Edmonton Composite Assessment Review Board

Citation: 1272272 Ontario Limited as represented by Altus Group v The City of Edmonton, 2014 ECARB 00753

Assessment Roll Number: 10014956
Municipal Address: 949 Rutherford Road SW
Assessment Year: 2014
Assessment Type: Annual New
Assessment Amount: $19,119,000

Between:

1272272 Ontario Limited as represented by Altus Group

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF
John Noonan, Presiding Officer
Howard Worrell, Board Member
Jack Jones, Board Member

Procedural Matters

[1] Upon questioning by the Presiding Officer the parties indicated they did not object to the Board's composition. In addition, the Board members stated they had no bias with respect to this file.

[2] This hearing was one of three that dealt with an identical issue concerning the assessment of property using the cost approach. The parties requested the Board to carry forward the evidence and argument presented in this first hearing as applicable to all three assessment complaints.

[3] In the course of the hearing, the Complainant introduced a 191 page rebuttal document and a 2 page memo. The Respondent objected to a portion of the rebuttal, pages 119-162 and the last page which was a small article about GST taken from an Internet screen shot. Pages 119-162 reproduced: the Alberta 2001 Metal Buildings Cost Manual; an email exchange between employees of the agent concerning conversations with municipal and provincial employees respecting the non-application of GST in the assessment of metal buildings and Wood Buffalo work camps; and an email from the owner's Director of Financial Reporting confirming eligibility to claim Input Tax Credits. In the Respondent's view the offending pages did not directly respond to its disclosure and more properly could have formed part of the Complainant's original disclosure. The Complainant noted the metal buildings manual formed part of the regulation and the emails confirmed GST exclusion in the assessment of such property, as well as work camps in Wood Buffalo. This information countered the Respondent's argument that GST was only removed from the calculation of regulated property assessments. The email from

the owner and the 2 page memo from an accounting firm (Deloitte) spoke to GST and Input Tax Credits (ITCs) during construction and that neither the tax nor offsetting credits would come into play for a new purchaser of the property. This information was advanced to address some 213 pages of the Respondent's disclosure, which included Canada Revenue Agency documents regarding GST rules. The Complainant noted that this information had not been referred to in the Respondent's oral presentation, and when questions were asked the Respondent was unable to answer. The Complainant had solicited a brief GST-ITC explanation from an accounting firm in response to this portion of the City's evidence.

[4] The Board accepted the Complainant's explanation of this evidence and what it was meant to rebut. Exhibits C-2 and C-3 were received as rebuttal evidence.

Preliminary Matters

[5] Prior to the hearing date, the Respondent had advised the Complainant and ARB administration that a postponement would be requested for all three roll numbers on the agenda, each having a common issue. A one-member ARB panel was struck to consider this anticipated request, as instructed by s. 36(2)(b) of the *Matters Relating to Assessment Complaints Regulation,* Alta. Reg. 310/2009 *(MRAC)*. At the commencement of this preliminary hearing, the Respondent advised that a postponement was no longer requested and was prepared to defend the assessments of the three properties under complaint.

[6] The Complainant submitted that significant time had been invested in preparing a brief to address the anticipated postponement request. As this was now wasted effort, the Complainant sought costs to the maximum amounts specified at *MRAC* Schedule 3: $1750 for each of the first two roll numbers and $1500 for the third.

[7] In the Respondent's view, an award of costs would be inappropriate. After all, the Complainant was getting what was desired, a hearing as scheduled. It had been the Complainant's choice to prepare a brief and the amount of effort spent.

Preliminary Matter Decision

[8] By oral decision, the Board refused the request for costs with reasons to follow.

Reasons on Preliminary Matter

[9] The award of costs is only briefly addressed at *MRAC* s. 52 and Schedule 3. The legislation is composed in such a way as to allow the Board significant discretion: it may consider whether there was an abuse of the complaint process, and it may award costs up to the amounts specified in the schedule. The schedule cites five actions that might provoke a cost award including: "A party causes unreasonable delays or postponements." The Board notes the use of the plural but does not rule out the possibility that a single incident could be offensive as long as it was unreasonable in the context of abuse of the complaint process. The situation here is obviously different in that, ultimately, there was no postponement.

[10] The Board recognizes that the Complainant expended some degree of resources in preparing for the expected request but also observes that such effort is not necessarily a total waste. The product of precedent research might well be utilized in addressing future situations.

