

**IN THE MATTER OF A COMPLAINT** filed with the Regional Municipality of Wood Buffalo Local Assessment Review Board (LARB) pursuant to Part 11 of the *Municipal Government Act* being chapter M-26 of the revised statutes of Alberta 2000.

**BETWEEN:**

Regional Municipality of Wood Buffalo (RMWB) – Assessor

- and -

Myshak Sales & Rentals Ltd. – Respondent

**BEFORE:**

R. Carruthers, Presiding Officer

Staff:

S. Soutter, Clerk

**BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

[1] A hearing was convened on June 25, 2018 via conference call to consider if the complaint filed about the assessment of the following property was filed on time:

<b>Assessment Roll Number</b>	8320000640
<b>Civic Address</b>	64 Freestone Way, Fort McMurray, AB
<b>Owner</b>	Myshak Sales & Rentals Ltd.
<b>File Number</b>	ARB 18-001

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**PROCEDURAL MATTERS**

[2] The LARB derives its authority to make decision under Part 11 of the *Municipal Government Act*, R.S.A. 2000, c. M-26.

[3] The parties confirmed that they had no objections to the composition of the Board.

[4] The Board confirmed it had no bias in relation to the matters.

**PRELIMINARY MATTERS**

***Issue***

[5] The complaint for the aforementioned roll number was received on May 3, 2018. The Deadline date to file complaints was April 30, 2018.

[6] A properly completed agent authorization form was not filed.

***Position of the Assessor***

[7] The Assessor requested a Preliminary Hearing before a one-member panel as the complaint was received on May 3, 2018. As noted on the Annual Property Assessment Notice, notices were mailed on February 20, 2018 with a final date of complaint of April 30, 2018.

[8] The Assessor explained that recent changes to the *Municipal Government Act* saw amendments and new regulations to ensure a fair and efficient complaint process along with clear requirements and direction. The new regulations defined timelines whereby the complaint period was extended from 30 to 60 days, to ensure fairness and undue delay to the parties involved.

[9] Further to that the Assessor presented that the Complaint Form filed on May 3, 2018 did not contain a properly completed Agent Authorization Form as the complaint was filed by Danielle McCrum on behalf of Myshak Sales & Rentals Ltd.

[10] In closing the Assessor submitted that the complainant failed to meet the legislated requirements for filing a complaint, therefore it should be dismissed:

- Section 284(4) *Municipal Government Act* states that the “*complaint*

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*deadline” means 60 days after the notice of assessment date”.*

- Section 461(1) (1.1) of the *Municipal Government Act* states that “*a complaint filed after the deadline is invalid*”.
- Section 467(2) of the *Municipal Government Act* states that “*an assessment review board must dismiss a complaint that was not made within proper time*”.

### ***Position of the Respondent***

[11] D. McCrum submitted that as shown on the Assessment Notice “*Applicable forms accompanied by the appropriate filing fee must be postmarked or received on or before 4:30 p.m. April 30, 2018*”. In support of she submitted that there is a notation on the filed complaint form that the envelope was post marked April 27, 2018.

[12] In relation to the email address on the complaint form, Ms. McCrum’s stated she is the Controller for Myshak Sales & Rentals, the complaint form was signed by Jim Myshak, President who was the sole decision maker on filing the complaint.

### **PRELIMINARY DECISION**

[13] It is the decision of the Local Assessment Review Board to allow the complaint for Roll No. 8320000640.

[14] A merit hearing will be scheduled in accordance with the legislative requirements.

### **REASONS ON PRELIMINARY DECISION**

[15] In coming to its conclusion, the Board has reviewed carefully the submissions of the parties, because of the statement on the Assessment Notices “*Applicable forms accompanied by the appropriate filing fee must be postmarked or received on or before 4:30 p.m. April 30, 2018*”. The Board believes that the Respondent was acting in accordance with the intent of this statement.

[16] In relation to the matter of the agent authorization form, legislation defines an agent as “*a person who, for a fee or potential fee, acts for an assessed person or a taxpayer during the assessment complaint process or at a hearing before an assessment review board or the Municipal Government Board*”. As clarified during questioning Ms. McCrum is not receiving a fee for this complaint, therefore the Board finds she not acting as an agent

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and therefore no agent form is required in this regard. If at the merit hearing the property owner Myshak Sales and Rentals Ltd., determines they need an Agent to represent them then a duly completed Agent Authorization form will be required.

[17] During the marking of exhibits the Board noted that the submission of the Respondent is in relation to the merits of the complaint, the Board strikes Exhibit R1, R2, R3 and R4 from the record. The Board accepted the submission of the Assessor and marked that as Exhibit A1.

[18] It is so ordered.

[19] The decision of the Local Assessment Review Boards is final and binding on all parties, subject only to appeal to the Court of Queen's Bench on a question of law or jurisdiction with respect to the decision in accordance to section 470 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this  
5 day of July 2018.

FOIP s.17(1)



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R, Carruthers, Presiding Officer

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**APPENDIX A**

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DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

<b>Exhibit Number</b>	<b>Description</b>
A1	Assessors Brief (15 pages)

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**APPENDIX B**

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REPRESENTATIONS

<b>Person Appearing</b>	<b>Capacity</b>
D. Robichaud	Assessor, Regional Municipality of Wood Buffalo
D. McCrum	Controller, Myshak Sales & Rentals
J. Myshak	President, Myshak Sales & Rentals