AGENDA

Assessment Review Board Meeting

1:00 PM - Thursday, June 18, 2026

Virtual (Teams Meeting)

Page

1. CALL TO ORDER

2. INTRODUCTION OF THE BOARD

L. Yakimchuk, Presiding Officer, Member - Land and Property Rights Tribunal

3. COMPOSITE ASSESSMENT REVIEW BOARD (CARB) ONE-MEMBER PANEL PRELIMINARY HEARING

Roll No. 265300 (1500 12 Ave SE)
Complainant: Kajer Developments Ltd. c/o Ryan ULC
Respondent: Stewart Dalrymple (Assessor) - Town of High River

3.1. **Preliminary Hearing (Validity of Complaint - Filing Deadline)** 2 - 37

Complaint Form Roll No. 265300 (1500 12 Ave SE)
20260512_Ryan ULC Receipt
20260603 AMENDED Preliminary Notice of Hearing_2653000_1500-12-Ave-SE
20260511_458PM_Email_Correspondence
20260512_849AM_Email_Correspondence
20260512_855AM_Email_Correspondence
20260512_255PM_Email_Correspondence
20260512_358PM_Email_Correspondence
20260512_434PM_Email_Correspondence
20260513_Email_String_Explaining_Deadline

3.2. **Complainant's Disclosure** 38 - 527

DISCLOSURE COMPLAINANT 2026 ARB_265300

3.3. **Respondent's Disclosure** 528 - 566

DISCLOSURE RESPONDENT 2026 ARB_265300

4. DECISION OF THE BOARD

5. ADJOURNMENT

Alberta Government

Assessment Review Board Complaint

The personal information on this form is being collected under the authority of the *Municipal Government Act*, section 460, as well as the *Freedom of Information and Protection of Privacy Act*, section 33(c). The information will be used for administrative purposes and to process your complaint. For further information, contact your local Assessment Review Board.

Municipality Name (as shown on your assessment notice or tax notice)	Tax Year
High River	2026

Section 1 - Notice Type

Assessment Notice:
- ☒ Annual Assessment
- ☐ Amended Annual Assessment
- ☐ Supplementary Assessment
- ☐ Amended Supplementary Assessment

Tax Notice:
- ☐ Business Tax
- ☐ Other Tax (excluding property tax and business tax)

Name of Other Tax: _____

Section 2 - Property Information

Assessment Roll or Tax Roll Number: 265300

Property Address: 1500 12 Av SE

Legal Land Description (i.e. Plan, Block, Lot or ATS ¼ Sec-Twp-Rng-Mer): 2411058;1;5

Property Type *(check all that apply)*
- ☐ Residential property with 3 or fewer dwelling units
- ☐ Residential property with 4 or more dwelling units
- ☐ Farm land
- ☒ Non-residential property
- ☐ Machinery and equipment

Business Name (if pertaining to business tax):

Business Owner(s): Kajer Developments Ltd.

Section 3 - Complainant Information

Is the complainant the assessed person or taxpayer for the property under complaint? ☐ Yes ☒ No

Note: If this complaint is being filed on behalf of the assessed person or taxpayer by an agent for a fee, or a potential fee, the Assessment Complaints Agent Authorization form must be completed by the assessed person or taxpayer of the property and must be submitted with this complaint form.

Complainant Name (if the complainant, assessed person, or taxpayer is a company, enter the complete legal name of the company): Ryan ULC

Mailing Address (if different from above)	City/Town	Province	Postal Code
335 8 Avenue SW, Suite 1700	Calgary	Alberta	T2P 1C9

Telephone Number (include area code)	Fax Number (include area code)	Email Address
(587) 351-6755	(587) 351-6494	apt.calgarytax@ryan.com

If applicable, please indicate any date(s) that you are not available for hearing:

Section 4 - Complaint Information

Check the matter(s) that apply to the complaint (see reverse for coding)

☐ 1 ☐ 2 ☒ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐ 11 ☐ 12 ☐ 13

Note: Some matters or information may be corrected by contacting the municipal assessor prior to filing a formal complaint.

Section 5 - Reason(s) for Complaint

Note: An assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

A complaint must:
- indicate what information shown on an assessment notice or tax notice is incorrect,
- explain in what respect that information is incorrect,
- indicate what the correct information is, and
- identify the requested assessed value, if the complaint relates to an assessment.

Requested assessed value: $2,800,000

See Attached

Section 6 - Complaint Filing Fee

If the municipality has set filing fees payable by persons wishing to make a complaint, the filing fee must accompany the complaint form, or the complaint will be invalid and returned to the person making the complaint.
If the assessment review board makes a decision in favour of the complainant, or if all the issues under complaint are corrected by agreement between the complainant and the assessor and the complaint is withdrawn prior to the hearing, the filing fee will be refunded.

Section 7 - Complainant Signature

Date *(mm/dd/yyyy)*	Printed Name of Signatory Person and Title	Signature
05/12/2026	Josh Weber Principal, Complex Property Tax	

Important Notice: Your completed complaint form and any supporting attachments, the agent authorization form, and the prescribed filing fee must be submitted to the address with whom a complaint must be filed as shown on the assessment notice or tax notice prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete complaint form, complaints submitted after the filing deadline, or complaints without the required filing fee, are invalid.

Assessment Review Board Clerk Use Only

Was the complaint filed on time?	☐ Yes	☐ No		
Is the required information included on or with the complaint form?	☐ Yes	☐ No		
Was the required filing fee included?	☐ Yes	☐ No	☐ N/A	Date received _____
Was a properly completed authorization form attached:	☐ Yes	☐ No	☐ N/A	
Complaint to be heard by:	☐ LARB Panel	☐ CARB Panel		

LGS1402 (2018/01)

Town of High River
309B Macleod Trail SW
High River, AB
T1V 1Z5

THIS IS NOT A TAX BILL

2026 Property Assessment Notice

Mailing Date March 5, 2026 **Notice of Assessment Date** March 13, 2026

KAJER DEVELOPMENTS LTD
338-1201 5 ST SW
CALGARY AB T2R 0Y6
CANADA

RECEIVED
MAR 0 6 2026

Property Address 1500 12 AVE SE **Roll Number** 265300

Assessment Information

Legal Description

Plan	Block	Lot
2411058	1	5

School Support (declared as of December 31 of the previous year)

	Percent
Public	.0000 %
Separate	.0000 %
Provincial	100.0000 %

Assessment Class Code/Description	Assessment Amount
24 COMMERCIAL	3,635,700

Total Assessment 3,635,700

A copy of this notice has been sent to the following:

Additional Owners:

CUSTOMER REVIEW PERIOD From Mailing Date to Final Date to File Complaint	ASSESSMENT REVIEW BOARD FINAL DATE TO FILE COMPLAINT
If you require additional information or have questions about your assessment, please call 403-652-2110.	May 12, 2026
Any **changes** to your current assessment will only be considered if an inquiry is received during the "**CUSTOMER REVIEW PERIOD**".	**See back for complaint fee**

SEE REVERSE SIDE OF THIS FORM FOR CUSTOMER REVIEW STEPS
VIEW ASSESSMENT INFORMATION AT WWW.HIGHRIVER.CA/

Roll Number: 265300
Civic Address: 1500 12 Avenue SE, High River
Preliminary Requested Assessment: $2,800,000
Estimated Time for Hearing: 4 Hours

Grounds for Complaint:

This Complaint is filed based on information contained in the Assessment Notice as well as preliminary observations and information from other sources. *Therefore, the requested assessment is preliminary in nature and is subject to change as more information becomes available to the Complainant.*

The assessment of the subject property is neither fair nor equitable considering the assessed value and assessment classification/and or quality of similar and competing comparable properties within the Municipality.

The assessment of the subject property is in excess of its market value for assessment purposes.

The assessed area has been applied incorrectly based on s. 289 of the ACT and should be revised accordingly.

The Complainant's estimate of value using the **Income Approach** suggests that the current assessed value is unfair, inequitable and incorrect based on market leases and equity.

a) The *Vacancy Allowance* at the subject should be no lower than 10%
b) The *Operating Cost/Vacant Space Shortfall Allowance* should be no less than $15psf
c) The *Non-Recoverable/Reserve for Replacement Allowance* should be no less than a combined 10.50%
d) The *Capitalization Rate* should be no lower than 7.50%

e) The *Bank*, at the subject should be no higher than $21.50psf
f) The *Large Store*, at the subject should be no higher than $10.50psf

The Complainant's estimate when reviewing the portions of the assessed value calculated using the **Sales Comparison Approach** suggests that the assessed value is unfair, inequitable, and incorrect based on recent market sales activity and the assessments of similar and competing properties.

Excess Land applied to the subject property, should be revised as the value is greater than market value due to the recent sales of land in the Municipality, or is overstated based on the income approach calculations applied to the primary building(s)

The aggregate assessment per acre applied to the subject property does not reflect market value for assessment purposes when using the direct sales comparison approach and should be no more than an aggregate $115,000/acre.

The aggregate assessment per acre applied to the subject property is inequitable with the assessments of other similar and competing properties and should be no more than an aggregate $115,000/acre.

The adjustments applied to the land value of the subject property are incorrect and inequitable due to topography, rights-of-way influences, inability to sub-divide, encumbrances, shape, access, level of site servicing and/or other influences, and as a result require an adjustment to the applied land rate.

Adjustments made by the Municipality to the base rate have been applied inequitably and do not adequately reflect the challenges faced at the subject property.

Should the municipality, or any of its representatives, have any questions about any of the aforementioned grounds for complaint, please feel free to contact Andrew Izard at 403.478.8288 to discuss further.

Sincerest regards, on behalf of the represented taxpayer,

Ryan ULC

Dated: May 8, 2026

Government of Alberta

Assessment Complaints Agent Authorization

SECTION 1 - Assessed Person / Taxpayer Information

Tax Year: 2026

Assessed Person(s) or Taxpayer(s) *(if the assessed person or taxpayer is a company, enter the complete legal name of the company)*
Kajer Developments Ltd.

Business Name (if pertaining to business tax)	Business Owner(s)

SECTION 2 - Municipal and Property Information

(for designated industrial property go to Section 3)

Municipality Name (as shown on your assessment notice or tax notice)	Assessment Roll or Tax Roll Number
High River	265300

Property Address	Legal Land Description (i.e. Plan, Block, Lot or ATS 1/4 Sec-Twp-Rng-Mer)
1500 12 Ave SE	2411058;1;5

Property Type *(check all that apply)*
- ☐ Residential property with 3 or less dwelling units
- ☐ Residential property with 4 or more dwelling units
- ☐ Farm land
- ☒ Non-residential property
- ☐ Machinery and equipment

SECTION 3 - Agent Information

Note: Agent means a person or company who for a fee or potential fee acts for an assessed person or taxpayer during the assessment complaint process or at a hearing before an assessment review board or the Municipal Government Board.

Agent Name	Contact Name (if different) and Position Held
Ryan ULC	

Mailing Address (if different from above)	City/Town	Province	Postal Code
1700, 335 8 Avenue SW	Calgary	Alberta	T2P 1C9

Telephone Number *(include area code)*	Fax Number *(include area code)*	Email Address
(587) 351-6755	(587) 351-6494	APT.calgarytax@ryan.com

SECTION 4 - Acknowledgement and Certification

By signing below, I acknowledge and certify that:

1. I am the assessed person or taxpayer identified in section 1, or a legally authorized officer of the assessed person or taxpayer.
2. To initiate the processing of this agent authorization, I am attaching this agent authorization form to:
   (a) the complaint form if the agent is authorized to file the complaint on my behalf, or
   (b) a letter, signed by me on my personal or company letterhead, and the letter is submitted to the municipality's assessment review board clerk or to the Municipal Government Board administrator, as the case may be, before the hearing of the complaint.
3. I provide authority to the agent, as identified in section 3, to represent the assessed person or taxpayer, identified in section 1, to:
   (a) file a complaint on behalf of the assessed person or taxpayer for the property described on this form,
   (b) discuss the issues or matters of the complaint with the municipality's assessor (or the assessor designated by the Minister for linear property),
   (c) prepare and submit disclosure regarding the complaint,
   (d) represent the assessed person or taxpayer at hearings before the assessment review board (or before the Municipal Government Board for linear property),
   (e) reach an agreement with the assessor to correct a matter under complaint, and
   (f) to withdraw the complaint at any time.
4. I understand that the assessed person or taxpayer continues to be subject to all provisions required by the *Municipal Government Act* and its attendant regulations, and any authorization of agency is not a substitute for any of those provisions.
5. I understand that this document does not act as an authorization of agency for the purposes of Section 299 or Section 300 of the *Municipal Government Act*.
6. I understand that the assessed person or taxpayer is liable for any costs awarded against the agent by an assessment review board (or by the Municipal Government Board for linear property), or for any change in assessment that may result from a hearing.
7. I understand that this authorization is only applicable to the tax year entered on this form.
8. The agent has disclosed the qualifications, professional designations, certifications, or affiliations of the agent, if any, with respect to property assessment or appraisal.
9. I may revoke authorization at any time in writing to the assessment review board clerk, or the Municipal Government Board administrator.