[11] In this panel's view, a cost sanction should be rarely applied and the threshold should be higher than inconvenience. The Board does not see in the Respondent's course of conduct any attempt to thwart or frustrate the workings of the Board or abuse of the complaint process.

[12] The hearing continued before a full panel of the ARB.

Background

[13] The subject is a low-rise senior citizens residence sited on a lot of 119,607 square feet at 949 Rutherford Road SW. Due to amenities such as large common areas and meal facilities, and in consideration of the fact that such properties transact infrequently, the 2014 assessment – valuation date July 1, 2013 – was prepared by the cost approach. The land value is $2,703,792. The building and site improvements were valued using the Marshall & Swift (M&S) valuation manual which produced a depreciated replacement cost of $16,415,602. The total 2014 assessment is $19,119,000 (rounded) and the Complainant requested this be reduced to $17,807,500 comprised of a land value of $2,212,807 and $15,594,822 improvement value.

Issues

[14] The Board heard evidence and argument on two issues:

1. In determining the value of improvements, did the Respondent err by applying the Marshall & Swift valuations inclusive of GST, or should GST be removed?

2. For this roll number, is the land value over-stated in comparison to sales of vacant parcels of similar size?

Position of the Complainant

Issue 1 - GST

[15] The Complainant introduced the cost assessment details of a 170th Street property for the three most recent annual assessments: 2014 (valuation date July1, 2013), 2013 and 2012 to illustrate a change of methodology. The M&S calculations include a multiplier to account for local conditions, are converted to Canadian dollars and include 5% GST (Goods and Services Tax). In previous years, the Assessment Department "backed out" the GST by applying a further multiplier of .9524 (i.e. 1 / 1.05). This year, Edmonton and Calgary as well as a number of other municipalities decided to retain the entire M&S depreciated replacement cost, without modification for GST in the preparation of cost assessments. Some other municipalities, most notably Wood Buffalo and Parkland County, have continued past practice and still exclude GST. The Complainant notes no recent changes to legislation, no changes to GST rules, no court decisions regarding GST, and no evidence as to why the .9524 multiplier was changed.

[16] The GST is a consumption sales tax paid by the consumer, collected and remitted by the vendor. It is also a value-added tax:

"This type of taxation is distinctive in that it only taxes the monetary value added to a product at different stages of the production process. In order to avoid cascading taxation (tax on a tax), value-added taxes, such as GST, utilize a system of Input Tax Credits (ITCs).

Sellers or vendors of goods and services are provided with tax credits equaling the amount of GST they paid when purchasing inputs in the manufacturing process. Wholesalers and retailers receive tax credits for all the GST they paid when purchasing their stock. The only group that does not receive a tax credit is the final consumer, who purchases the product or service for consumption as opposed to using it as input for production or distribution" (Complainant's Brief at p. 9).

[17] The Complainant does not purport to be an expert on matters relating to GST or corporate income tax. While most property transactions, with the exception of used residential sales, attract GST, the tax is considered a wash or flow through because any tax payable is offset by GST collected in the course of business. The property owner is a GST registrant and like other commercial enterprises pays GST and accumulates ITCs. In the Complainant's understanding, any buyer of this or similar property would be in the same position, with the exception of an individual non-registrant who intended all of the suites at a seniors facility to be for that individual's personal use, a highly improbable scenario.

[18] An e-mail from the owner's Director of Financial Reporting was presented in evidence, noting "if the City of Edmonton is assessing based on cost, they should exclude GST amounts from the total value of the buildings, because if we were ever to rebuild a property (the owner) would be considered a developer during the construction phase and as such would be eligible to claim ITCs during the construction phase." The author was identified as having both CPA and CA credentials. Also in evidence was a memo from Deloitte & Touche LLP, one of the authors of which was the GST manager in Deloitte's Calgary branch. The memo confirmed that the owner develops and operates residential complexes for lease to seniors as long term residential housing. The owner pays GST during the construction process and claims ITCs. The memo also addresses a potential sale scenario and asserts that another buyer, an entity similar to the current owner, would not pay GST on such since it would be a sale of a used residential complex.

