

Edmonton Composite Assessment Review Board

Citation: Devonshire Properties Inc. as represented by Avison Young v The City of Edmonton, 2014 ECARB 01166

Assessment Roll Number: 9990081

Municipal Address: 8610 Jasper Avenue NW

Assessment Year: 2014

Assessment Type: Annual New

Between:

Devonshire Properties Inc. as represented by Avison Young

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

POSTPONEMENT DECISION OF George Zaharia, Presiding Officer

Issue

[1] Should a postponement of the 2014 Annual New Realty Assessment hearing scheduled for July 28, 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 agent for the property owner has requested a postponement since he has a conflict with hearings that were scheduled before the Calgary Assessment Review Board. Notice of the Calgary hearings was sent before notice of the Edmonton hearings.

Position of the Respondent

[4] The Respondent consents to the postponement request.

Decision

[5] The Board grants the postponement request.

[6] The hearing is rescheduled to:

Date: November 12 – 14, 2014

Time: 9:00 a.m.

Location: Edmonton Assessment Review Board Offices

Disclosure of Complainant's Evidence: September 30, 2014

Disclosure of Respondent's Evidence: October 28, 2014

Disclosure of Complainant's Rebuttal Evidence: November 4, 2014

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

Reasons For The Decision

[8] In determining this matter, the Board reviewed section 15(1) of MRAC, which deals with the postponement or adjournment of a hearing. The Board finds that the "exceptional circumstances" required by s. 15(1) of MRAC have been met. The Complainant could not have foreseen that he would be double-booked.

[9] The Board also relies on *City of Edmonton v. Edmonton (Assessment Review Board)*, 2010 ABQB 634, a decision of Justice Germain which provides 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).

[10] In addition to the exceptional circumstances, the Board notes that the Respondent consents to the Complainant's request.

[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).

Heard May 22, 2014.

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



George Zaharia, 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.