

Edmonton Composite Assessment Review Board

Citation: Orchards Residents Association, as represented by Altus Group Limited v The City of Edmonton, 2014 ECARB 01736

Assessment Roll Number: 10395278

Municipal Address: 4055 Orchards Drive SW

Assessment Year: 2014

Assessment Type: Annual New

Between:

**Orchards Residents Association,
as represented by Altus Group Limited**

Complainant

and

The City of Edmonton, Assessment and Taxation Branch

Respondent

DECISION OF Lynn Patrick, Presiding Officer

Background

[1] The Board has determined that assessment complaint with regard to the above roll number was filed on March 13, 2014. The deadline for filing was March 10, 2014. This date is arrived at by applying the 60 day period as set forth in s. 309(1)(c) of the *Municipal Government Act*, RSA 2000, c M-26 [MGA], which is March 3, plus 7 days as prescribed for written notice as set forth in s. 23(1)(a) of the *Interpretation Act*, RSA 2000 c.I-8, which makes the filing deadline for a Complaint March 10, 2014.

[2] At the preliminary hearing, the Respondent presented email correspondence from the Complainant in which the Complainant conceded that the complaint for this roll number was filed 3 days late.

Issue

[3] Is the complaint valid?

Legislation

[4] The *Municipal Government Act*, RSA 2000, c M-26 [MGA], reads:

Contents of assessment notice

309(1) An assessment notice or an amended assessment notice must show the following:

- (c) the date by which a complaint must be made, which date must be 60 days after the assessment notice or amended assessment notice is sent to the assessed person;

...

Publication of notice

311(1) Each municipality must publish in one issue of a newspaper having general circulation in the municipality, or in any other manner considered appropriate by the municipality, a notice that the assessment notices have been sent.

(2) All assessed persons are deemed as a result of the publication referred to in subsection (1) to have received their assessment notices.

...

Complaints

460(1) A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.

(2) A complaint must be in the form prescribed in the regulations and must be accompanied with the fee set by the council under section 481(1), if any.

...

Address to which a complaint is sent

461(1) A complaint must be filed with the designated officer at the address shown on the assessment or tax notice, not later than the date shown on that notice.

...

Decisions of assessment review board

467(2) An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 460(7).

[5] Schedule 1 of *Matters Relating to Assessment Complaints Regulation*, AR 310/2009 [MRAC] [the Complaint Form] reads in part:

IMPORTANT NOTICES

Your completed complaint form and any supporting attachments, the agent authorization form and the prescribed filing fee must be submitted to the person and address with whom a complaint must be filed as shown on the assessment notice or tax notice, prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete complaint form, complaints submitted after the filing deadline or complaints without the required filing fee are invalid.

[6] Section 23(1)(a) of the *Interpretation Act*, RSA 2000 c.I-8 states:

Presumption of Service

23(1) If an enactment authorizes or requires a document to be sent, given or served by mail and the document is properly addressed and sent by prepaid mail other than double registered or certified mail, unless the contrary is proved the service shall be presumed to be effected

(a) 7 days from the date of mailing if the document is mailed in Alberta to an address in Alberta

Decision

[7] The assessment complaint was filed late and is therefore dismissed.

Reasons for the Decision

[8] Section 467(2) of the *MGA* requires that the Board dismiss a complaint filed after the deadline. The complaint was received on March 13, 2014, which is after the deadline of March 10, 2014 for 2014 annual assessments.

[9] Both parties agree that the complaint was filed out of time and therefore invalid.


[10] In *Edmonton (City) v Assessment Review Board of the City of Edmonton*, 2012 ABQB 399, Justice Hillier held that the Assessment Review Board does not have discretion to extend the deadline for the filing of complaints. As Justice Hillier states at paragraph 79, "The ARB is required by the MGA to dismiss out of time complaints."

[11] The Board is bound by decisions of the Court of Queen's Bench, and therefore has no discretion to accept a complaint that has been filed out of time.

[12] The Board notes that under s. 311 of the *MGA*, where the municipality has advertised that assessment notices have been sent out, all assessed persons are as a result of the publication deemed to have received notice of their assessment.

Heard June 16, 2014.

Dated this 25 day of June, 2014, at the City of Edmonton, Alberta.



Lynn Patrick, 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.