[19] The Complainant submits that the Respondent's methodology is a tax on tax. In provinces that apply both GST and provincial sales tax (PST), both taxes are applied simultaneously on the base value, rather than one atop the other. Property tax is to be levied on property, a parcel of land and its improvements. The GST is not a structure or any thing attached to a structure. Consequently, GST should not have a property tax imposed. Besides not meeting the definition of property that is to be assessed as defined in the *MGA*, the Complainant also discussed a Ministerial Order, the *2005 Alberta Construction Cost Reporting Guide* (CCRG) and its *Interpretive Guide*, published to assist the proper reporting of information needed to prepare assessments of regulated properties. The CCRG advises that not all construction costs associated with a project are included in determining assessable cost. Among other exclusions is a cost associated with a component of the project which is not defined as property in the *MGA*. Further, at CCRG s 2.300.600: "The GST paid on construction materials and services is excluded." This demonstrates a consistent intent in the legislation to exclude GST from assessable property. To further illustrate this point, the Alberta Metal Buildings Cost Manual was introduced in rebuttal evidence. This manual establishes typical replacement costs for metal buildings primarily used in the oil and gas industry. Internal emails at Altus Group, the agent here, showed that a representative had contacted the Director of Assessment Policy at Alberta Municipal Affairs who

confirmed that GST is not included in the published rates. The same email referenced contact with the assessor for Wood Buffalo concerning the municipal manual for valuation of work camps. Again, GST was not included in these assessments, or other Wood Buffalo assessments.

[20] In anticipation of the possibility of losing the land value argument and then facing a scenario where the requested reduction falls within the 5% range of tolerance the Board traditionally observes, the Complainant noted the lack of any legislated percentage restriction in the Board's ability to alter an assessment. The current case is also distinguished in that the GST issue begs a factual correction as opposed to a change in the opinion of value.

[21] The Complainant produced a number of ARB decisions in support of the 5% or less assessment adjustment argument and a greater number of court decisions from Alberta and other jurisdictions that had dealt with GST, harmonized sales tax or input tax credits when dealing with property valuation. Cases referenced included:

Tolko Industries Ltd. v. Big Lakes (Municipal District) 1998 ABQB 51

Assessor of Area #08 v. Wedley 2000 BCSC 1365

New Brunswick (Executive Director of Assessment) v. Food City Ltd. 2005 NBCA 65

Memorial Gardens (Manitoba) Ltd. v. Manitoba (Municipal) Assessor 2012 MMBO 16

The Complainant pointed out highlights from these and other decisions, including CARB and MGB decisions, in support of the position that GST ought properly be excluded from the construction cost of an improvement.

Issue 2 – Land Value

[22] Three vacant land sales were introduced with lot sizes similar to the subject and with the same RA 7 zoning. The time-adjusted sales prices ranged from $17.90 to $19.37 per square foot with a median of $18.49. Based on these market indicators, the Complainant requested a land value of $18.50 per square foot or $805,860 per acre. This would yield a total land value for the subject of $2,212,807.

Position of the Respondent

Issue 1 - GST

[23] The Respondent advised that some 65 seniors' residences are assessed using the cost approach due to their distinct characteristics. The balance of the seniors' residences (45 properties) are assessed by the income approach where the facility resembles a conventional apartment building. The City of Edmonton has about 5300 property accounts assessed by the cost approach with an ever-increasing proportion of these assessments employing the M&S depreciated replacement cost calculations. There are some 1000 property accounts still awaiting conversion to the M&S method, these being tax exempt properties whose assessments are still prepared using provincial cost manuals. Given that taxable properties are all on the M&S cost method, the City decided to use the full M&S cost which includes 5% GST on all materials and labour.

[24] Cost assessments are prepared on the basis of replacement cost and that term is defined by the International Association of Assessing Officers (IAAO):

> The cost, including material, labor, and overhead, that would be incurred in constructing an improvement having the same utility to its owner as the improvement in question, without necessarily reproducing exactly any particular characteristic of the property.

Mass appraisal must be an estimate of the fee simple estate in the property and must reflect typical market conditions. For all the properties similar to the subject, the cost assessment includes GST as a typical and legitimate construction cost.

[25] In contrast to market based assessments, the Construction Cost Reporting Guide (CCRG) as cited by the Complainant is used in determining regulated property assessments. That process determines the replacement cost of the property, having exactly the same characteristics as the improvement. Regulated property is typically assessed on reproduction cost due to the nature of associated installations and equipment: replacing an exhausted unit with a replica avoids any requirement to retool the plant. The Respondent submits that where assessment legislation expressly excludes GST, as in the CCRG, the default position must be that where GST is not mentioned, it must be included.

