involving the disclosure of evidence;

(c) an administrative matter, including, without limitation, an invalid complaint;

(d) any matter, other than an assessment, where all of the parties consent to a hearing before a one-member composite assessment review board.

The *Matters Relating to Assessment and Taxation Regulation*, Alta Reg 220/2004, reads:

s 27.3(1) For the purposes of sections 299(1.1)(b) and 300(1.1)(d) of the Act, the key factors and variables of the valuation model applied in preparing the assessment of a property include

(a) descriptors and codes for variables used in the valuation model,

(b) where there is a range of descriptors or codes for a variable, the range and what descriptor and code was applied to the property, and

(c) any adjustments that were made outside the value of the variables used in the valuation model that affect the assessment of the property.

(2) Despite subsection (1), information that is required to be provided under section 299 or 300 of the Act does not include coefficients.

s 27.6(1) In this section, "compliance review" means a review by the Minister to determine if a municipality has complied with an information request under section 299 or 300 of the Act and this Part.

(2) An assessed person may make a request to the Minister, in the form and manner required by the Minister, for a compliance review if the assessed person believes that a municipality has failed to comply with that person's request under section 299 or 300 of the Act.

(3) A request for a compliance review must be made within 45 days of the assessed person's request under section 299 or 300 of the Act.

(4) If, after a compliance review, the Minister determines that a municipality has failed to comply with a request under section 299 or 300 of the Act, the Minister may impose a penalty for non-compliance against the municipality in accordance with the Schedule.