



**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:**

Riocan Holdings Inc. – **Respondent on Application/Complainants**

- and -

Regional Municipality of Wood Buffalo (RMWB) – **Applicant on Application/Respondent**

**BEFORE:**

Lori Bonnett, Presiding Officer

**Present:**

**Respondents on Application/Complainants**

Brent Folden – Agent, Altus Group, representative of the Respondents on Application/Complainants

Rebecca McNeil – Agent, Altus Group representative of the Respondents on Application/Complainants

Brian Dell – Solicitor for Altus Group

**Applicant on Application/Respondent:**

Barry Campbell – Assessor for RMWB

Staff:

Sonia Soutter, Clerk

**For simplicity, this Order will refer to the parties as Applicant and Respondent.**

---

**BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT**

[1] A hearing was convened on via telephone to consider a complaint about the assessment of the following properties:

<b>Assessment Roll Number</b>	50513000
<b>Civic Address</b>	339 Powder Drive, Fort McMurray
<b>Owner</b>	Riocan Holdings Inc.
<b>File Number</b>	ARB 18-078-P

**PROCEDURAL MATTERS**

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

---

## **PRELIMINARY MATTERS**

### ***Issues***

[2] There were two issues raised by the Applicant. The first issue was whether the Respondent failed to provide information in response to a section 295(1) request under the MGA, and if so, what affect that has? The second issue before the Board on this matter was whether the complaint (as set out in paragraph [1]) herein was filed within the proper time?

### ***Position of the Applicant***

[3] With respect to first issue regarding the section 295 disclosure, the RMWB advised that this issue had not been withdrawn and that an error had occurred by the Clerk communicating that incorrect information to counsel.

[4] The RMWB submitted that section 284(4) of the Municipal Government Act (*MGA*) provides that the complaint deadline means 60 days after the notice of assessment date.

[5] The RMWB pointed out in Tab 3 of Exhibit A-1, the certificate of sending assessment notices for the RMWB was February 20, 2018. Based on the publication from the Alberta Municipal Affairs setting out the complaint date schedule for 2018 [Tab 4 of Exhibit A-1], when the assessment notices were sent on February 20, 2018, the notice of assessment date is February 28, 2018 and the complaint date is Sunday, April 29, 2018. Given that the complaint date is a Sunday, the deadline then falls to the Monday, being April 30, 2018.

[6] The RMWB further submitted that section 467 (2) of the *MGA* provided that an assessment review board must dismiss a complaint that was not made within the proper time.

[7] The RMWB accepts that the complaints were postmarked on April 30, 2018 prior to 4:30 p.m. However, as RMWB submitted the complaints were not received until four (4) days later which was outside the legislated time frame for complaint deadline.

[8] The RMWB provided a number of other CARB decisions that support its position that the complaints were dismissed when the complaint was received post the complaint deadline.



---

***Position of the Respondents***

[9] With respect to the first issue, the Respondent advised that they had received confirmation from the Clerk of CARB that that issue had been withdrawn [Exhibit R-3]. As a result the Respondent were not prepared to speak to this issue.

[10] The Respondents submitted that the website for the RMWB provided a number of questions and answers with respect to the filing of complaints. One of the questions was “What is the complaint deadline?”. The response on the RMWB’s website was: “The original complaint form and accompanying filing fee must be postmarked or received on or before April 30, 2018 at 4:30 p.m. Faxed complaints will not be accepted.”. [Exhibit R-1, p. 9].

[11] The Respondents reiterated that there was no dispute between the parties that the complaints were postmarked on April 30, 2018 prior to 4:30 p.m.

[12] Further, the Respondents provided a copy of the 2018 Annual Property Assessment Notices (Assessment Notice) for each of the four (4) roll numbers set out in paragraph [1] herein and they each provided the following statement on the Assessment Notice [Exhibit R-1, p. 15]:

... If you disagree with any of the assessment information on this notice, you have the right to submit an Assessment Complaint with the Clerk of the Assessment Review Board (see reverse for contact information) by 4:30 p.m. on April 30, 2018.

On the reverse of the notice, [Exhibit R-1, p. 16] paragraph 6 stated as follows:

**6. When is the Assessment Review Board Complaint deadline?**

Applicable forms accompanied by the appropriate filing fees must be postmarked or received on or before 4:30 p.m. on April 30, 2018.

[13] The Respondents submitted that the specific, very clear instructions, both on the RMWB’s website and on the Assessment Notice, govern how the complainant must file their complaint.

[14] The Respondents agrees that section 461 of the *MGA* provided a complaint must be filed with the Assessment Review Board not later than the complaint deadline. While both the *MGA* and Matters Relating to Assessment Complaints Regulations (*MRAC*) speak to a complaint being filed, there is no definition of what constitutes ‘filing’ in either pieces of

legislation nor on the prescribed complaint form.