[26] The Respondent asserts that the Complainant's position on the workings of the GST Input Tax Credits (ITCs) is not an accurate portrait of the process. If the GST were 100% refundable or offset each and every time a new building was constructed there would be no reason to levy GST on construction. However, the Government of Canada does charge GST on new construction. In some cases the GST is refunded through ITCs or other types of tax credits, and in other cases, this money is never directly refunded. These are GST policy decisions, when and whether to refund. As long as GST is chargeable on the sale or construction of real estate, GST forms part of the value of the property and therefore part of market value. It cannot be assumed that GST is always recoverable – it would need to be proven.

[27] There are numerous rules governing the application of GST and claiming ITCs. Among many other considerations, one must be a GST registrant in order to claim ITCs, and different rules apply to individuals, corporations and partnerships. Property that is used for commercial purposes is treated differently than property used for residential purposes. In the Respondent's view, the Complainant has failed to prove that GST does not form part of the market value of a property under either the reproduction or replacement cost approach. This could have been done in a number of ways: by showing the market excludes the value of GST that is paid to construct a property when it resells; expert evidence that the market for all properties is the same as it relates to the exclusion of GST in the market value cost approach; or expert accounting evidence suggesting GST is always refunded and is therefore never really paid.

[28] It is not the duty of the municipality to prove that GST forms part of market value in the cost approach. Rather, the onus rests with the Complainant to prove that it does not. The Complainant has proven nothing in regard to the value of the subject and has therefore not met onus. In contrast, the Respondent has shown that the M&S manual includes sales tax, that GST is a sales tax and should be included in the market value approach. Common sense suggests that since GST is payable at the time of purchase of a new property, it forms part of the replacement or reproduction cost of it.

[29] The Respondent referred the Board to a number of MGB and CARB decisions that had dealt with GST. As well, the cases presented by the Complainant were distinguished from the case at hand.

[30] The Respondent submits that even if GST should not form part of the cost approach, the Complainant has made no attempt to show the final assessed value is incorrect. The Complainant has taken issue with the methodology applied by the Respondent, but it is the final value which is under complaint. The Respondent argued the Complainant had not proved the final assessed value is not at market value.

Issue 2 – Land Value

[31] The Respondent presented seven comparable land sales from the same Market Area 7 as the subject in southwest Edmonton. The sales dated from January 2012 to January 2013 and showed average and median time-adjusted per square foot values of $24.20 and $21.98 respectively. The subject has a land assessment of $22.61 per square foot. In contrast, the Complainant's three sales are drawn from Market Area 9, southeast Edmonton, and two sales are older: November 2010 and August 2011. However, if these three sales were averaged with the Respondent's seven, the result would still be approximately $22.50 per square foot.

Decision

[32] The Board reduces the assessment to $18,337,500.

Reasons for the Decision

[33] The Board found the Respondent's estimate of land value fair, given the seven comparable sales in the same market area and the fact they were more recent than two of the three sales cited by the Complainant. As noted by the Respondent, if all ten sales were averaged the result would be very close to the subject's land assessment. Consequently, the $2,703,792 land value is confirmed. The Board reduced the building assessment from $16,415,602 by dividing by 1.05 to arrive at a value of $15,633,906. The sum of the parts was rounded to $18,337,500 which is a reduction of 4.1%.

[34] With regard to the GST issue, the Board devoted the greater part of two days hearing evidence and argument which included substantial discussion of previous ARB, MGB and court decisions. In the interest of brevity, this decision has only made reference to the most pertinent cases advanced by the parties, recognizing that a decision cannot be based only upon prior decisions that had their different sets of facts. Rather, the Board must weigh the particular evidence before it, and draw lessons where appropriate from precedent. In the course of the hearing the panel posed more than a few questions in an attempt to gain a better understanding of GST mechanics in real estate transactions. More than a few times the answer was prefaced by the qualification that the party was not an expert in GST accounting or taxation matters. This Board is similarly cursed or blessed.

[35] The Respondent has a legitimate point, that GST would be incurred in the process of construction and should therefore be included in calculating a building's cost. This point would hold even greater merit if one were only interested in a building's value at the moment of construction completion. Indeed, the Board was presented evidence that in the construction of a property like the subject, the owner would remit the appropriate GST on 90% completion or at the time the first resident moves in. However, by paying that GST, the Board understands that Input Tax Credits are generated, which relieves the owner of future GST remittances that would be otherwise payable from the conduct of business.

