

REGIONAL MUNICIPALITY OF WOOD BUFFALO BOARD ORDER CARB 2015-006-P

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.

BETWEEN:

LREIT Holdings 45 Corporation, TREIT Holdings 8 Corporation, TREIT Holdings 3 Corporation, TREIT Holdings 9 Corporation, LREIT Holdings 34 Corporation as represented by Colliers International – Complainant

And

The Regional Municipality of Wood Buffalo – Respondent

Before:

H. Williams, Presiding Officer

Appeared on Behalf of the Complainant:

S. Cook, Associate Vice President

Appeared on behalf of the Respondent:

M. Kandola, Assessor II

J. Wall, Clerk of the Assessment Review Boards

S. Soutter, Clerk of the Assessment Review Boards

A. Rogers, Senior Legislative Officer

NUMBER	ROLL NUMBER	LOCATION ADDRESS	ASSESSMENT	FILE NUMBER
1	50600000	262 Powder Drive	\$16,731,960	ARB 15-014
2	30620260	435 Gregoire Drive	\$20,629,000	ARB 15-016
3	71006210	10006 Macdonald Avenue	\$16,551,000	ARB 15-015
4	30620010	200 Parent Way	\$14,034,000	ARB 15-046
5	40577840	230 Wilson Drive	\$25,184,500	ARB 15-013

A preliminary hearing regarding the 5 properties listed above was held on September 17, 2015 at 1:30 pm. The hearing took place via teleconference with the Presiding Officer speaking from the Municipal Government Board offices at Commerce Place in Edmonton, Alberta.

PROCEDURAL OR JURISDICTIONAL MATTERS

The CARB derives its authority to make decisions under Part 11 of the *Municipal Government Act*.

Municipal Government Act

454.2(3) Despite subsections (1) and (2) but subject to the conditions prescribed by the regulations, a council may establish a composite assessment review board consisting of only a provincial member appointed by the Minister.

Matters Relating to Assessment and Taxation Regulation 310/2009

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;

The parties did not have any objection to the matter being heard by the Presiding Officer as a single member CARB panel.

This preliminary hearing dealt with three matters:

Preliminary matter 1: Who is the Respondent for this hearing?

Preliminary matter 2: Rescheduling of the hearings for 4 of the 5 properties listed.

Preliminary matter 3: Timing of the complaint hearing for 1 of the 5 properties listed.

PRELIMINARY MATTER 1

Position of the Parties:

The Complainant explained that 4 of the 5 Notices of Hearing for the properties under complaint had been sent to the wrong address. The Regional Municipality of Wood Buffalo (Municipality) agreed that these addressing errors had been made.

The Complainant asked that all 5 complaints be rescheduled because of the addressing errors and to allow appropriate time for the Complainant to provide disclosure of evidence for all the complaints. The Municipality agreed to rescheduling of hearings for 4 of the 5 complaints where addressing errors had been made, but did not agree to the rescheduling of 1 of the complaints (roll number 30620010) where no addressing error had occurred.

The Complainant argued that the Municipalities Assessment Review Board (ARB) Clerk was making arbitrary decisions as to the inclusion of all five complaints for rescheduling.

The Complainant further expressed frustration in terms of attempting to understand who would be the Respondent that should be dealing with this matter.

The ARB Clerk explained that they were simply following the circumstances regarding errors on 4 of the 5 complaint hearing notices and thus attempting to reschedule merit hearings for those 4 properties only.

The Complainant requested a preliminary hearing to deal with the request that all 5 complaints be rescheduled. The Municipalities ARB set a preliminary hearing through a one-member Composite Assessment Review Board (CARB) to deal with the matter.

The Preliminary Hearing took place September 17, 2015 at 1:30 pm via teleconference.

Findings of the Board:

The Board finds that this matter is properly before the CARB of the Municipality and that the Municipality is the Respondent.

Some confusion for the Complainant regarding the scheduling issue may have arisen due to an e-mail sent September 1, 2015 to the ARB Clerk and to the Complainant from the Municipal assessor that advised that he did not have an issue with the Complainant's request and further advised that the role of Respondent should move from the assessor to the Municipality's ARB.

In normal circumstances the Municipality is the respondent in matters of property assessment complaints because they produce the assessments. Usually the Municipality as Respondent is represented by the Municipal assessor who is responsible for performing assessments, or an assessor assigned by the municipal assessor, or on some occasions legal counsel for the Municipality.

PRELIMINARY MATTER 2

Position of the Parties:

The Complainant explained that 4 of the 5 Notices of Hearing for the properties under complaint had been sent to the wrong address. The Regional Municipality of Wood Buffalo (Municipality) agreed that these addressing errors had been made.

The Complainant asked that all 5 complaints be rescheduled because of the addressing errors and to allow appropriate time for the Complainant to provide disclosure of evidence for all the complaints.

The Respondent agreed to rescheduling of hearings for 4 of the 5 complaints where addressing errors had been made, but did not agree to the rescheduling of complaints roll number 30620010, where no addressing error had occurred.

Subsequently the Municipality's ARB scheduled a preliminary hearing through a one-member Composite Assessment Review Board (CARB) to deal with the matter and clear up any scheduling issues

Findings of the Board:

The Board understands that the parties agree that there were addressing errors made in terms of the Notices of Hearing for 4 of the 5 properties under complaint.

The Board understands that the parties agree that these 4 complaints be rescheduled.

The Board finds that a mutually acceptable time for these complaints to be heard before the end of 2015, as required by legislation, should be set as soon as possible.

PRELIMINARY MATTER 3

Position of the Parties:

The Complainant asked that all 5 complaints be rescheduled together because of the addressing errors and to allow appropriate time for the Complainant to provide joint disclosure of evidence for all the complaints.

The Respondent did not agree to the rescheduling of the hearing for roll number 30620010 where no addressing error had occurred.

Findings of the Board:

The Board finds that the most appropriate way to deal with the position of the parties is to consider, under the circumstances, whether a postponement of the merit hearing for 1 of the complaints (roll number 30620010) is warranted.

The Board considered the circumstances regarding these complaints including the errors made in addressing some of the Notices of Hearing and the request of the Complainant to deal with all the complaints at a similar time.

The Board understands that each complaint goes forward on its own merit however some consideration may be reasonable in terms of grouping of complaints if there are circumstances of efficiencies for both parties.

The Board is also of the opinion that the e-mail from the municipal assessor dated Sept. 1, 2015 to the ARB Clerk and to the Complainant advising that he did not have an issue with the Complainant's request and further advised that the role of respondent should move from the assessor to the Municipality ARB may have led to some communication issues between the ARB Clerk and the Complainant.

DECISION OF THE BOARD

The Board considers that there are exceptional circumstances regarding the timing of the merit hearing for roll number 30620010 and in accordance with *Matters Relating to Assessment Complaints, Alberta Regulation 310/2009, s.151(1)* hereby grants a postponement for the merit hearing in accordance with the Board findings above.

The Board further directs that the merit hearing for roll number 30620010 be set in close conjunction with merit hearings for roll numbers 50600000, 30620260, 71006210, and 40577840, and that these merit hearings be concluded by the end of 2015 as required by legislation.

The hearings are to be held at the offices of the Regional Municipality of Wood Buffalo and the hearing dates are set for December 10, 2015, December 11, 2015 and December 12, 2015. Hearing location, start times and party disclosure timelines will be provided by way of Notice of Hearing letter to all parties.

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this 25th day of September, 2015.

FOIP Act s.17(1)



Harold Williams, Presiding Officer