Signature of the Assessed Person or Taxpayer	Printed Name of Signatory Person and Title	Date *(mm/dd/yyyy)*
	Jerry A Fleishman President	Apr 02 2026

LGS1405 (2018/06)

309B Macleod Trail SW
High River, Alberta
Canada T1V 1Z5
Ph: (403) 652-2110
Fax: (403) 652-2396

RECEIVED
MAY 12 2026
TOWN OF HIGH RIVER
10:42 AM
R

OFFICIAL RECEIPT

RYAN PROPERTY
335 8 AVE SW
CALGARY AB T2P 1C9

GST Reg. #: R108127135
Receipt #: 1594677
Receipt Date: 2026/05/12
Page: 1
Receipted by: RH

Tax Codes: E=Exempt; T=Taxable; I=Included

Reference #	Description	Reference	Tax Code	GST	Payment
	RYAN PROPERTY-309 CENTRE ST SW		E	.00	650.00
	RYAN PROPERTY-1104 11 AVE SE		E	.00	650.00
	RYAN PROPERTY-1500 12 AVE SE		E	.00	650.00
	RYAN PROPERTY-1512 13 AVE SE		E	.00	650.00
	RYAN PROPERTY-1103 18 ST SE		E	.00	650.00
	RYAN PROPERTY-1010 24 ST SE		E	.00	650.00
	RYAN PROPERTY-1225 1 ST SE		E	.00	650.00
	RYAN PROPERTY-1220 1 ST SE		E	.00	650.00

Tender Type & Description	Reference	Amount
VS 8 PROPERTIES	VISA	5,200.00

GST:	.00
Total Amount Paid:	5,200.00
Tender Received:	5,200.00
Change Given:	

"THE MEETING PLACE"
... a modern Town with a western tradition

#1594677
VISA
5200.00
R.

Roberta Hazen

From: Grace Ciszewski <grace.ciszewski@ryan.com>
Sent: May 12, 2026 9:59 AM
To: Customer Care
Cc: APT CalgaryTax
Subject: FW: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

403-508-7862

As of January 1st, 2025, Altus Group Property Tax Services is now part of Ryan. Learn more about the acquisition here. (https://ryan.com/canada/)

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Monday, May 11, 2026 4:58 PM
To: 'legislativeservices@highriver.ca' <legislativeservices@highriver.ca>; T@highriver.ca
Cc: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River

Good Day,

Please see below the Assessment Review Board Complaint list. The **appeal fee of $5,200.00** may be paid by VISA.
The ARB appeal packages will follow via emails.

Roll Number	Address	Municipality	Ryan Property Type	Appeal Fee	
1766000	319 Centre St SW	High River	Retail	$	650.00
1512000	1104 11 AV SE	High River	Hospitality	$	650.00
265300	1500 12 AV SE	High River	Retail	$	650.00
2843000	1512 13 AV SE	High River	Hospitality	$	650.00
2853000	1103 18 ST SE	High River	Retail	$	650.00
4460100	1010 24 ST SE	High River	Office	$	650.00
8255000	1225 1 ST SE	High River	Retail	$	650.00
8256000	1220 1 ST SE	High River	Retail	$	650.00

$	5,200.00

Please note that we will accept receipts sent electronically.
Please phone for further information at 403-508-7862.

Thank you,

Grace

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

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ASSESSMENT REVIEW BOARD

309B Macleod Trail SW
High River, Alberta Canada T1V 1Z5
P: 403.652.2110 F: 403.652.2396
www.highriver.ca

Our File No: [265300_1500-12-Ave-SE]

Notice of Preliminary Hearing - AMENDED

June 3, 2026

Parties before the Board:

Complainant	-AND-	Respondent
Kajer Developments Ltd. c/o Ryan ULC 1500 12 Avenue SE High River, AB		Stewart Dalrymple - Assessor Town of High River 309B Macleod Trail SW High River, AB T1V 1Z5
VIA E-MAIL: apt.calgarytax@ryan.com		*VIA E-MAIL: sdalrymple@highriver.ca*

2026 Assessment Complaint for Roll Number: 265300
Property located at: 1500 12 Avenue SE, High River, AB
Plan 2411058 Block 1 Lot 5

Please note, your Preliminary Hearing is no longer scheduled for June 10, 2026

The Preliminary Hearing has been re-scheduled for:

Date: June 18, 2026
Time: 1:00 p.m.
Location: Teams Video Conference via:
https://teams.microsoft.com/meet/235051986160547?p=X1YcKLS1GO4k3ID15h
Meeting ID: 235 051 986 160 547
Passcode: Wb6Dx6Tp

The reason for re-scheduling the Preliminary Hearing is because there is additional information attached to this notice.

Please review the attachments that indicate the timing of payment and filing of the complaint form:

- Email on May 11, 2026, at 4:58 pm from APT Calgary Tax indicating payment for batch of complaints, 8 in total.

- Receipt for Payment from Ryan ULC on May 12, 2026, at 10:40 am including 8 complaint fees.
- Email on May 12, 2026, at 8:49 am from APT Calgary Tax with Complaint Forms for Batch 1 of complaints, 4 were attached.
- Email on May 12, 2026, at 8:55 am from APT Calgary Tax with Complaint Forms for Batch 1 of complaints, 3 were attached.
- Email on May 12, 2026 at 2:55 pm from Aleisha Pollett (Clerk) requesting paperwork for Roll #265300 – 15,00 12 Avenue SE.
- Email on May 12, 2026, at 3:58 pm from Aleisha Pollett (Clerk) asking for paperwork to be received by 4:00 pm.
- Email on May 12, 2026, at 4:34 pm from APT Calgary Tax with 8th Complaint Form for Roll #265300 – 1500 12 Avenue SE.
- Emails from May 13, 2026, with correspondence between APT Calgary Tax and Jody Hipkin (Clerk) advising the Complaint Form was received after the deadline, detailing where the deadline was posted and mentioned, and that a preliminary hearing will be scheduled.

The Assessment Review Board (ARB) received your complaint on May 12, 2026. Before proceeding to the merit hearing, a one-member preliminary hearing will be held by the Composite Assessment Review Board (CARB) for the purposes of determining a *procedural or an administrative matter* as per Section 40 of MRAC 201/2017. Note that this hearing is not to hear evidence on the merits of the complaint; **this is a preliminary matter only** to determine:

- *Completeness of the complaint form;*
- *An invalid complaint;*
- *Complaint submitted after the filing deadline.*

Disclosure of Evidence:

Before your hearing, both you and the Respondent must share with each other and the Clerk of the Assessment Review Board all information you plan to present at the hearing. This is referred to as *disclosure of evidence*. Disclosure must be in sufficient detail to allow the other party to respond to or rebut the evidence at the preliminary hearing.

*****Please note the Disclosure Dates have also been amended*****

Complainant's Disclosure: You must disclose your evidence to both the Respondent and the Clerk of the Assessment Review Board on or before **June 10, 2026**.

Respondent's Disclosure: The Respondent must disclose its evidence to both you and the Clerk of the Assessment Review Board on or before **June 10, 2026**.

The timelines for disclosure must be followed.
The Board will not hear evidence that has not been properly disclosed.

All comments and/or rebuttals may be heard at the preliminary hearing.

Filing Disclosure

You must file two copies of your disclosure package: one with the Clerk of the Assessment Review Board and one with the Respondent. Keep the originals for your records.

How to file with the ARB	How to file with the Respondent
You may file your disclosure by mail, email, or in-person: Mail or in-person: Clerk, Assessment Review Board Town of High River 309B Macleod Trail SW High River, AB T1V 1Z5 Email: legislativeservices@highriver.ca	*You may file disclosure by mail, email, or in-person:* Mail or in-person: Assessor, Town of High River 309B Macleod Trail SW High River, AB T1V 1Z5 Email: assessment@highriver.ca

Please note that disclosure must be received on or before the disclosure deadline. If filing by mail, please allow time for delivery.

The Preliminary Hearing

If you do not attend this preliminary hearing, the Board may proceed in your absence.

Your complaint is subject to the *Matters Relating to Assessment Complaints Regulation*, AR 201/2017 (MRAC). MRAC is available on the Kings Printer website at: http://www.qp.alberta.ca/index.cfm

If you require additional information or have any questions concerning these matters, please contact the Assessment Review Board Clerk at 403-603-3580 or by email at: legislativeservices@highriver.ca.

Best regards,

Jody Hipkin
Clerk, Assessment Review Board

Jody Hipkin

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Monday, May 11, 2026 4:58 PM
To: THR Legislative Services; THR Legislative Services
Cc: APT CalgaryTax; Grace Ciszewski
Subject: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River

Good Day,

Please see below the Assessment Review Board Complaint list. The **appeal fee of $5,200.00** may be paid by VISA.
The ARB appeal packages will follow via emails.

Roll Number	Address	Municipality	Ryan Property Type	Appeal Fee	
1766000	319 Centre St SW	High River	Retail	$	650.00
1512000	1104 11 AV SE	High River	Hospitality	$	650.00
265300	1500 12 AV SE	High River	Retail	$	650.00
2843000	1512 13 AV SE	High River	Hospitality	$	650.00
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4460100	1010 24 ST SE	High River	Office	$	650.00
8255000	1225 1 ST SE	High River	Retail	$	650.00
8256000	1220 1 ST SE	High River	Retail	$	650.00
				$	**5,200.00**

Please note that we will accept receipts sent electronically.
Please phone for further information at 403-508-7862.

Thank you,

Grace

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

As of January 1st, 2025, Altus Group Property Tax Services is now part of Ryan. Learn more about the acquisition here. (https://ryan.com/canada/)

Jody Hipkin

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Tuesday, May 12, 2026 8:49 AM
To: THR Legislative Services; THR Legislative Services
Cc: APT CalgaryTax; Grace Ciszewski
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 1
Attachments: _8256000.pdf; _2843000.pdf; _1766000.pdf; _4460100.pdf

Good Morning,

Attached batch 1.

Thank you,

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

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From: APT CalgaryTax
Sent: Monday, May 11, 2026 4:58 PM
To: 'legislativeservices@highriver.ca' <legislativeservices@highriver.ca>; 'T@highriver.ca' <T@highriver.ca>
Cc: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River

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				$	**5,200.00**

Please note that we will accept receipts sent electronically.
Please phone for further information at 403-508-7862.

Thank you,

Grace

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

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Jody Hipkin

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Tuesday, May 12, 2026 8:55 AM
To: THR Legislative Services; THR Legislative Services
Cc: APT CalgaryTax; Grace Ciszewski
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2
Attachments: 8255000.pdf; _2853000.pdf; _1512000.pdf

Attached batch 2.

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

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From: APT CalgaryTax
Sent: Tuesday, May 12, 2026 8:49 AM
To: 'legislativeservices@highriver.ca' <legislativeservices@highriver.ca>; 'T@highriver.ca' <T@highriver.ca>
Cc: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 1

Good Morning,

Attached batch 1.

Thank you,

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

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From: APT CalgaryTax
Sent: Monday, May 11, 2026 4:58 PM
To: 'legislativeservices@highriver.ca' <legislativeservices@highriver.ca>; 'T@highriver.ca' <T@highriver.ca>
Cc: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River

Good Day,

Please see below the Assessment Review Board Complaint list. The **appeal fee of $5,200.00** may be paid by VISA.
The ARB appeal packages will follow via emails.

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Please note that we will accept receipts sent electronically.
Please phone for further information at 403-508-7862.

Thank you,

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Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

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Jody Hipkin

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Sent: Tuesday, May 12, 2026 2:55 PM
To: APT CalgaryTax; Grace Ciszewski
Cc: THR Legislative Services
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2

Hi Grace,

Your email below lists 8 properties, but I only see 7 attachments.

Can you forward the paperwork for Roll # 265300 – 1500 12 Ave SE.

Thanks,

ALEISHA POLLETT ***Advisor***
Legislative & Advisory Services
T 403.603.3658

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: May 12, 2026 8:55 AM
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Cc: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Grace Ciszewski <grace.ciszewski@ryan.com>
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Cc: THR Legislative Services; Jody Hipkin; Grace Ciszewski
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2 - Roll# 265300
Attachments: _265300.pdf

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[EXTERNAL EMAIL] WARNING: This e-mail originated outside of the Town of High River. Do not click on any links or attachments unless you recognize the sender.