[36] In the current case it is not clear to the Board how quickly the GST outlay might be recovered considering that residential rent is GST exempt. In contrast, the Board heard that a commercial property landlord would offset the GST paid on a newly-constructed building by retaining the GST charged on tenant rent. However, the Complainant advised that the provision of other services in a seniors' residence could be GST-taxable and these streams of revenue would have some impact on the original GST outlay.

[37] The Board was intrigued to hear that any logical buyer of the subject property would be a GST registrant and would not pay GST on the acquisition of a used residential property. This assertion was not contradicted by the Respondent and was central to the Board's decision. In a perfect world, the three valuation approaches, cost, income and sales comparison are expected to yield close approximations of the same result, market value. Market value by definition anticipates a real transaction. If a willing buyer of the subject property would not incur GST, then why would an estimate of value, the assessment, include GST? Also telling was the response to another question: the land value portion of a cost assessment excludes GST.

[38] The Board understands the Respondent's point relating to the original cost of construction. The Respondent ventured that a seller would be interested in recouping all costs in a sale and a buyer would take into account replacement cost, including GST. Again, this point has some merit if one were only considering a brand new vacant building, after GST had been paid and before the Input Tax Credit mechanism started to recover such GST outlay. The Board prefers to view the subject from a different perspective: what would it sell for on valuation date? It is a used (depreciated) residential complex where the buyer would not be liable for GST and the seller would have recovered some or all of the construction cost GST in the years intervening. Of note, the cost approach is an estimate of the depreciated replacement cost, and that term implies use.

[39] The Respondent would have the Complainant conduct a re-sale study to show that GST is not recovered in a sale. It strikes the Board this would be an impossible task as would be the obverse proposition. After all, the cost approach is used for this type of property for the very reason there are so few sales. Related to this point is the Respondent's assertion that this complaint deals with methodology, and that the Complainant has not shown the final assessment is not market value. The Board sees the situation in a different light: that the parties agree the best estimate of market value is depreciated replacement cost. What is at issue is not the grand scheme of the Marshall & Swift value estimate but a more picayune detail, the resolution of which provides a more accurate estimate of market value.

[40] The parties spent some considerable effort on the implications or lack thereof to be drawn from the treatment of GST in regulated property through the *Capital Cost Reporting Guide*, the *Alberta 2001 Metal Buildings Cost Manual* which deals with oilfield installations and the Wood Buffalo work-camp assessment practice. All three exclude GST. The Respondent had an

interesting view: given the lack of mention of GST in the *Act* and *MRAT,* one should draw the default conclusion that assessments should include GST unless specific exclusion is mandated. The Board was not swayed by the argument of either party.

[41] The ministerial guidelines were created for clarity of the assessment process of regulated or very specialized property outside the broad brush of the *Act* and *MRAT.* And as seen here, how a particular municipality chooses to deal with GST can change. The Board notes that for property whose assessment standard is market value, the legislation is silent on method beyond the requirement that it be mass appraisal. Instead, *MRAT* in particular focuses on the end result of whatever method is employed with strict limits on the results' disparity with market. Armed with this focus on market value, the Board cares little why one cost manual excludes GST and another does not. At risk of reiteration, if this property sold, one party would not have to pay GST and the other would have recouped some or all of an original GST outlay. The market value excludes GST and so should the assessment.

[42] With regard to precedents, a number of MGB and ARB decisions favoured the inclusion of GST in certain cases, for instance a court-ordered sale. However, the preponderance of court cases that dealt with levies like the GST excluded such tax for valuation purposes. Of all the cases referenced, the Board found *New Brunswick (Executive Director of Assessment) v Food City Ltd.* 2005 NBCA 65 most relevant in that it dealt with a strikingly similar situation, whether Harmonized Sales Tax (HST) should be included in a cost approach assessment. In that case, the parties agreed the proper valuation of this special purpose property, a large food distribution warehouse with attached supermarket, was best determined by its depreciated replacement cost. That cost was found from Marshall & Swift, inclusive of all local taxes including HST. The owner/builder was an HST registrant and entitled to full input tax credit. The *Food City* case explored the argument of the Director of Assessment, that the net zero HST liability on the cost of improvements for the owner was irrelevant. The cost to the owner of replacing the property was value on a subjective basis, whereas the replacement cost borne by anyone else would be the objective value of the property, and that would include HST. In this situation, *Food City* found no difference between subjective and objective, the pool of "prudent buyers" would include the current owner and all these "prudent buyers" would be HST registrants, entitled to Input Tax Credit. If the pool were to be expanded to include parties who were not entitled to the tax credit, the assessment would be artificially inflated and divorced from reality. Consequently, the Court upheld the decision that HST should be excluded from the Marshall & Swift derived replacement cost.

