

Edmonton Composite Assessment Review Board

Citation: HUE TRAN v The City of Edmonton, 2013 ECARB 01984

Assessment Roll Number: 9986895

Municipal Address: 10741 98 STREET NW

Assessment Year: 2013

Assessment Type: Annual New

Between:

HUE TRAN

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

POSTPONEMENT DECISION OF Steven Kashuba, Presiding Officer

Issue

[1] Should a postponement of the 2013 Annual New Realty Assessment hearing scheduled for July 30, 2013 be granted as requested by the Respondent?

Legislation

[2] The *Matters Relating to Assessment Complaints Regulation*, AR 310/2009, reads:

15(1) Except in exceptional circumstances as determined by an assessment review board, an assessment review board may not grant a postponement or adjournment of a hearing.

(2) A request for a postponement or an adjournment must be in writing and contain reasons for the postponement or adjournment, as the case may be.

(3) Subject to the timelines specified in section 468 of the Act, if an assessment review board grants a postponement or adjournment of a hearing, the assessment review board must schedule the date, time and location for the hearing at the time the postponement or adjournment is granted.

Position Of The Complainant

[3] The Complainant consents to the Respondent's request for a postponement.

Position Of The Respondent

[4] The Respondent's reasons for this postponement request are twofold:

- a. Legal counsel for the Respondent is unavailable to attend the scheduled hearing on July 30, 2013.
- b. The Complainant's disclosure shows that they intend to call five witnesses. Given that the July 30 hearing is not scheduled to begin until 1:15 pm, it is unlikely that there will be sufficient time for each party to present their respective cases.

Decision

[5] The Board grants the postponement request.

[6] The hearing is rescheduled to:

Date: November 4, 2013
Time: 9:00 am to 4:30 pm
Location: Edmonton Assessment Review Board Offices

[7] No new notice of the postponed hearing will be sent.

[8] The Board directs that no further evidence be submitted in regard to this matter.

Reasons For The Decision

[9] The Board finds that the unavailability of legal counsel and the potential volume of evidence to be presented constitute exceptional circumstances under s. 15(1) of MRAC that warrants a postponement.


[10] In *City of Edmonton v Edmonton (Assessment Review Board)*, 2010 ABQB 634, Justice Germain provided guidance on the interpretation of section 15 of MRAC:

The *Regulation* must therefore be interpreted in such a way that the definition of exceptional circumstance cannot be so narrow and restrictive as to prevent hearings that are fair to both litigants (at para 43).

[11] Also giving consideration to the consent of the Complainant, the Board finds that the exceptional circumstances required under s. 15 of MRAC are found, and the matter is rescheduled to November 4, 2013.

Heard on July 25, 2013.

Dated this 25th day of July, 2013, at the City of Edmonton, Alberta.


Steven Kashuba, Presiding Officer

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.