Attached batch 2.

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Senior Administrative Assistant, Property Tax
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Jody Hipkin

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Wednesday, May 13, 2026 12:13 PM
To: Jody Hipkin; APT CalgaryTax; Aleisha Pollett
Cc: THR Legislative Services; Grace Ciszewski
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2 - Roll# 265300

Thank you, Jody!

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Sent: Wednesday, May 13, 2026 11:53 AM
To: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Aleisha Pollett <APollett@highriver.ca>
Cc: THR Legislative Services <T@highriver.ca>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2 - Roll# 265300

Hi Grace,

I got your voicemail and wanted to share that the deadline is clear on our website and Aleisha also emailed wanting to confirm if the paperwork was going to be received by 4 pm.

Even if our office was open until 4:30 pm, your email didn't arrive until after that time.

Property Assessments

Understanding property assessment
you see how your property taxes are
they support services in High River.

2026 Important Dates

- *March 5, 2026:* ***Assessment notices mailed***
- *March 13 – May 12, 2026: 60-day review period*
- ***May 12, 2026 (4 PM): Final complaint deadline***
- *July 1, 2025: Valuation date (market value)*

ANY questions, contact the assessor at ***assessment@highriver.ca***

2025 Property Assessments for 2026 Taxes

- Property Assessment Map
- Residential Changes by Community
- High River 2024 to 2025 Year-Over-Year Changes (CREB)
- THR 2025 Assessment Roll by Market Location
- THR 2025 Assessment Roll by Roll Number Order

RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batc

Aleisha Pollett
To Grace Ciszewski; APT CalgaryTax
Cc THR Legislative Services; Jody Hipkin

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ALEISHA POLLETT ***Advisor***
Legislative & Advisory Services
T 403.603.3658

We will have to schedule a preliminary hearing to determine whether the appeal will proceed. You can expect to receive notice once we have determined the details.

Thank you,

Jody Hipkin, Manager
Legislative & Advisory Services
403-603-3580
My working hours may not be your working hours. Please do not feel you need to reply outside of your normal work schedule.

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Medicine Tree Mall, Peavey Mart et. al

2026 Assessment Review Board Preliminary Hearing Evidence Submission

Roll: 265300
1500 12 Avenue SE, High River

ARB Hearing Notice

ASSESSMENT REVIEW BOARD

309B Macleod Trail SW
High River, Alberta Canada T1V 1Z5
P: 403.652.2110 F: 403.652.2396
www.highriver.ca

Our File No: [265300_1500-12-Ave-SE]

Notice of Preliminary Hearing - AMENDED

June 3, 2026

Parties before the Board:

Complainant	-AND-	Respondent
Kajer Developments Ltd. c/o Ryan ULC 1500 12 Avenue SE High River, AB		Stewart Dalrymple - Assessor Town of High River 309B Macleod Trail SW High River, AB T1V 1Z5
VIA E-MAIL: apt.calgarytax@ryan.com		*VIA E-MAIL: sdalrymple@highriver.ca*

2026 Assessment Complaint for Roll Number: 265300
Property located at: 1500 12 Avenue SE, High River, AB
Plan 2411058 Block 1 Lot 5

Please note, your Preliminary Hearing is no longer scheduled for June 10, 2026

The Preliminary Hearing has been re-scheduled for:

Date: June 18, 2026
Time: 1:00 p.m.
Location: Teams Video Conference via:
https://teams.microsoft.com/meet/235051986160547?p=X1YcKLS1GO4k3ID15h
Meeting ID: 235 051 986 160 547
Passcode: Wb6Dx6Tp

The reason for re-scheduling the Preliminary Hearing is because there is additional information attached to this notice.

Please review the attachments that indicate the timing of payment and filing of the complaint form:

- Email on May 11, 2026, at 4:58 pm from APT Calgary Tax indicating payment for batch of complaints, 8 in total.

- Receipt for Payment from Ryan ULC on May 12, 2026, at 10:40 am including 8 complaint fees.
- Email on May 12, 2026, at 8:49 am from APT Calgary Tax with Complaint Forms for Batch 1 of complaints, 4 were attached.
- Email on May 12, 2026, at 8:55 am from APT Calgary Tax with Complaint Forms for Batch 1 of complaints, 3 were attached.
- Email on May 12, 2026 at 2:55 pm from Aleisha Pollett (Clerk) requesting paperwork for Roll #265300 – 15,00 12 Avenue SE.
- Email on May 12, 2026, at 3:58 pm from Aleisha Pollett (Clerk) asking for paperwork to be received by 4:00 pm.
- Email on May 12, 2026, at 4:34 pm from APT Calgary Tax with 8th Complaint Form for Roll #265300 – 1500 12 Avenue SE.
- Emails from May 13, 2026, with correspondence between APT Calgary Tax and Jody Hipkin (Clerk) advising the Complaint Form was received after the deadline, detailing where the deadline was posted and mentioned, and that a preliminary hearing will be scheduled.

The Assessment Review Board (ARB) received your complaint on May 12, 2026. Before proceeding to the merit hearing, a one-member preliminary hearing will be held by the Composite Assessment Review Board (CARB) for the purposes of determining a *procedural or an administrative matter* as per Section 40 of MRAC 201/2017. Note that this hearing is not to hear evidence on the merits of the complaint; **this is a preliminary matter only** to determine:

- *Completeness of the complaint form;*
- *An invalid complaint;*
- *Complaint submitted after the filing deadline.*

Disclosure of Evidence:

Before your hearing, both you and the Respondent must share with each other and the Clerk of the Assessment Review Board all information you plan to present at the hearing. This is referred to as *disclosure of evidence*. Disclosure must be in sufficient detail to allow the other party to respond to or rebut the evidence at the preliminary hearing.

*****Please note the Disclosure Dates have also been amended*****

Complainant's Disclosure: You must disclose your evidence to both the Respondent and the Clerk of the Assessment Review Board on or before **June 10, 2026**.

Respondent's Disclosure: The Respondent must disclose its evidence to both you and the Clerk of the Assessment Review Board on or before **June 10, 2026**.

The timelines for disclosure must be followed.
The Board will not hear evidence that has not been properly disclosed.

All comments and/or rebuttals may be heard at the preliminary hearing.

Filing Disclosure

You must file two copies of your disclosure package: one with the Clerk of the Assessment Review Board and one with the Respondent. Keep the originals for your records.

How to file with the ARB	How to file with the Respondent
You may file your disclosure by mail, email, or in-person: Mail or in-person: Clerk, Assessment Review Board Town of High River 309B Macleod Trail SW High River, AB T1V 1Z5 Email: legislativeservices@highriver.ca	*You may file disclosure by mail, email, or in-person:* Mail or in-person: Assessor, Town of High River 309B Macleod Trail SW High River, AB T1V 1Z5 Email: assessment@highriver.ca

Please note that disclosure must be received on or before the disclosure deadline. If filing by mail, please allow time for delivery.

The Preliminary Hearing

If you do not attend this preliminary hearing, the Board may proceed in your absence.

Your complaint is subject to the *Matters Relating to Assessment Complaints Regulation*, AR 201/2017 (MRAC). MRAC is available on the Kings Printer website at: http://www.qp.alberta.ca/index.cfm

If you require additional information or have any questions concerning these matters, please contact the Assessment Review Board Clerk at 403-603-3580 or by email at: legislativeservices@highriver.ca.

Best regards,

Jody Hipkin
Clerk, Assessment Review Board

Summary of Testimony

Summary of Preliminary Testimonial Evidence

Civic Address: 1500 12 Avenue SE, High River
Roll Number: 265300
Hearing Time: 1.5 Hours

Appearing on behalf of Ryan ULC, as the representative for the property owner, may include any of the following:

- Andrew Izard
- Arunan Sivalingam
- Matt Izard
- Patrick Kersey
- Paul Chmeleski
- Brett Robinson
- Ernest Wong
- Serena Hirji
- Any other designated Ryan, ULC advocate

Preliminary Issues

The complainant submits that the complaint was filed within the statutory complaint period and that the municipality's position, namely that the complaint is invalid solely because it was submitted after 4:00 p.m. on the final day, is unsupported by the governing legislation.

Summary of Preliminary Evidence:

1. Ryan will show that the Municipal Government Act requires that a complaint be filed on or before the complaint deadline shown on the assessment notice. The legislation is directed at the deadline date itself and does not prescribe a specific hour by which the complaint must be received. Had the Legislature intended to impose an earlier closing-time deadline, it could have done so expressly. The absence of any reference to a 4:00 p.m. cutoff is significant. A time-specific deadline is a materially different requirement from a date-specific deadline, and it should not be implied by administrative practice or municipal convenience.

2. Ryan will show that the Matters Relating to Assessment Complaints Regulation defines what is required for a valid complaint. Specifically, Section 3 of the Matters Relating to Assessment Complaints Regulation is the operative provision addressing complaint validity. It requires that the complainant completes and file the complaint form and pay any required fee at the time of filing. If those requirements are not met, the complaint is invalid.
   Notably, section 3 contains no reference to:
   - 4:00 p.m.;
   - municipal office hours;
   - a requirement that the complaint be physically received before the close of business; or invalidity arising merely because filing occurred later in the day on the final complaint date.

   Where the Regulation specifies the requirements for a valid complaint, those requirements should not be supplemented by an unwritten administrative deadline.

3. Ryan will show that the clerk has no authority to add conditions not found in the legislation. The clerk's function is administrative. The clerk may receive, process, and refer complaints in accordance with the legislation, but the clerk does not have authority to impose additional validity requirements that do not appear in the Municipal Government Act or the Regulation.

   Accordingly, the question of validity must be determined by reference to the statute and regulation alone, not by reference to an internal office closing time or administrative practice that has not been incorporated into law.

4. Ryan will show that the Principles of fairness and access to the complaint process support a liberal interpretation.

Assessment Review Boards are quasi-judicial bodies and must act fairly. Where legislation creates a right of complaint, any ambiguity in filing requirements should be interpreted in a manner that preserves, rather than defeats, that right, absent clear legislative language to the contrary.

It would be prejudicial and contrary to procedural fairness to deprive a complainant of the statutory right to be heard on the merits based on a filing-time rule that is not expressed in the governing legislation.

5. Ryan will show that the municipality should be required to identify the source of its asserted 4:00 p.m. requirement. At the preliminary hearing, the municipality should be required to identify the exact legal authority for its position, including:
    - the specific section of the Municipal Government Act relied upon;
    - the specific section of the Matters Relating to Assessment Complaints Regulation relied upon;
    - any bylaw relied upon;
    - any wording on the assessment notice relied upon; and
    - any published filing policy or instruction relied upon.
6. If no express legislative or regulatory provision can be identified that imposes a 4:00 p.m. deadline, the municipality's objection to validity should fail.

7. Ryan will show that the assessment notice is central. The wording of the assessment notice may be determinative. If the notice states only that a complaint must be filed by the complaint deadline date, then the complainant complied by filing on that date. If the notice does not state that the complaint must be received by 4:00 p.m., then the municipality should not be permitted to add that requirement after the fact.
    - The Board should therefore examine whether the notice:
    - refers to a complaint deadline date only;
    - expressly states that the complaint must be received by 4:00 p.m.;
    - provides for after-hours or electronic filing; or
    - contains any wording capable of supporting the municipality's interpretation.

PRINCIPLES OF STATUTORY INTERPRETATION

The Modern Principle

The Complainant submits that the legislative provisions in dispute in this proceeding must be interpreted in accordance with Driedger's modern principle, as affirmed by the Supreme Court of Canada in Re Rizzo & Rizzo Shoes Ltd., 1998 CanLII 837, [1998] 1 SCR 27. As articulated by Driedger and adopted as the preferred approach of the Supreme Court of Canada in Rizzo, the modern principle requires that the words of an Act are to be read in their entire context, in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament. As Sullivan on the Construction of Statutes, 5th ed. (LexisNexis, 2008) explains, the chief significance of the modern principle is its insistence on the complex, multi-dimensional character of statutory interpretation: it requires that interpretation begin with ordinary meaning but not stop there, obliging interpreters to consider the total context of the words in every case, no matter how plain those words may seem upon initial reading.