[15] As a result of the MGA's silence on the issue of what constitutes 'filing', the RMWB determined that the complaint could be filed in either of two (2) ways which were set out on the complaint form and on the website being a) physical delivery to the Clerk; or b) by having the complaint mailed to the Clerk prior to the complaint deadline.

[16] The instructions specifically provided by the RMWB do not contradict the provisions of the *MGA* or the regulations, but yet they are specific and the taxpayers/complaints have a right to rely upon those specific instructions when filing a complaint.

[17] As a result of the foregoing, the Respondent's application to strike the complaints should be denied, and merit hearings should be scheduled. The Respondents further request that costs be awarded to them.

#### **DECISIONS ON PRELIMINARY ISSUE**

[18] Given that the incorrect information with respect to the withdrawal of the section 295 issue had been communicated to counsel for the Respondent's agent, this Board ordered that that matter be set down as a separate matter and this Board did not proceed to hear any evidence on that particular issue.

[19] With respect to the second issue on whether the complaint was filed within the proper time, it is the decision of the CARB that the Complaint as set out in paragraph [1] herein were filed within the time frames as specified by the RMWB as they complied with the Municipalities' instructions by being postmarked or received on or before 4:30 p.m. on April 30, 2018. The Clerk of the CARB should proceed to set down these matters for merit hearings, subject to the decision from the CARB panel hearing the section 295 issue.

[20] The Respondent requested costs be awarded to them. The Respondent can speak to costs once the decision from the CARB panel hearing the section 295 issue has been rendered.



---

**REASONS ON PRELIMINARY DECISION**

[21] In coming to its conclusion, the Board has reviewed carefully the provisions of the *Municipal Government Act* (“MGA”), the *Matters Relating to Assessment Complaints Regulation* (“MRAC”) and the *Matters Relating to Assessment and Taxation Regulation* (“MRAT”) as well as all of the materials and cases provided by both the Applicant and the Respondent.

[22] There was no dispute between the parties as to when the complaint forms were postmarked. The Applicant acknowledges that the complaints were postmarked before 4:30 p.m. on April 30, 2018.

[23] Section 461(1) of the *MGA* states that a complaint must be filed with the assessment review board.. not later than the complaint deadline. Section 461(1.1) of the *MGA* states that “A complaint filed after the complaint deadline is invalid.”.

[24] Sections 308 and 309 of the *MGA* establishes how and when the assessment notices must be sent out by the assessors along with the content of such assessment. There is no issue here with respect to the timelessness or the content of the assessment notices.

[25] The Applicant provided other board decisions in support of its application along with a Court of Queen’s Bench decision by Justice Hillier *Edmonton (City) v. Assessment Review Board of the City of Edmonton*, 2012 ABQB 399. The 2012 ABQB can be distinguished on its facts as the question before the Court on this matter was whether the assessment review board had the jurisdiction to extend the legislated time for receipt of the complaint. The matter before this Board is not a question of extending the time frames set out in the *MGA*, but rather interpreting whether the ‘filing’ occurred on time. As pointed out by the Respondent, ‘filing’ is not defined within the *MGA* or in the regulations, nor has any case law been presented that would assist the Board in the determination of this question. The other board decisions included in the Applicant’s package are all similar to the 2012 ABQB in that the issue was questions of extension of the filing period as opposed whether the ‘filing’ occurred on time or put another way, what constitutes ‘filing’.

[26] The Board was presented by the Respondent with credible evidence setting out the specific filing instructions from the RMWB in two (2) different places, one being the RMWB’s website and the second being the Notice of Assessment, which state that ‘filing of the complaint’ can occur by being postmarked or received on or before 4:30 p.m. on April 30, 2018. As previously stated, the *MGA* and the applicable regulations are silent as

to what constitutes 'filing'. In the Board decision of the *Robinson v. Lethbridge (City)*, [2001] A.M.G.B.O. No. 73 at par. 37 to 40, the municipality provided a public notice by way of advertisement that complaints received or postmarked prior to a specific time and date will be accepted. The municipality clearly indicated that it is acceptable to post mark the complaint on the last day it is to be file. The MGB determined in the *Robinson* decision that the municipality cannot then rely on the argument that the complaint had to be filed in the office of the municipality by that same date when it gave clear instructions that a complaint postmarked by the final day was acceptable.

[27] It is so ordered.

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this

18 day of **July** 2018.

FOIP s.17(1)

Lori Bonnett, Presiding Officer

---

**APPENDIX A**

---

**DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB**

---

<b>Exhibit Number</b>	<b>Description</b>
"A-1"	Applicant disclosure (127 pages with the Regional Municipality of Wood Buffalo identification and logo on the cover page)
"R-1"	Respondent disclosure (72 pages with the Altus Group identification and logo on the cover page)
"R-2"	Respondent Rebuttal (65 pages with the Altus Group identification and logo on the cover page)
"R-3"	Email exchange between the Clerk of CARB to Brian Dell, counsel for the agent.