

# Assessment Bulletin

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IB Bulletin No. 05-01  
September 2005

## Best Practice Guide Requests For Assessment Information

### **Assessment information requested under section 295 of *the Municipal Government Act***

The attached information sheet has been developed to provide guidance to assessors when they are making information requests for preparing assessments, within the context of section 295 of the act.

If you have any questions regarding this bulletin, please contact Karac Hendriks-West of the Education Tax and Assessment Advisory Unit at (780) 422-1377. For toll-free access, call 310-0000, then dial (780) 422-1377.

Attachment

## **Information Sheet** **Section 295 of the *Municipal Government Act***

### **Purpose and scope**

Some assessors have asked for clarification from Municipal Affairs regarding the information they request from assessed persons for preparing assessments under section 295 of the *Municipal Government Act* and the prescribed time for providing the requested information.

As an assessor, you will find that this information sheet provides a quick summary of the intent and expected effect that this section of the act has on your responsibilities.

Section 295 of the *Municipal Government Act* received some attention when introduced in 1998. This section of the act sets out the duty of a holder of information about a property to provide assessment information when requested to do so by an assessor.

Section 295(4) of the act restricts a person from making a complaint if the person has not provided the requested information within the prescribed time period. Stakeholder concerns regarding this duty fall into three areas:

- *Content and appropriateness* of information requested,
- *Request and timing* of collection of information, and
- *Confidentiality and accessibility* of information provided to assessors.

The following information is provided in response to these concerns.

### **Content and appropriateness of an assessment information request**

If a person deems it necessary to request information for the purpose of preparing an assessment or determining whether the property is to be assessed, the *Municipal Government Act* provides the following authority to request information:

- Section 295(1) of the *Municipal Government Act*, Revised Statutes of Alberta 2000, states that: "*A person must provide, on request by the assessor, any information necessary for the assessor to prepare an assessment or determine if property is to be assessed;*" and
- Section 295(4) limits the right to appeal an assessment if the requested information is not provided within the prescribed 60-day time limit. "*No person may make a complaint in the year following the assessment year under section 460 or, in the case of the linear property, under section 492(1) about an assessment if the person has failed to provide the information requested under subsection (1) within 60 days from the date of the request.*"

## Assessment information request

Assessors may wish to review the typical assessment information requests that they have issued to the assessed person in the past (as summarized in Appendix A) and then consider:

- Pre-populating the assessment information requests, based on information collected in the previous year. This practice may be helpful to the assessed person.
- Using electronic requests rather than paper requests to allow information to be transferred to a database. Please note that if an information request is provided under section 608 of the MGA (using either fax or e-mail), then acknowledgement of receipt of the information needs to be made using either fax or e-mail.
- Inviting the property owner, or agent representing the property owner, to provide any additional information they may consider relevant to the development of a property assessment for the property.

## Prescribed time for responding to an information request

Stakeholders have requested clarification on whether the “date of the request,” indicated in section 295(4) of the act, is the date the information request is mailed, or the date that the person receives the information request.

A recent Court of Queen’s Bench ruling (*City of Calgary v. Municipal Government Board*) established that the meaning of the term “sent” in the MGA should be interpreted as when the individual receives a request. Municipal Affairs is applying this ruling in conjunction with the instructions included in Alberta’s *Interpretation Act*.

The *Interpretation Act* gives instructions about the manner in which a document must be sent and sets out time periods that apply before it can be legally presumed that a letter was delivered.

The *Interpretation Act* provides that if an enactment authorizes or requires a document to be sent by mail, it can be legally presumed to have been received as follows:

- Seven days from the date of mailing if mailed from an Alberta address to an Alberta address; or
- Fourteen days from the date of mailing if mailed from an Alberta address to an address anywhere other than Alberta within Canada.

Note that this period of time normally expires on the first business day after the 67 or 74 days have expired (Appendix B).

In addition, the person relying upon the presumption of receipt must have some evidence to show that the envelopes were properly addressed, stamped and mailed.

### **How is the “60 days” in section 295(4) of the MGA determined?**

In accordance with the *Interpretation Act*, time to comply with the information request expires 60 days after the request was received (Appendix B).

Therefore, the first day of the “60 days” would be:

- Seven days after the date of mailing, if mailed in Alberta to an Alberta address, or
- Fourteen days after the date of mailing, if mailed in Alberta to an address outside of Alberta that is within Canada.

### **Confidentiality and accessibility**

Municipalities are responsible for ensuring the confidentiality of the information collected. As part of this responsibility, the municipality must consider the following:

- Municipalities own all assessment information collected on their behalf, regardless of who collects the assessment information. Therefore, municipalities should have procedures in place to keep assessment information secure (i.e., records retention policies and access to information policies).

This is especially important in contracts between municipalities and private assessment providers. Such contracts should expressly deal with issues of assessment information ownership, record custody, record retention, and record control (see *Resource Requirements for Professional Assessment Services Guide* from the Alberta Assessors' Association).

- All information held by the municipality is subject to the access and confidentiality provisions under Sections 299 to 301.1 of the *Municipal Government Act*, and the *Freedom of Information and Protection of Privacy Act*.
- Municipalities are advised to adopt a policy that restricts access to the information collected through an assessor's assessment information request to only those employees who prepare assessments in the course of their employment.

## Appendix A

### Typical Assessment Information Request

Typically, the following types of information are requested and relevant for the preparation of assessments:

- **Income information**

Hotels and motels

- Current and historical income and expense data related to the property.
- Occupancy levels (monthly and/or yearly).
- Franchise and management agreements.

Commercial properties (i.e., warehouses, small shopping centres, etc.)

- Current and historical income and expense data related to the property.
- Tenant rent rolls.

Multi-residential properties (i.e., apartment buildings, rental townhouses, etc.)

- Current and historical income and expense data related to the property.
- Rent rolls including suite mix (number of suites and listing of each type for a rental property).

- **Sales information** – including but not limited to:

- The condition of the property at the time of sale.
- Motivation of the purchaser and the vendor regarding the sale of the property.
- The net income and expenses associated with the property at the date of sale.
- Favourable financing terms made available at the time of transaction.

- **Cost information** – current cost information for construction and renovations for property described in schedule A of the *Linear Property Assessment Manual* or schedule A of the *Machinery & Equipment Manual*, may be collected by using:

- The *Alberta Construction Cost Reporting Guide* (Appendix V to the *Minister's Guidelines*), and
- The *Interpretive Guide to Appendix V of the Minister's Guidelines*.

Internet access to the *Minister's Guidelines* is available through Municipal Affairs' website at [www.municipalaffairs.gov.ab.ca/as/](http://www.municipalaffairs.gov.ab.ca/as/).

## Appendix B

### Request under Section 295 of the *Municipal Government Act* with consideration of the *Interpretation Act*