The Rizzo Principle: Absurd Consequences Must Be Avoided

In Re Rizzo & Rizzo Shoes Ltd., [1998] 1 SCR 27, Iacobucci J. confirmed as a well-established principle of statutory interpretation that the legislature does not intend to produce absurd consequences. The Supreme Court held that even when the literal text of a statute might support a particular reading, that reading must

be rejected if it would produce results that are illogical, inequitable, or inconsistent with the scheme of the Act. Sullivan on the Construction of Statutes sets out the propositions comprising consequential analysis: it is presumed that the legislature does not intend its legislation to have absurd consequences; absurd consequences are not limited to logical contradictions but include violations of established legal norms and widely accepted standards of justice and reasonableness; and whenever possible, an interpretation that leads to absurd consequences is to be rejected in favour of one that avoids absurdity.

Québec (Communauté urbaine) v. Corp. Notre-Dame de Bon-Secours: Strict Construction of Taxing Provisions

In Québec (Communauté urbaine) v. Corp. Notre-Dame de Bon-Secours, 1994 CanLII 58, [1994] 3 SCR 3, the Supreme Court of Canada addressed the proper interpretive approach to municipal taxation legislation and confirmed a principle of direct and critical application to the present case: where a taxing provision is ambiguous or where the scope of a municipality's authority to impose a tax is in doubt, the ambiguity must be resolved in favour of the taxpayer. The Court affirmed that taxation statutes are to be construed strictly against the taxing authority where the authority to impose a tax is not clear, and that the burden of demonstrating the existence of a valid taxing power rests on the municipality.

The Act as a Whole: Defined Terms Must Be Read Consistently Throughout

Sullivan on the Construction of Statutes further establishes the governing principle that a statutory word or expression can be fully grasped only in relation to the whole of which it is a constituent part. Taking the totality of the governing legislative documents for property tax appeals in Alberta, the deadline date is provided for the whole province. Municipality specific deadlines if meant to be the spirit of the legislation would explicitly state such provisions.

In the absence of clear wording imposing a 4:00 p.m. deadline, the complaint should be found valid.

The complainant respectfully requests that the Board reject the municipality's interpretation that a complaint filed on the statutory deadline date is invalid merely because it was submitted after 4:00 p.m. and instead find that the complaint was validly filed within the meaning of the governing legislation.

In the absence of clear wording imposing a 4:00 p.m. deadline, the complaint should be found valid.

The complainant respectfully requests that the Board reject the municipality's interpretation that a complaint filed on the statutory deadline date is invalid merely because it was submitted after 4:00 p.m. and instead find that the complaint was validly filed within the meaning of the governing legislation.

8. Ryan reserves the right to review other relevant documents in support of its position including applicable legislation and regulation, case materials and other public documents.

9. Ryan reserves the right to argue the equity provisions of the subject property relative to competing similar properties based on the evidence presented at the hearing.

10. Ryan reserves the right to respond to, and/or rebut, the Respondent's verbal and written response, as the case may warrant, and will be done so in accordance with the legislation and regulations.

Should the municipality, or any of its representatives, have any questions please feel free to contact Andrew Izard at 403.478.8288 to discuss further.

Sincerest regards, on behalf of the taxpayer,

Ryan, ULC
Dated: June 10, 2026

Email on May 11, 2026, at 4:58 pm

From APT Calgary Tax indicating payment for batch of complaints, 8 in total.

Jody Hipkin

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Monday, May 11, 2026 4:58 PM
To: THR Legislative Services; THR Legislative Services
Cc: APT CalgaryTax; Grace Ciszewski
Subject: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River

Good Day,

Please see below the Assessment Review Board Complaint list. The **appeal fee of $5,200.00** may be paid by VISA.
The ARB appeal packages will follow via emails.

Roll Number	Address	Municipality	Ryan Property Type	Appeal Fee	
1766000	319 Centre St SW	High River	Retail	$	650.00
1512000	1104 11 AV SE	High River	Hospitality	$	650.00
265300	1500 12 AV SE	High River	Retail	$	650.00
2843000	1512 13 AV SE	High River	Hospitality	$	650.00
2853000	1103 18 ST SE	High River	Retail	$	650.00
4460100	1010 24 ST SE	High River	Office	$	650.00
8255000	1225 1 ST SE	High River	Retail	$	650.00
8256000	1220 1 ST SE	High River	Retail	$	650.00
				$	**5,200.00**

Please note that we will accept receipts sent electronically.
Please phone for further information at 403-508-7862.

Thank you,

Grace

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

As of January 1st, 2025, Altus Group Property Tax Services is now part of Ryan. Learn more about the acquisition here. (https://ryan.com/canada/)

Receipt of Payment on May 12, 2026, at 10:40 am

Receipt for Payment from Ryan ULC on May 12, 2026, at 10:40 am including 8 complaint fees.

309B Macleod Trail SW
High River, Alberta
Canada T1V 1Z5
Ph: (403) 652-2110
Fax: (403) 652-2396

RECEIVED
MAY 12 2026
TOWN OF HIGH RIVER
10:42 AM
R.

OFFICIAL RECEIPT

RYAN PROPERTY
335 8 AVE SW
CALGARY AB T2P 1C9

GST Reg. #: R108127135
Receipt #: 1594677
Receipt Date: 2026/05/12
Page: 1
Receipted by: RH

Tax Codes: E=Exempt; T=Taxable; I=Included

Reference #	Description	Reference	Tax Code	GST	Payment
	RYAN PROPERTY-309 CENTRE ST SW		E	.00	650.00
	RYAN PROPERTY-1104 11 AVE SE		E	.00	650.00
	RYAN PROPERTY-1500 12 AVE SE		E	.00	650.00
	RYAN PROPERTY-1512 13 AVE SE		E	.00	650.00
	RYAN PROPERTY-1103 18 ST SE		E	.00	650.00
	RYAN PROPERTY-1010 24 ST SE		E	.00	650.00
	RYAN PROPERTY-1225 1 ST SE		E	.00	650.00
	RYAN PROPERTY-1220 1 ST SE		E	.00	650.00

Tender Type & Description	Reference	Amount
VS 8 PROPERTIES	VISA	5,200.00

GST:	.00
Total Amount Paid:	5,200.00
Tender Received:	5,200.00
Change Given:	

"THE MEETING PLACE"
.... a modern Town with a western tradition

#1594677
VISA 5200.00
R.

Roberta Hazen

From: Grace Ciszewski <grace.ciszewski@ryan.com>
Sent: May 12, 2026 9:59 AM
To: Customer Care
Cc: APT CalgaryTax
Subject: FW: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River

403.508.7862

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

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Ryan

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Monday, May 11, 2026 4:58 PM
To: 'legislativeservices@highriver.ca' <legislativeservices@highriver.ca>; T@highriver.ca
Cc: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River

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1

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Thank you,

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Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

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Email on May 12, 2026, at 8:49 am

Email on May 12, 2026, at 8:49 am from APT Calgary Tax with Complaint Forms for Batch 1 of complaints, 4 were attached.

Jody Hipkin

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Tuesday, May 12, 2026 8:49 AM
To: THR Legislative Services; THR Legislative Services
Cc: APT CalgaryTax; Grace Ciszewski
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 1
Attachments: _8256000.pdf; _2843000.pdf; _1766000.pdf; _4460100.pdf

Good Morning,

Attached batch 1.

Thank you,

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

From: APT CalgaryTax
Sent: Monday, May 11, 2026 4:58 PM
To: 'legislativeservices@highriver.ca' <legislativeservices@highriver.ca>; 'T@highriver.ca' <T@highriver.ca>
Cc: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River

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Jody Hipkin

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Tuesday, May 12, 2026 8:55 AM
To: THR Legislative Services; THR Legislative Services
Cc: APT CalgaryTax; Grace Ciszewski
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2
Attachments: 8255000.pdf; _2853000.pdf; _1512000.pdf

Attached batch 2.

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

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From: APT CalgaryTax
Sent: Tuesday, May 12, 2026 8:49 AM
To: 'legislativeservices@highriver.ca' <legislativeservices@highriver.ca>; 'T@highriver.ca' <T@highriver.ca>
Cc: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 1

Good Morning,

Attached batch 1.

Thank you,

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

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From: APT CalgaryTax
Sent: Monday, May 11, 2026 4:58 PM
To: 'legislativeservices@highriver.ca' <legislativeservices@highriver.ca>; 'T@highriver.ca' <T@highriver.ca>
Cc: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River

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Please phone for further information at 403-508-7862.

Thank you,

Grace

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Senior Administrative Assistant, Property Tax
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Suite 1700
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Email on May 12, 2026, at 2:55 pm

Email on May 12, 2026 at 2:55 pm from Aleisha Pollett (Clerk) requesting paperwork for Roll #265300 – 15,00 12 Avenue SE.

Jody Hipkin

From: Aleisha Pollett
Sent: Tuesday, May 12, 2026 2:55 PM
To: APT CalgaryTax; Grace Ciszewski
Cc: THR Legislative Services
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2

Hi Grace,

Your email below lists 8 properties, but I only see 7 attachments.

Can you forward the paperwork for Roll # 265300 – 1500 12 Ave SE.

Thanks,

ALEISHA POLLETT ***Advisor***
Legislative & Advisory Services
T 403.603.3658

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: May 12, 2026 8:55 AM
To: THR Legislative Services <T@highriver.ca>; THR Legislative Services <T@highriver.ca>
Cc: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2

Attached batch 2.

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

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Cc: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 1

Good Morning,

Attached batch 1.

Thank you,

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

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Email on May 12, 2026, at 3:58 pm

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Jody Hipkin

From: Aleisha Pollett
Sent: Tuesday, May 12, 2026 3:58 PM
To: Grace Ciszewski; APT CalgaryTax
Cc: THR Legislative Services; Jody Hipkin
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2

Thank you for letting me know. Will the paperwork be received by 4 pm?

ALEISHA POLLETT ***Advisor***
Legislative & Advisory Services
T 403.603.3658

From: Grace Ciszewski <grace.ciszewski@ryan.com>
Sent: May 12, 2026 3:01 PM
To: Aleisha Pollett <APollett@highriver.ca>; APT CalgaryTax <APT.CalgaryTax@ryan.com>
Cc: THR Legislative Services <T@highriver.ca>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2

Hi Aleisha,

Thank you for your note.
Yes, I will forward the paperwork for this property momentarily. We were awaiting the agent authorization form, which delayed the forwarding of the appeal package.

Grace

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

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From: Aleisha Pollett <APollett@highriver.ca>
Sent: Tuesday, May 12, 2026 2:55 PM
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Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2

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ALEISHA POLLETT ***Advisor***
Legislative & Advisory Services
T 403.603.3658

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Cc: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 1

Good Morning,

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Subject: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River

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Email on May 12, 2026, at 4:34 pm

Email on May 12, 2026, at 4:34 pm from APT Calgary Tax with 8th Complaint Form for Roll #265300 – 1500 12 Avenue SE.

Jody Hipkin

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Tuesday, May 12, 2026 4:34 PM
To: Aleisha Pollett; APT CalgaryTax
Cc: THR Legislative Services; Jody Hipkin; Grace Ciszewski
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2 - Roll# 265300
Attachments: _265300.pdf

Hi Aleisha,

Attached the ARB appeal package for roll 265300 – 1500 12 AV SE.

Thank you,

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

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Cc: THR Legislative Services <T@highriver.ca>; Jody Hipkin <JHipkin@highriver.ca>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2

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ALEISHA POLLETT ***Advisor***
Legislative & Advisory Services
T 403.603.3658

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Cc: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2

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Emails from May 13, 2026

Emails from May 13, 2026, with correspondence between APT Calgary Tax and Jody Hipkin (Clerk) advising the Complaint Form was received after the deadline, detailing where the deadline was posted and mentioned, and that a preliminary hearing will be scheduled.

Jody Hipkin

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Wednesday, May 13, 2026 12:13 PM
To: Jody Hipkin; APT CalgaryTax; Aleisha Pollett
Cc: THR Legislative Services; Grace Ciszewski
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2 - Roll# 265300

Thank you, Jody!

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

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From: Jody Hipkin <JHipkin@highriver.ca>
Sent: Wednesday, May 13, 2026 11:53 AM
To: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Aleisha Pollett <APollett@highriver.ca>
Cc: THR Legislative Services <T@highriver.ca>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2 - Roll# 265300

Hi Grace,

I got your voicemail and wanted to share that the deadline is clear on our website and Aleisha also emailed wanting to confirm if the paperwork was going to be received by 4 pm.

Even if our office was open until 4:30 pm, your email didn't arrive until after that time.

Property Assessments

Understanding property assessment
you see how your property taxes are
they support services in High River.