[43] The *Food City* scenario differs only in two respects, degree and use. Although the arithmetic is difficult to figure as no reference was made to the land component, the preceding Queen's Bench decision mentioned the HST rate was 15% versus 5% here. A harmonized sales tax is the aggregate of GST and provincial sales tax. A warehouse/shopping centre is obviously different from a senior's residential complex but even at that, one could observe that both properties deal primarily in the supply of GST exempt goods: groceries and residential accommodation. If the court had a profound understanding of the input tax credit mechanism, that knowledge was not shared. Nevertheless, the lesson to be learned is that a GST registrant acquires these credits and so offsets any GST expense. Here, the Board has evidence that the owner is a GST registrant and so would be any "logical buyer", in the Complainant's terminology. This would appear to make moot any consideration of whether GST is recovered or not on resale. In any event, any prudent or logical buyer would be acquiring a used residential complex. Even if such a sale triggered GST, the ITC mechanism would again come into play as the Board understands it. To the City's point of why would there be a GST on construction if it

were always offset, the Board directs attention to the 200-odd pages of Canada Revenue Agency documents explaining GST rules and exceptions contained in the Respondent's disclosure. The simple answer is that GST is not always offset; there is a plethora of rules respecting credit exclusion or partial exclusion.

[44] Perhaps the strongest case in support of the Respondent's position, especially as to the idea of equitable assessment, is an older MGB decision, 025/99. That decision upheld the inclusion of GST where all Calgary regional shopping malls had been assessed on the cost basis using the ubiquitous Marshall & Swift cost manuals. The decision related to the 1997 assessment at which time the GST rate was 7%. Reading that decision in its entirety, one finds no reference at all to input tax credits. This leads the Board to conclude that a very different body of evidence and argument was presented to that panel, very possibly to the extent that input tax credits were never mentioned by either party. Such is far from the case before this Board, and also noteworthy is the fact that 025/99 was decided long before *Food City*.

[45] The Board usually does not disturb an assessment when the change is less than 5%. This tradition springs from *Bentall Retail Services Inc v Vancouver (Assessor) Area #09*, 2006 BCSC 424 which recognized value occurring in a range. However, where the Board sees an error of calculation as happens here with the inclusion of GST in part of the cost approach, the error can and should be corrected.

Heard July 2 and July 3, 2014.

Dated this 5th day of August, 2014, at the City of Edmonton, Alberta.

JPNoonan

John Noonan, Presiding Officer

Appearances:

Adam Greenough
Brett Flesher
Chris Buchanan
Dave Mewha
for the Complainant

Colleen Kutcher
Doug McLennan
Steve Lutes
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.

Appendix

Legislation

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.

Matters Relating to Assessment Complaints Regulation, Alta. Reg. 310/2009

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

...

(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;

s 52(1) Any party to a hearing before a composite assessment review board or the Municipal Government Board may make an application to the composite assessment review board or the Municipal Government Board, as the case may be, at any time, but no later than 30 days after the conclusion of the hearing, for an award of costs in an amount set out in Schedule 3 that are directly and primarily related to matters contained in the complaint and the preparation of the party's submission.

(2) In deciding whether to grant an application for the award of costs, in whole or in part, the composite assessment review board or the Municipal Government Board may consider the following:

(a) whether there was an abuse of the complaint process;

(b) whether the party applying for costs incurred additional or unnecessary expenses as a result of an abuse of the complaint process.

(4) Any costs that the composite assessment review board or the Municipal Government Board award are those set out in Schedule 3.

Exhibits

C 1 Complainant's Disclosure – 249 pages
C 2 Complainant's Rebuttal - 191 pages
C 3 Memo (Deloitte) – 2 pages
C 4 Calgary CARB decision 74523 P-2014 - 7 pages

R 1 Respondent's Disclosure – 60 pages
R 2 Respondent's Legal Response – 344 pages
R 3 Calgary CARB decision 73600 P-2013 – 7 pages