

**IN THE MATTER OF A COMPLAINT** filed with the Regional Municipality of Wood Buffalo Composite Assessment Review Board (CARB) pursuant to Part 11 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

**BETWEEN:**

541788 Alberta Ltd. - Complainant

- a n d -

Regional Municipality of Wood Buffalo - Respondent

**BEFORE:**

Member:

J. Noonan, Presiding Officer

A hearing was held on June 21, 2010 in Fort McMurray in the Province of Alberta to consider complaints about the assessments of the following property tax roll numbers:

8330000550	RMWB file 10-021
8330001650	RMWB file 10-022

**PART A: BACKGROUND**

The Regional Municipality applied to the CARB to find the complaints invalid by reason that the Complaint forms are incomplete. The Complainant did not attend the hearing nor submit evidence, but left a voice message with the Clerk of the Assessment Review Board explaining that he had recently been required to spend considerable time out of province due to the illness of a family member. A contact phone number was left. The CARB is satisfied that the assessed person was given notice of the hearing, and proceeded to hear the Respondent's application as provided by the *Municipal Government Act (MGA)* s 463.

**PART B: PROCEDURAL or JURISDICTIONAL MATTERS**

The CARB derives its authority to make decisions under Part 11 of the *Act*. During the course of the hearing, the Respondent raised the following jurisdictional issues, which are addressed below.

- Preliminary issue 1: Should the complaints be found invalid and thus dismissed by reason of incomplete complaint forms?

The CARB examined the complaint forms relating to the two roll numbers and found in each case that box 3 at section 4 of the complaint had been checked, indicating the assessment amount

was under complaint. At section 5, Reasons for Complaint, was the sentence "Property is over assessed." The Requested assessed value box was blank. The complaints were filed on time and the required fees were paid, \$100 in each case.

In order to determine whether an Assessment Review Board has jurisdiction to hear a complaint, the Respondent submitted that a Board must first consider whether a complaint meets the requirements of the *Municipal Government Act (MGA)* and *Matters Relating to Assessment Complaints Regulation (MRAC)*. A plain reading of the legislation is required of the CARB and consideration of legislative intent in determining the correct interpretation of the legislation. Here, the pertinent legislation is *MGA* s 460(7) and *MRAC* ss 2(1) and (2). Section 460(7) details what a complainant must do:

- (a) indicate what information shown on an assessment notice or tax notice is incorrect,
- (b) explain in what respect that information is incorrect,
- (c) indicate what the correct information is, and
- (d) identify the requested assessed value, if the complaint relates to an assessment.

*MRAC* specifies that if a complaint is to be heard by an assessment review board, the complainant must:

- (a) complete and file with the clerk a complaint in the form set out in Schedule 1, and
- (b) pay the appropriate fee...

and if these are not done:

- (a) the complaint is invalid, and
- (b) the assessment review board must dismiss the complaint.

At Schedule 1 of *MRAC*, the four requirements of s 460(7) are laid out with the elaboration regarding incorrect information, "including identifying the specific issues related to the incorrect information that are to be decided by the assessment review board, and the grounds in support of these issues".

The Respondent concedes that the Complainant has indicated what information is incorrect through the statement, "Property is over assessed." However, in all other respects the complaint form is incomplete and should thus be found invalid. The intent of the new regulation and the re-writing of the parts of the *MGA* dealing with assessments and complaints were to promote efficiency and transparency of process while imposing new obligations on both parties to a complaint. The Respondent asked the Board to find the complaint invalid and dismiss it.

**Decision:**

The dismissal of a complaint is a decision not lightly taken after an assessed person has taken the action of filing the complaint and paying the required fee.

The CARB finds merit in the Respondent's position that the re-writing of the *Act* and the adoption of the new *MRAC* regulation signify greater obligations for both parties to an assessment complaint. The new legislation expanded the complaint filing period from 30 to 60 days, defined new reporting requirements for the municipality in response to requests for

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assessment information, and introduced the Schedule 1 complaint form. Dealing with the issue of completion of the complaint form, the decisions to date of the CARBs in other municipalities have adopted a liberal interpretation of how complete a form must be. The unadorned statement, "Property is over assessed." does not meet the low bar established in those decisions. It is a statement of opinion rather than what is called for on the form at Section 5 – Reason(s) for Complaint. As here, the overwhelming majority of complaints heard by an ARB are about an assessed amount, and it is automatically assumed that the complainant holds the opinion that the property is over assessed. The important information is: why is this opinion held? No reasons for complaint are provided. It is also instructive to the Board that no amount was identified in the box for requested assessed value. The conclusion drawn is that minimal effort has been spent in filing these complaints. The CARB sees the intent of the new legislation as requiring a complainant to give careful consideration as to why a complaint is justified, and by the filing deadline to have developed sufficient or at least preliminary information in support of an opinion that a property is over assessed. A complainant need not assemble a complete case by filing deadline, that being called for at the evidence disclosure stage.

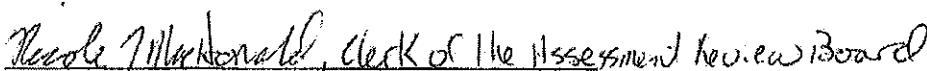
Complainants can follow either or both of two broad themes in challenging an assessment: that the assessment is greater than market value of the property, or that the property is assessed inequitably in comparison to similar properties in the municipality. Had these complaints provided an issue, such as the property is over assessed in comparison to a similar property, or a similar property sold for less than this assessment, then it could be said the complainant had raised an issue that required decision at a hearing, or even allowed an assessor to reconsider the correctness of the assessment.

The *MRAC* regulation at s 9(1) states that a composite assessment review board must not hear any matter in support of an issue that is not identified on the complaint form. This section is repeated in bold print on the complaint form. It stands as a further roadblock to a hearing in that even if one were convened, it would be rendered immediately meaningless as no evidence or argument could be heard.

For the reasons explained above, the complaints are found invalid and are dismissed.

It is so ordered.

Dated at Fort McMurray in the Province of Alberta, this 25<sup>th</sup> day of June, 2010.

  
Nicole McDonald, Clerk of the Assessment Review Board  
FOR J. Noonan, Presiding Officer

**APPENDIX "A"**

DOCUMENTS RECEIVED AND CONSIDERED BY THE MGB:

<b>NO.</b>	<b>ITEM</b>
1.	Subject complaint forms
2.	Respondent's Submission

**APPENDIX 'B'**

ORAL REPRESENTATIONS

<b>PERSON APPEARING</b>	<b>CAPACITY</b>
I. T. Epple	Senior Municipal Solicitor, Regional Municipality of Wood Buffalo