2026 Important Dates

- *March 5, 2026:* ***Assessment notices mailed***
- *March 13 – May 12, 2026: 60-day review period*
- ***May 12, 2026 (4 PM): Final complaint deadline***
- *July 1, 2025: Valuation date (market value)*

ANY questions, contact the assessor at ***assessment@highriver.ca***

2025 Property Assessments for 2026 Taxes

- Property Assessment Map
- Residential Changes by Community
- High River 2024 to 2025 Year-Over-Year Changes (CREB)
- THR 2025 Assessment Roll by Market Location
- THR 2025 Assessment Roll by Roll Number Order

RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batc

Aleisha Pollett
To Grace Ciszewski; APT CalgaryTax
Cc THR Legislative Services; Jody Hipkin

Thank you for letting me know. Will the paperwork be received by 4 pm?

ALEISHA POLLETT ***Advisor***
Legislative & Advisory Services
T 403.603.3658

We will have to schedule a preliminary hearing to determine whether the appeal will proceed. You can expect to receive notice once we have determined the details.

Thank you,

Jody Hipkin, Manager
Legislative & Advisory Services
403-603-3580
My working hours may not be your working hours. Please do not feel you need to reply outside of your normal work schedule.

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Appeal Package

Alberta Government

Assessment Review Board Complaint

The personal information on this form is being collected under the authority of the *Municipal Government Act*, section 460, as well as the *Freedom of Information and Protection of Privacy Act*, section 33(c). The information will be used for administrative purposes and to process your complaint. For further information, contact your local Assessment Review Board.

Municipality Name (as shown on your assessment notice or tax notice)	Tax Year
High River	2026

Section 1 - Notice Type

Assessment Notice:
- ☒ Annual Assessment
- ☐ Amended Annual Assessment
- ☐ Supplementary Assessment
- ☐ Amended Supplementary Assessment

Tax Notice:
- ☐ Business Tax
- ☐ Other Tax (excluding property tax and business tax)

Name of Other Tax: _____

Section 2 - Property Information

Assessment Roll or Tax Roll Number: 265300

Property Address: 1500 12 Av SE

Legal Land Description (i.e. Plan, Block, Lot or ATS ¼ Sec-Twp-Rng-Mer): 2411058;1;5

Property Type *(check all that apply)*
- ☐ Residential property with 3 or fewer dwelling units
- ☐ Residential property with 4 or more dwelling units
- ☐ Farm land
- ☒ Non-residential property
- ☐ Machinery and equipment

Business Name (if pertaining to business tax)	Business Owner(s)
	Kajer Developments Ltd.

Section 3 - Complainant Information

Is the complainant the assessed person or taxpayer for the property under complaint? ☐ Yes ☒ No

Note: If this complaint is being filed on behalf of the assessed person or taxpayer by an agent for a fee, or a potential fee, the Assessment Complaints Agent Authorization form must be completed by the assessed person or taxpayer of the property and must be submitted with this complaint form.

Complainant Name (if the complainant, assessed person, or taxpayer is a company, enter the complete legal name of the company): Ryan ULC

Mailing Address (if different from above)	City/Town	Province	Postal Code
335 8 Avenue SW, Suite 1700	Calgary	Alberta	T2P 1C9

Telephone Number (include area code)	Fax Number (include area code)	Email Address
(587) 351-6755	(587) 351-6494	apt.calgarytax@ryan.com

If applicable, please indicate any date(s) that you are not available for hearing

Section 4 - Complaint Information

Check the matter(s) that apply to the complaint (see reverse for coding)

☐ 1 ☐ 2 ☒ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐ 11 ☐ 12 ☐ 13

Note: Some matters or information may be corrected by contacting the municipal assessor prior to filing a formal complaint.

Section 5 - Reason(s) for Complaint

Note: An assessment review board must not hear any matter in support of an issue that is not identified on the complaint form.

A complaint must:
- indicate what information shown on an assessment notice or tax notice is incorrect,
- explain in what respect that information is incorrect,
- indicate what the correct information is, and
- identify the requested assessed value, if the complaint relates to an assessment.

Requested assessed value: $2,800,000

See Attached

Section 6 - Complaint Filing Fee

If the municipality has set filing fees payable by persons wishing to make a complaint, the filing fee must accompany the complaint form, or the complaint will be invalid and returned to the person making the complaint.
If the assessment review board makes a decision in favour of the complainant, or if all the issues under complaint are corrected by agreement between the complainant and the assessor and the complaint is withdrawn prior to the hearing, the filing fee will be refunded.

Section 7 - Complainant Signature

Date *(mm/dd/yyyy)*	Printed Name of Signatory Person and Title	Signature
05/12/2026	Josh Weber Principal, Complex Property Tax	

Important Notice: Your completed complaint form and any supporting attachments, the agent authorization form, and the prescribed filing fee must be submitted to the address with whom a complaint must be filed as shown on the assessment notice or tax notice prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete complaint form, complaints submitted after the filing deadline, or complaints without the required filing fee, are invalid.

Assessment Review Board Clerk Use Only

Was the complaint filed on time?	☐ Yes	☐ No		
Is the required information included on or with the complaint form?	☐ Yes	☐ No		
Was the required filing fee included?	☐ Yes	☐ No	☐ N/A	Date received _____
Was a properly completed authorization form attached:	☐ Yes	☐ No	☐ N/A	
Complaint to be heard by:	☐ LARB Panel	☐ CARB Panel		

Town of High River
309B Macleod Trail SW
High River, AB
T1V 1Z5

THIS IS NOT A TAX BILL

2026 Property Assessment Notice

Mailing Date March 5, 2026 **Notice of Assessment Date** March 13, 2026

KAJER DEVELOPMENTS LTD
338-1201 5 ST SW
CALGARY AB T2R 0Y6
CANADA

RECEIVED
MAR 06 2026

Property Address 1500 12 AVE SE **Roll Number** 265300

Assessment Information

Legal Description

Plan	Block	Lot
2411058	1	5

School Support (declared as of December 31 of the previous year)

	Percent
Public	.0000 %
Separate	.0000 %
Provincial	100.0000 %

Assessment Class Code/Description	Assessment Amount
24 COMMERCIAL	3,635,700

Total Assessment 3,635,700

A copy of this notice has been sent to the following:

Additional Owners:

CUSTOMER REVIEW PERIOD From Mailing Date to Final Date to File Complaint	ASSESSMENT REVIEW BOARD FINAL DATE TO FILE COMPLAINT
If you require additional information or have questions about your assessment, please call 403-652-2110.	May 12, 2026
Any **changes** to your current assessment will only be considered if an inquiry is received during the "**CUSTOMER REVIEW PERIOD**".	**See back for complaint fee**

SEE REVERSE SIDE OF THIS FORM FOR CUSTOMER REVIEW STEPS
VIEW ASSESSMENT INFORMATION AT WWW.HIGHRIVER.CA/

Roll Number: 265300
Civic Address: 1500 12 Avenue SE, High River
Preliminary Requested Assessment: $2,800,000
Estimated Time for Hearing: 4 Hours

Grounds for Complaint:

This Complaint is filed based on information contained in the Assessment Notice as well as preliminary observations and information from other sources. *Therefore, the requested assessment is preliminary in nature and is subject to change as more information becomes available to the Complainant.*

The assessment of the subject property is neither fair nor equitable considering the assessed value and assessment classification/and or quality of similar and competing comparable properties within the Municipality.

The assessment of the subject property is in excess of its market value for assessment purposes.

The assessed area has been applied incorrectly based on s. 289 of the ACT and should be revised accordingly.

The Complainant's estimate of value using the **Income Approach** suggests that the current assessed value is unfair, inequitable and incorrect based on market leases and equity.

a) The *Vacancy Allowance* at the subject should be no lower than 10%
b) The *Operating Cost/Vacant Space Shortfall Allowance* should be no less than $15psf
c) The *Non-Recoverable/Reserve for Replacement Allowance* should be no less than a combined 10.50%
d) The *Capitalization Rate* should be no lower than 7.50%

e) The *Bank*, at the subject should be no higher than $21.50psf
f) The *Large Store*, at the subject should be no higher than $10.50psf

The Complainant's estimate when reviewing the portions of the assessed value calculated using the **Sales Comparison Approach** suggests that the assessed value is unfair, inequitable, and incorrect based on recent market sales activity and the assessments of similar and competing properties.

Excess Land applied to the subject property, should be revised as the value is greater than market value due to the recent sales of land in the Municipality, or is overstated based on the income approach calculations applied to the primary building(s)

The aggregate assessment per acre applied to the subject property does not reflect market value for assessment purposes when using the direct sales comparison approach and should be no more than an aggregate $115,000/acre.

The aggregate assessment per acre applied to the subject property is inequitable with the assessments of other similar and competing properties and should be no more than an aggregate $115,000/acre.

The adjustments applied to the land value of the subject property are incorrect and inequitable due to topography, rights-of-way influences, inability to sub-divide, encumbrances, shape, access, level of site servicing and/or other influences, and as a result require an adjustment to the applied land rate.

Adjustments made by the Municipality to the base rate have been applied inequitably and do not adequately reflect the challenges faced at the subject property.

Should the municipality, or any of its representatives, have any questions about any of the aforementioned grounds for complaint, please feel free to contact Andrew Izard at 403.478.8288 to discuss further.

Sincerest regards, on behalf of the represented taxpayer,

Ryan ULC

Dated: May 8, 2026

Government of Alberta

Assessment Complaints Agent Authorization

SECTION 1 - Assessed Person / Taxpayer Information

Tax Year: 2026

Assessed Person(s) or Taxpayer(s) *(if the assessed person or taxpayer is a company, enter the complete legal name of the company)*
Kajer Developments Ltd.

Business Name (if pertaining to business tax)	Business Owner(s)

SECTION 2 - Municipal and Property Information

(for designated industrial property go to Section 3)

Municipality Name (as shown on your assessment notice or tax notice)	Assessment Roll or Tax Roll Number
High River	265300

Property Address	Legal Land Description (i.e. Plan, Block, Lot or ATS 1/4 Sec-Twp-Rng-Mer)
1500 12 Ave SE	2411058;1;5

Property Type *(check all that apply)*
- ☐ Residential property with 3 or less dwelling units
- ☐ Residential property with 4 or more dwelling units
- ☐ Farm land
- ☒ Non-residential property
- ☐ Machinery and equipment

SECTION 3 - Agent Information

Note: Agent means a person or company who for a fee or potential fee acts for an assessed person or taxpayer during the assessment complaint process or at a hearing before an assessment review board or the Municipal Government Board.

Agent Name	Contact Name (if different) and Position Held
Ryan ULC	

Mailing Address (if different from above)	City/Town	Province	Postal Code
1700, 335 8 Avenue SW	Calgary	Alberta	T2P 1C9

Telephone Number *(include area code)*	Fax Number *(include area code)*	Email Address
(587) 351-6755	(587) 351-6494	APT.calgarytax@ryan.com

SECTION 4 - Acknowledgement and Certification

By signing below, I acknowledge and certify that:

1. I am the assessed person or taxpayer identified in section 1, or a legally authorized officer of the assessed person or taxpayer.
2. To initiate the processing of this agent authorization, I am attaching this agent authorization form to:
   (a) the complaint form if the agent is authorized to file the complaint on my behalf, or
   (b) a letter, signed by me on my personal or company letterhead, and the letter is submitted to the municipality's assessment review board clerk or to the Municipal Government Board administrator, as the case may be, before the hearing of the complaint.
3. I provide authority to the agent, as identified in section 3, to represent the assessed person or taxpayer, identified in section 1, to:
   (a) file a complaint on behalf of the assessed person or taxpayer for the property described on this form,
   (b) discuss the issues or matters of the complaint with the municipality's assessor (or the assessor designated by the Minister for linear property),
   (c) prepare and submit disclosure regarding the complaint,
   (d) represent the assessed person or taxpayer at hearings before the assessment review board (or before the Municipal Government Board for linear property),
   (e) reach an agreement with the assessor to correct a matter under complaint, and
   (f) to withdraw the complaint at any time.
4. I understand that the assessed person or taxpayer continues to be subject to all provisions required by the *Municipal Government Act* and its attendant regulations, and any authorization of agency is not a substitute for any of those provisions.
5. I understand that this document does not act as an authorization of agency for the purposes of Section 299 or Section 300 of the *Municipal Government Act*.
6. I understand that the assessed person or taxpayer is liable for any costs awarded against the agent by an assessment review board (or by the Municipal Government Board for linear property), or for any change in assessment that may result from a hearing.
7. I understand that this authorization is only applicable to the tax year entered on this form.
8. The agent has disclosed the qualifications, professional designations, certifications, or affiliations of the agent, if any, with respect to property assessment or appraisal.
9. I may revoke authorization at any time in writing to the assessment review board clerk, or the Municipal Government Board administrator.

