

Edmonton Composite Assessment Review Board

Citation: Lifestyle Options LTD. v The City of Edmonton, 2014 ECARB 00302

Assessment Roll Number: 9982844

Municipal Address:

Assessment Year: 2014

Assessment Type: Annual New

Between:

Lifestyle Options Ltd.

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

POSTPONEMENT DECISION OF Harold Williams, Presiding Officer

Issue(s)

[1] Should a postponement of the 2014 Annual New Realty Assessment hearing scheduled for May 22, 2014 be granted as requested by the Complainant?

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 requested that the hearing be rescheduled because they will be in discovery for a court case on May 22. The Complainant is available to attend a hearing after May 28, 2014.

Position of the Respondent

[4] The City of Edmonton takes no position regarding this postponement request.

Decision

- [5] The Board grants/~~does not grant~~ the postponement request.
- [6] The hearing is rescheduled to:
- Date: June 4, 2014
- Time: 9:00 a.m. – 12:00 noon
- 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 Complainant's required attendance in court on the dates listed in paragraph 3 constitutes an exceptional circumstance under section 15 of *MRAC*.


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

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] Justice Germain also found that where the parties have consented to a postponement "such consent should be given some deference and not lightly ignored in the absence of compelling reasons" (at para 45).

[12] Given that the Respondent takes no position respecting the Complainant's request, and in the interest of fairness to both parties, the Board finds that the exceptional circumstances required under section 15 of *MRAC* are met. The matter is rescheduled to June 4, 2014.

Dated this 22nd day of April, 2014, at the City of Edmonton, Alberta.



Harold Williams, 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.