Signature of the Assessed Person or Taxpayer	Printed Name of Signatory Person and Title	Date *(mm/dd/yyyy)*
	Jerry A Fleishman President	Apr 02 2026

LGS1405 (2018/06)

Assessment Notice

Town of High River
309B Macleod Trail SW
High River, AB
T1V 1Z5

THIS IS NOT A TAX BILL

2026 Property Assessment Notice

Mailing Date March 5, 2026 **Notice of Assessment Date** March 13, 2026

KAJER DEVELOPMENTS LTD
338-1201 5 ST SW
CALGARY AB T2R 0Y6
CANADA

RECEIVED
MAR 06 2026

Property Address 1500 12 AVE SE **Roll Number** 265300

Assessment Information

Legal Description

Plan	Block	Lot
2411058	1	5

School Support (declared as of December 31 of the previous year)

	Percent
Public	.0000 %
Separate	.0000 %
Provincial	100.0000 %

Assessment Class Code/Description	Assessment Amount
24 COMMERCIAL	3,635,700

Total Assessment 3,635,700

A copy of this notice has been sent to the following:

Additional Owners:

CUSTOMER REVIEW PERIOD From Mailing Date to Final Date to File Complaint	ASSESSMENT REVIEW BOARD FINAL DATE TO FILE COMPLAINT
If you require additional information or have questions about your assessment, please call 403-652-2110.	May 12, 2026
Any **changes** to your current assessment will only be considered if an inquiry is received during the **"CUSTOMER REVIEW PERIOD"**.	**See back for complaint fee**

SEE REVERSE SIDE OF THIS FORM FOR CUSTOMER REVIEW STEPS
VIEW ASSESSMENT INFORMATION AT WWW.HIGHRIVER.CA/

Page 52 of 490

Matters Relating to Assessment Complaints

Province of Alberta

MUNICIPAL GOVERNMENT ACT

MATTERS RELATING TO ASSESSMENT COMPLAINTS REGULATION, 2018

Alberta Regulation 201/2017

With amendments up to and including Alberta Regulation 258/2022

Current as of January 1, 2023

Office Consolidation

Alberta King's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952

E-mail: kings-printer@gov.ab.ca
Shop on-line at kings-printer.alberta.ca

(Consolidated up to 258/2022)

ALBERTA REGULATION 201/2017

Municipal Government Act

MATTERS RELATING TO ASSESSMENT COMPLAINTS REGULATION, 2018

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Definitions

1(1) In this Regulation,

(a) "Act" means the *Municipal Government Act*;

(b) "agent" means 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 a panel of an assessment review board or the Land and Property Rights Tribunal;

(c) "complaint" means a complaint under Part 11 or 12 of the Act;

(d) "complaint form" means,

(i) in the case of a complaint to be heard by a panel of an assessment review board, the form set out in Schedule 1;

(ii) in the case of a complaint to be heard by the Land and Property Rights Tribunal, the form containing the information referred to in section 22;

(e) "presiding officer"

(i) in respect of a local assessment review board panel, means the presiding officer referred to in section 454.11(4) or (5) of the Act, as the case may be, or

(ii) in respect of a composite assessment review board panel, means the presiding officer referred to in section 454.21(5) of the Act;

(2) In this Regulation, a reference to the Land and Property Rights Tribunal includes any panel of the Tribunal.

(3) A term that is defined in Part 9, 10, 11 or 12 of the Act has the same meaning when used in this Regulation.

AR 201/2017 s1;258/2022

Application

2 This Regulation applies in respect of every municipality.

AR 201/2017 s2; 258/2022

Part 1
Matters before Assessment Review Board Panel

Documents to be filed by complainant

3(1) If a complaint is to be heard by a panel of 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 complaint fee set out in Schedule 2 at the time the complaint is filed if, in accordance with section 481 of the Act, a fee is required by the council.

(2) If a complainant does not comply with subsection (1),

(a) the complaint is invalid, and

(b) the panel must dismiss the complaint.

Division 1
Hearing before Local Assessment Review Board Panel

Scheduling and notice of hearing

4 If a complaint is to be heard by a local assessment review board panel, the clerk must

(a) provide, no later than the date the notice of hearing is provided to the complainant, written acknowledgement to the complainant that the complaint has been received,

(b) schedule a hearing date, and

(c) after a copy of the complaint form has been provided to the municipality in accordance with section 462(1) of the Act, notify the municipality, the complainant and any assessed person or taxpayer other than the complainant who is affected by the complaint of the date, time and location of the hearing and the requirements and timelines for disclosure of evidence not less than 35 days before the hearing date.

Disclosure of evidence

5(1) In this section, "complainant" includes an assessed person or taxpayer who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a local assessment review board panel, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 21 days before the hearing date,

(i) disclose to the respondent and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the local assessment review board an estimate of the amount of time necessary to present the complainant's evidence;

(b) the respondent must, at least 7 days before the hearing date,

(i) disclose to the complainant and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

(ii) provide to the complainant and the local assessment review board an estimate of the amount of time necessary to present the respondent's evidence;

(c) the complainant must, at least 3 days before the hearing date, disclose to the respondent and the local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

Issues and evidence before panel

6 A local assessment review board panel must not hear

(a) any matter in support of an issue that is not identified on the complaint form, or

(b) any evidence that has not been disclosed in accordance with section 5.

Abridgment or expansion of time

7(1) A local assessment review board panel may at any time, with the consent of all parties, abridge the time specified in section 4(c).

(2) Subject to the timelines specified in section 468 of the Act, a local assessment review board panel may at any time by written order expand the time specified in section 5(2)(a), (b) or (c).

(3) A time specified in section 5(2)(a), (b) or (c) for disclosing evidence or other documents may be abridged with the written consent of the persons entitled to the evidence or other documents.

Division 2
Hearing before Composite Assessment Review Board Panel

Scheduling and notice of hearing

8 If a complaint is to be heard by a composite assessment review board panel, the clerk must

(a) provide, no later than the date the notice of hearing is provided to the complainant, written acknowledgement to the complainant that the complaint has been received,

(b) provide the Minister with a copy of the complaint form at the same time that the municipality is provided with a copy,

(c) schedule a hearing date, and

(d) after a copy of the complaint form has been provided to the municipality in accordance with section 462(2) of the Act and to the Minister in accordance with clause (b), notify the municipality, the complainant and any assessed person other than the complainant who is affected by the complaint of the date, time and location of the hearing and the requirements and timelines for disclosure of evidence not less than 70 days before the hearing date.

Disclosure of evidence

9(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a composite assessment review board panel, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 42 days before the hearing date,

(i) disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the composite assessment review board an estimate of the amount

of time necessary to present the complainant's evidence;

(b) the respondent must, at least 14 days before the hearing date,

(i) disclose to the complainant and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

(ii) provide to the complainant and the composite assessment review board an estimate of the amount of time necessary to present the respondent's evidence;

(c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

Issues and evidence before panel

10 A composite assessment review board panel must not hear

(a) any matter in support of an issue that is not identified on the complaint form, or

(b) any evidence that has not been disclosed in accordance with section 9.

Abridgment or expansion of time

11(1) A composite assessment review board panel may at any time, with the consent of all parties, abridge the time specified in section 8(d).

(2) Subject to the timelines specified in section 468 of the Act, a composite assessment review board panel may at any time by written order expand the time specified in section 9(2)(a), (b) or (c).

(3) A time specified in section 9(2)(a), (b) or (c) for disclosing evidence or other documents may be abridged with the written consent of the persons entitled to the evidence or other documents.

Division 3
General Procedural Matters

Complaint fees

12(1) The fees payable by persons wishing to make a complaint or be involved as a party in a hearing by a panel of an assessment review board are those fees set out in Schedule 2.

(2) If a complainant withdraws a complaint on agreement with the assessor to correct any matter or issue under complaint, any complaint filing fee must be refunded to the complainant.

Joint jurisdiction

13 If a property is used or designated for multiple purposes in circumstances where both a local assessment review board and a composite assessment review board have jurisdiction to hear a complaint with respect to the property, the complaint must be heard by the composite assessment review board.

Copy of amended assessment notice

14 Where, under section 305(1.1) of the Act, an assessor is required to send a copy of an amended assessment notice and a statement to an assessment review board or the Land and Property Rights Tribunal, the assessor must send the copy and statement no later than one day after the amended assessment notice is sent to the assessed person.

AR 201/2017 s14;258/2022

Decision of assessment review board panel

15(1) For the purposes of section 468 of the Act, a decision of a panel of an assessment review board must include

(a) a brief summary of the matters or issues contained on the complaint form,

(b) the panel's decision in respect of each matter or issue,

(c) the reasons for the decision, including any dissenting reasons, and

(d) any procedural or jurisdictional matters that arose during the hearing, and the panel's decision in respect of those matters.

(2) The clerk of composite assessment review board must, within 7 days of a composite assessment review board panel rendering a decision, provide the Minister with a copy of that decision.

(3) A municipality must retain a record of all decisions of a local assessment review board panel for at least 5 years.

Record of hearing

16(1) A clerk of an assessment review board must make and keep a record of each hearing in accordance with subsection (2).

(2) Subject to section 464.1 of the Act, a record of a hearing must include

(a) the complaint form,

(b) all documentary evidence filed in the matter,

(c) a list of witnesses who gave evidence at the hearing,

(d) a transcript or recording of the hearing or, in the absence of a transcript or recording, a summary of all testimonial evidence given at the hearing,

(e) all written arguments presented at the hearing,

(f) a written list that is prepared at the end of the hearing that identifies those matters or issues from the complaint form about which evidence was given or argument was made at the hearing, and

(g) the decision of the panel of the assessment review board referred to in section 15.

(3) If evidence given at a hearing is recorded by means of a sound-recording machine, a party to a hearing may request a copy of the sound recording or the transcript of the sound recording if the party pays for the cost of preparing the copy or transcript.

(4) Subsection (3) does not apply in respect of

(a) a sound recording or transcript, or any part of a sound recording or transcript, from a private hearing conducted under section 464.1 of the Act, or

(b) a transcript, or any part of a transcript, that is excluded from the public record under section 464.1 of the Act.

Form of undertaking respecting private hearing

17 An undertaking under section 464.1(3) of the Act must be given in a form acceptable to the presiding officer.

Postponement or adjournment of hearing

18(1) Except in exceptional circumstances as determined by a panel of an assessment review board, the panel may not grant a postponement or adjournment of a hearing.

(2) A request for a postponement or an adjournment must be in writing and contain reasons for the postponement or adjournment, as the case may be.

(3) Subject to the timelines specified in section 468 of the Act, if a panel of an assessment review board grants a postponement or adjournment of a hearing, the panel must schedule the date, time and location for the hearing at the time the postponement or adjournment is granted.

Personal attendance not required

19(1) Parties to a hearing before a panel of an assessment review board may attend the hearing in person or may, instead of attending in person, file a written presentation with the clerk.

(2) A party who files a written presentation under subsection (1) must provide a copy of it to the other parties,

(a) in the case of a hearing before a local assessment review board panel, at least 3 days before the hearing;

(b) in the case of a hearing before a composite assessment review board panel, at least 7 days before the hearing.

Independent legal advice

20 A panel of an assessment review board may seek legal advice only from a lawyer who is independent from the parties to a hearing.

Part 2
Matters before Land and Property Rights Tribunal

Documents to be filed by complainant

21(1) If a complaint is to be heard by the Land and Property Rights Tribunal, the complainant must

(a) complete and file with the chair a complaint containing the information set out in section 22, and

(b) pay the appropriate complaint fee set out in Schedule 2 at the time the complaint is filed.

(2) If a complainant does not comply with subsection (1),

(a) the complaint is invalid, and

(b) the Land and Property Rights Tribunal must dismiss the complaint.

AR 201/2017 s21;258/2022

Form of complaint

22 For the purposes of section 491(1) of the Act, the form of complaint must be in writing and contain the information described in section 491(2) of the Act and,

(a) in respect of a complaint about linear property,

(i) the name of the assessed person as shown on the assessment notice,

(ii) the complainant's name if different from the assessed person,

(iii) the contact information for the complainant,

(iv) the Designated Industrial Property Assessment Unit Identification number for the designated industrial property under complaint,

(v) the municipality in which the designated industrial property under complaint is located,

(vi) the matter for complaint as described in section 492(1) of the Act,

(vii) what information used in the designated industrial property assessment calculation process prescribed by the Minister's Guidelines is incorrect,

(viii) in what respect that information is incorrect,

(ix) what the correct information is to be used in the designated industrial property assessment calculation process,

(x) the source of that information,

(xi) the requested assessed value, if the complaint relates to an assessment, and

(xii) the specific issues related to the incorrect information that are to be decided by the Land and Property Rights Tribunal, and the reasons in support of the complainant's position on those issues,

and

(b) in respect of a complaint about the amount of an equalized assessment,

(i) the information described in section 491(4) of the Act, and

(ii) the specific issues related to the incorrect information that are to be decided by the Land and Property Rights Tribunal, and the reasons in support of the complainant's position on those issues.

AR 201/2017 s22;258/2022

Division 1
Hearing before Land and Property Rights Tribunal

Scheduling and notice of hearing

23 If a complaint is to be heard by the Land and Property Rights Tribunal, the chair must

(a) within 7 days of receiving a complaint, provide the provincial assessor with a copy of the complaint form,

(b) schedule a hearing date, and

(c) not less than 70 days before the scheduled hearing date, give the notifications required by section 494(1)(b) of the Act.

AR 201/2017 s23;258/2022

Disclosure of evidence

24(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by the Land and Property Rights Tribunal, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 42 days before the hearing date,

(i) disclose to the respondent and the Land and Property Rights Tribunal the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the Land and Property Rights Tribunal an estimate of the amount of time necessary to present the complainant's evidence;

(b) the respondent must, at least 14 days before the hearing date,

(i) disclose to the complainant and the Land and Property Rights Tribunal the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

(ii) provide to the complainant and the Land and Property Rights Tribunal an estimate of the amount of time necessary to present the respondent's evidence;

(c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the Land and Property Rights Tribunal the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.

AR 201/2017 s24;258/2022

Issues and evidence before the Board

25 The Land and Property Rights Tribunal must not hear

(a) any matter in support of an issue that is not identified on the complaint form,

(b) any evidence that has not been disclosed in accordance with section 24,

(c) evidence from a complainant relating to information that was requested by the Minister under section 319 of the Act or required to be reported under the Minister's Guidelines but was not provided or reported to the Minister.

AR 201/2022 s25;258/2022

Abridgment or expansion of time

26(1) The Land and Property Rights Tribunal may at any time, with the consent of all parties, abridge the time specified in section 23(c).

(2) Subject to the timelines specified in section 500 of the Act, the Land and Property Rights Tribunal may at any time by written order expand the time specified in section 24(2)(a), (b) or (c).

(3) A time specified in section 24(2)(a), (b) or (c) for disclosing evidence or other documents may be abridged with the written consent of the persons entitled to that evidence or documents.

AR 201/2017 s26;258/2022

Division 2
General Procedural Matters

Complaint fees

27(1) The fees payable by a person wishing to make a complaint or to be involved as a party or intervener in a hearing by the Land and Property Rights Tribunal in respect of designated industrial property or an equalized assessment are those fees set out in Schedule 2.

(2) If

(a) a complainant withdraws a complaint on agreement with the provincial assessor or the Minister, as the case may be, to correct any matter or issue under complaint,

(b) the Land and Property Rights Tribunal makes a decision in favour of the complainant, or

(c) the Land and Property Rights Tribunal makes a decision that is not in favour of the complainant, but on appeal the Court of King's Bench makes a decision in favour of the complainant,

any complaint filing fee must be refunded to the complainant.

AR 201/2017 s27;218/2022;258/2022

Decision of Land and Property Rights Tribunal

28 For the purposes of section 500 of the Act, a decision of the Land and Property Rights Tribunal must include

(a) a brief summary of the matters and issues contained on the complaint form,

(b) the Land and Property Rights Tribunal's decision in respect of each matter or issue,

(c) the reasons for the decision, including any dissenting reasons, and

(d) any procedural or jurisdictional matters that arose during the hearing, and the Land and Property Rights Tribunal's decision in respect of those matters.

AR 201/2017 s28;258/2022

Record of hearing

29(1) The Land and Property Rights Tribunal must make and keep a record of each hearing in accordance with subsection (2).

(2) Subject to section 525.1 of the Act, a record of a hearing must include

(a) the complaint form,

(b) all documentary evidence filed in the matter,

(c) a list of witnesses who gave evidence at the hearing,

(d) a transcript or recording of the hearing or, in the absence of a transcript or recording, a summary of all testimonial evidence given at the hearing,

(e) all written arguments presented at the hearing,

(f) a written list that is prepared at the end of the hearing that identifies those matters or issues from the complaint form about which evidence was given or argument was made at the hearing, and

(g) the decision of the Land and Property Rights Tribunal referred to in section 28.

(3) If evidence given at a hearing is recorded by means of a sound-recording machine, a party to a hearing may request a copy

of the sound recording or the transcript of the sound recording, if the party pays for the cost of preparing the copy or transcript.

(4) Subsection (3) does not apply in respect of

(a) a sound recording or transcript, or any part of a sound recording or transcript, from a private hearing conducted under section 525.1 of the Act, or

(b) a transcript, or any part of a transcript, that is excluded from the public record under section 525.1 of the Act.

AR 201/2017 s29;258/2022

Form of undertaking respecting private hearing

30 An undertaking under section 525.1(3) of the Act must be given in a form acceptable to the chair.

Postponement or adjournment of hearing

31(1) Except in exceptional circumstances as determined by the Land and Property Rights Tribunal, the Land and Property Rights Tribunal may not grant a postponement or adjournment of a hearing.

(2) A request for a postponement or an adjournment must be in writing and contain reasons for the postponement or adjournment, as the case may be.

(3) Subject to the timelines specified in section 500 of the Act, if the Land and Property Rights Tribunal grants a postponement or adjournment, the Land and Property Rights Tribunal must schedule the date, time and location for the hearing at the time the postponement or adjournment is granted.

AR 201/2017 s31;258/2022

Personal attendance not required

32(1) Parties to a hearing before the Land and Property Rights Tribunal may attend the hearing in person or may, instead of attending in person, file a written presentation with the chair.

(2) A party who files a written presentation under subsection (1) must provide a copy of it to the other parties at least 7 days before the hearing.

AR 201/2017 s32;258/2022

Independent legal advice

33 The Land and Property Rights Tribunal may seek legal advice only from a lawyer who is independent from the parties to a hearing.

AR 201/2017 s33;258/2022

Part 3
One-member Panels

Division 1
One-member Local Assessment Review Board Panel

One-member local assessment review board panel

34 A one-member local assessment review board panel may hear and decide one or more of the following matters but no other matter:

(a) a complaint about a matter shown on a tax notice, other than a property tax notice;

(b) a complaint about a matter shown on an assessment notice, other than an assessment;

(c) 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;

(d) an administrative matter, including, without limitation, an invalid complaint;

(e) any matter, other than an assessment, where all of the parties consent to a hearing before a one-member local assessment review board panel.

Part 1 applies

35 Subject to this Division, Part 1 applies to a one-member local assessment review board panel.

Notice of hearing before one-member panel

36 If a complaint is to be heard by a one-member local assessment review board panel, the clerk must give the notifications required by section 462(1) of the Act not less than 15 days before the hearing date that is scheduled under section 4.

Disclosure of evidence

37(1) In this section, "complainant" includes an assessed person or taxpayer who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a one-member local assessment review board panel, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 7 days before the hearing date,

(i) disclose to the respondent and the one-member local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the one-member local assessment review board an estimate of the amount of time necessary to present the complainant's evidence;

(b) the respondent must, at least 7 days before the hearing date,

(i) disclose to the complainant and the one-member local assessment review board the documentary evidence, a summary of the testimonial evidence, including any signed witness reports, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

(ii) provide to the complainant and the one-member local assessment review board an estimate of the amount of time necessary to present the respondent's evidence.

Issues and evidence before one-member panel

38 A one-member local assessment review board panel must not hear

(a) any matter in support of an issue that is not identified on the complaint form, or

(b) any evidence that has not been disclosed in accordance with section 37.

Abridgment or expansion of time

39(1) A one-member local assessment review board panel may at any time, with the consent of all parties, abridge the time specified in section 36.

(2) Subject to the timelines specified in section 468 of the Act, a one-member local assessment review board panel may at any time by written order expand the time specified in section 37(2)(a) or (b).

(3) A time specified in section 37(2)(a) or (b) for disclosing evidence or other documents may be abridged with the written consent of the persons entitled to the evidence or other documents.

Division 2
One-member Composite Assessment Review Board Panel

One-member composite assessment review board panel

40 A one-member composite assessment review board panel may hear and decide one or more of the following matters but no other matter:

(a) a complaint about a matter shown on an assessment notice, other than an assessment;

(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;

(c) an administrative matter, including, without limitation, an invalid complaint;

(d) any matter, other than an assessment, where all of the parties consent to a hearing before a one-member composite assessment review board panel.

Part 1 applies

41 Subject to this Division, Part 1 applies to a one-member composite assessment review board panel.

Notice of hearing before one-member panel

42 If a complaint is to be heard by a one-member composite assessment review board panel, the clerk must give the notifications required by section 462(2) of the Act not less than 15 days before the hearing date that is scheduled under section 8.

Disclosure of evidence

43(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a one-member composite assessment review board panel, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 7 days before the hearing date,

(i) disclose to the respondent and the one-member composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the one-member composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence;

(b) the respondent must, at least 7 days before the hearing date,

(i) disclose to the complainant and the one-member composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

(ii) provide to the complainant and the one-member composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence.

Issues and evidence before one-member panel

44 A one-member composite assessment review board panel must not hear

(a) any matter in support of an issue that is not identified on the complaint form, or

(b) any evidence that has not been disclosed in accordance with section 43.

Abridgment or expansion of time

45(1) A one-member composite assessment review board panel may at any time, with the consent of all parties, abridge the time specified in section 42.

(2) Subject to the timelines specified in section 468 of the Act, a one-member composite assessment review board panel may at any time by written order expand the time specified in section 43(2)(a) or (b).

(3) A time specified in section 43(2)(a) or (b) for disclosing evidence or other documents may be abridged with the written consent of the persons entitled to the evidence or other documents.

Division 3
One-member Land and Property Rights Tribunal Panel

One-member Land and Property Rights Tribunal panel

46 One member of the Land and Property Rights Tribunal may sit as a panel of the Land and Property Rights Tribunal to hear and decide on one or more of the following matters but no other matter:

(a) a complaint about a matter shown on an assessment notice, other than an assessment;

(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;

(c) an administrative matter, including, without limitation, an invalid complaint;

(d) any matter where all of the parties consent to a hearing before a one-member Land and Property Rights Tribunal panel.

AR 201/2017 s46;258/2022

Part 2 applies

47 Subject to this Division, Part 2 applies to a one-member Land and Property Rights Tribunal panel.

AR 201/2017 s47;258/2022

Notice of hearing before one-member panel

48 If a complaint is to be heard before a one-member Land and Property Rights Tribunal panel, the chair must give the notifications required by section 494(1)(b) of the Act not less than 15 days before the date that is scheduled under section 23.

AR 201/2017 s48;258/2022

Disclosure of evidence

49(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a one-member Land and Property Rights Tribunal panel, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 7 days before the hearing date,

(i) disclose to the respondent and the one-member Land and Property Rights Tribunal panel the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the one-member Land and Property Rights Tribunal panel an estimate of the amount of time necessary to present the complainant's evidence;

(b) the respondent must, at least 7 days before the hearing date,

(i) disclose to the complainant and the one-member Land and Property Rights Tribunal panel the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

(ii) provide to the complainant and the one-member Land and Property Rights Tribunal panel an estimate of the amount of time necessary to present the respondent's evidence.

AR 201/2017 s49;258/2022

Issues and evidence before one-member panel

50 A one-member Land and Property Rights Tribunal panel must not hear

(a) any matter in support of an issue that is not identified on the complaint form, or

(b) any evidence that has not been disclosed in accordance with section 49.

AR 201/2017 s50;258/2022

Abridgment or expansion of time

51(1) A one-member Land and Property Rights Tribunal panel may at any time, with the consent of all parties, abridge the time specified in section 48.

(2) Subject to the timelines specified in section 500 of the Act, a one-member Land and Property Rights Tribunal panel may at any time by written order expand the time specified in section 49(2)(a) or (b).

(3) A time specified in section 49(2)(a) or (b) for disclosing evidence or other documents may be abridged with the written consent of the persons entitled to the evidence or other documents.

AR 201/2017 s51;258/2022

Part 4
Provincial Member

Appointment of provincial member

52(1) When a council has established a composite assessment review board, the municipality must, within 30 days, provide written notice of that fact to the Minister.

(2) The Minister must, after receiving written notice from the municipality that the council has established a composite assessment review board, appoint a provincial member to the composite assessment review board.

(3) The Minister may only appoint as a provincial member a current member of the Land and Property Rights Tribunal.

AR 201/2017 s52;258/2022

Part 5
Training and Qualifications

Training requirements

53(1) Every clerk must

(a) successfully complete a training program set or approved by the Minister, and

(b) every 3 years successfully complete a refresher training program set by the Minister.

(2) The chair of the Land and Property Rights Tribunal and any delegate of the chair must

(a) successfully complete a training program set or approved by the Minister, and

(b) periodically, as required by the Minister, successfully complete a refresher training program set by the Minister.

(3) In order for a member of a panel of an assessment review board or of the Land and Property Rights Tribunal to be qualified to participate in a hearing, the member must

(a) successfully complete a training program set or approved by the Minister, and

(b) every 3 years successfully complete a refresher training program set by the Minister.

AR 201/2017 s53;258/2022

Ineligibility

54 A person may not be a member of a panel of an assessment review board or the Land and Property Rights Tribunal if the person

(a) is an assessor,

(b) is an employee of the municipality for which the assessment review board is established, or

(c) is an agent.

AR 201/2017 s54;258/2022

Part 6
General Matters

Agent authorization

55 An agent may not file a complaint or act for an assessed person or taxpayer at a hearing unless the assessed person or taxpayer has prepared and filed an assessment complaints agent authorization form set out in Schedule 4 with the clerk of the assessment review board or the chair of the Land and Property Rights Tribunal, as the case may be.

AR 201/2017 s55;258/2022

Costs

56(1) Any party to a hearing before a composite assessment review board panel or the Land and Property Rights Tribunal may make an application to the composite assessment review board panel or the Land and Property Rights Tribunal, as the case may be, at any time, but no later than 30 days after the conclusion of the hearing, for an award of costs in an amount set out in Schedule 3 that are directly and primarily related to matters contained in the complaint and the preparation of the party's submission.

(2) In deciding whether to grant an application for the award of costs, in whole or in part, the composite assessment review board panel or the Land and Property Rights Tribunal may consider the following:

(a) whether there was an abuse of the complaint process;

(b) whether the party applying for costs incurred additional or unnecessary expenses as a result of an abuse of the complaint process.

(3) A composite assessment review board panel or the Land and Property Rights Tribunal may on its own initiative and at any time award costs.

(4) Any costs that the composite assessment review board panel or the Land and Property Rights Tribunal awards are those set out in Schedule 3.

(5) If the complainant is

(a) the assessed person or the taxpayer of the property under complaint,

(b) an employee or representative of that assessed person or taxpayer, or

(c) an agent for that assessed person or taxpayer,

the assessed person or the taxpayer is responsible for any costs awarded by a composite assessment review board panel.

(6) If the complainant is

(a) the assessed person or the taxpayer of property other than the property under complaint,

(b) an employee or representative of that assessed person or taxpayer, or

(c) an agent for that assessed person or taxpayer,

the complainant is responsible for any costs awarded by a composite assessment review board panel.

(7) If the complainant is

(a) the assessed person in respect of designated industrial property under complaint,

(b) an employee or representative of that assessed person, or

(c) an agent for that assessed person,

the assessed person is responsible for any costs awarded by the Land and Property Rights Tribunal.

(8) The municipality in which the property under complaint is located is responsible for any costs awarded by a composite assessment review board panel against an employee or representative of the municipality.

(9) The municipality that files a complaint about an equalized assessment or designated industrial property is responsible for any costs awarded by the Land and Property Rights Tribunal against an employee or representative of the municipality.

(10) The Minister is responsible for any costs awarded by the Land and Property Rights Tribunal against an employee or representative of the Minister.

AR 201/2017 s56;258/2022

Supplementary assessment notice, amended assessment notice or any amended tax notice other than a property tax notice

57 For the purposes of section 468(2) of the Act, a panel of an assessment review board must render its decision and provide reasons for that decision, including any dissenting reasons,

(a) in the case of a hearing before a local assessment review board panel

(i) within 160 days from the date that a complaint was filed, or

(ii) before the end of the taxation year to which the complaint that is the subject of the hearing applies,

whichever is later,

(b) in the case of a hearing before a composite assessment review board panel,

(i) within 210 days from the date that a complaint was filed, or

(ii) before the end of the taxation year to which the complaint that is the subject of the hearing applies,

whichever is later, or

(c) in the case of a hearing before a one-member panel of an assessment review board,

(i) within 110 days from the date that a complaint was filed, or

(ii) before the end of the taxation year to which the complaint that is the subject of the hearing applies,

whichever is later.

Complaint form must be available

58 A municipality must ensure that copies of the complaint form set out in Schedule 1 and the assessment complaints agent authorization form set out in Schedule 4 are readily available to the public.

Part 7
Transitional Provisions and Coming into Force

Transitional

59(1) Despite the repeal of the *Assessment Complaints and Appeals Regulation* (AR 238/2000) and the *Assessment Complaints Fee Regulation* (AR 243/2008), those regulations continue to apply to all appeals and complaints filed with respect to the 2009 and previous taxation years.

(2) The *Matters Relating to Assessment Complaints Regulation* (AR 310/2009) applies,

(a) in respect of every municipality except the City of Lloydminster, to all complaints with respect to the 2010 and subsequent taxation years up to and including the 2017 taxation year, and

(b) in respect of the City of Lloydminster, to all complaints with respect to the 2010 and subsequent taxation years up to and including the 2022 taxation year.

(2.1) Except to the extent that subsection (2) provides otherwise, the *Matters Relating to Assessment Complaints Regulation* (AR 310/2009) does not apply in respect of any municipality.

(3) This Regulation applies,

(a) in respect of every municipality except the City of Lloydminster, to all complaints with respect to the 2018 and subsequent taxation years, and

(b) in respect of the City of Lloydminster, to all complaints with respect to the 2023 and subsequent taxation years.

(4) Notwithstanding anything in this Regulation, where a person has made a complaint under section 460 or 491 of the *Municipal Government Act*, RSA 2000 cM-26, before this subsection comes into force and the complaint process has not been concluded by the time this subsection comes into force, the complaint must continue to be dealt with in accordance with the *Municipal Government Act* and the regulations under the *Municipal Government Act* as they read immediately before the coming into force of this subsection.

AR 201/2017 s59;258/2022

Coming into force

60 This Regulation comes into force on January 1, 2018.

Schedule 1

Government of Alberta ■ **Assessment Review Board Complaint**

Municipality Name (as shown on your assessment notice or tax notice)	Tax Year

Section 1 — Notice Type

Assessment notice: ☐ Annual Assessment
☐ Amended Annual Assessment
☐ Supplementary Assessment
☐ Amended Supplementary Assessment

Tax Notice: ☐ Business Tax
☐ Other Tax (excluding property tax and business tax) _____ Name of Other Tax

Section 2 — Property Information Assessment Roll or Tax Roll Number ☐

MATTERS RELATING TO ASSESSMENT
Schedule 1 COMPLAINTS REGULATION, 2018 AR 201/2017

Property Address
Legal Land Description (i.e. Plan, Block, Lot or ATS 1/4 Sec-Twp-Rng-Mer)

Property Type (check all that apply)
- ☐ Residential property with 3 or fewer dwelling units
- ☐ Residential property with 4 or more dwelling units
- ☐ Farm land
- ☐ Non-residential property
- ☐ Machinery and equipment

Business Name (if pertaining to business tax)	Business Owner(s)

Section 3 — Complainant Information

Is the complainant the assessed person or taxpayer for the property under complaint?
☐ Yes ☐ No

Note: If this complaint is being filed on behalf of the assessed person or taxpayer by an agent for a fee, or a potential fee, the Assessment Complaints Agent Authorization form must be completed by the assessed person or taxpayer of the property and must be submitted with this complaint form.

Complainant Name (if the complainant, assessed person or taxpayer is a company, enter the complete legal name of the company)			
Mailing Address (if different from above)	City/Town	Province	Postal Code
Telephone number (include area code)	Fax Number (include area code)		Email Address
If applicable, please indicate any dates you are not available for a hearing			

Section 4 — Complaint Information

Check the matter(s) that apply to the complaint (see reverse for coding)

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10

Note: Some matters or information may be corrected by contacting the municipal assessor prior to filing a formal complaint.

Section 5 — Reason(s) for Complaint

Note: An assessment review board panel must not hear any matter in support of an issue that is not identified on the complaint form

A complainant must
- indicate what information shown on an assessment notice or tax notice is incorrect,
- explain in what respect that information is incorrect,
- indicate what the correct information is, and
- identify the requested assessed value, if the complaint relates to an assessment.

Requested assessed value:

Section 6 — Complaint Filing Fee

If the municipality has set filing fees payable by persons wishing to make a complaint, the filing fee must accompany the complaint form or the complaint will be invalid and returned to the person making the complaint.

If the assessment review board panel makes a decision in favour of the complaint, or if all issues under complaint are corrected by agreement between the complainant and the assessor, and the complaint is withdrawn prior to the hearing, the filing fee will be refunded.

Section 7 — Complainant Signature

Signature	Printed name of signatory person and title	Date (mm/dd/yyyy)

Important Notice: Your completed complaint form and any supporting attachments, the agent authorization form and the prescribed filing fee must be submitted to the person and address with whom a complaint must be filed as shown on the assessment notice or tax notice prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete form, complaints submitted after the filing deadline or complaints without the required filing fee are invalid.

Assessment Review Board Clerk Use Only				
Was the complaint filed on time?	☐ Yes	☐ No		
Is the required information included on or with the complaint form?	☐ Yes	☐ No		
Was the required filing fee included?	☐ Yes	☐ No	☐ N/A	
Was a properly completed agent authorization form attached?	☐ Yes	☐ No	☐ N/A	Date Received _____
Complaint to be heard by:	☐ LARB panel	☐ CARB panel		

MATTERS FOR A COMPLAINT

A complaint to the assessment review board panel may be about any of the following matters, as shown on an assessment or tax notice:

1 the description of the property or business
2 the name or mailing address of an assessed person or taxpayer
3 an assessment amount
4 an assessment class
5 an assessment sub-class
6 the type of property
7 the type of improvement
8 school support
9 whether the property is assessable
10 whether the property or business is exempt from taxation under Part 10, but not if the exemption is given by an agreement under section 364.1(11) that does not expressly provide for the right to make the complaint
11 any extent to which the property is exempt from taxation under a bylaw under section 364.1 of the Act
12 whether the collection of tax on the property is deferred under a bylaw under section 364.1 of the Act
13 a designated officer's refusal to grant an exemption or deferral under a bylaw under section 364.1 of the Act

Note: To eliminate the need to file a complaint, some matters or information shown on an assessment notice or tax notice may be corrected by contacting the municipal assessor. It is advised to discuss any concerns about the matters with the municipal assessor prior to filing this complaint.

If a complaint fee is required by the municipality, it will be indicated on the assessment notice. Your complaint form will not be filed and will be returned to you unless the required complaint fee indicated on your assessment notice is enclosed.

ASSESSMENT REVIEW BOARD PANELS

A local assessment review board panel will hear complaints about residential property with 3 or less dwelling units, farm land or matters shown on a tax notice (other than a property tax notice).

A composite assessment review board panel will hear complaints about residential property with 4 or more dwelling units or non-residential property.

DISCLOSURE

Disclosure must include:

All relevant facts supporting the matters of complaint described on this complaint form.
All documentary evidence to be presented at the hearing.
A list of witnesses who will give evidence at the hearing.
A summary of testimonial evidence.
The legislative grounds and reason for the complaint.
Relevant case law and any other information that the complainant considers relevant.

Disclosure timelines:

For a complaint about any matter other than an assessment, the parties must provide full disclosure at least 7 days before the scheduled hearing date.

For a complaint about an assessment - local assessment review board panel:
Complainant must provide full disclosure at least 21 days before the scheduled hearing date.
Respondent must provide full disclosure at least 7 days before the scheduled hearing date.
Complainant must provide rebuttal at least 3 days before the scheduled hearing date.

For a complaint about an assessment - composite assessment review board panel:
Complainant must provide full disclosure at least 42 days before the scheduled hearing date.
Respondent must provide full disclosure at least 14 days before the scheduled hearing date.
Complainant must provide rebuttal at least 7 days before the scheduled hearing date.

DISCLOSURE RULES

Timelines for disclosure must be followed.
Information that has not been disclosed will not be heard by an assessment review board panel.
Disclosure timelines can be reduced if the disclosure information is provided at the time the complaint form is filed.
Both the complainant and the assessor must agree to reduce the timelines.

PENALTIES

A Composite Assessment Review Board Panel may award costs against any party to a complaint that has not provided full disclosure in accordance with the regulations.

IMPORTANT NOTICES

Your completed complaint form and any supporting attachments, the agent authorization form and the prescribed filing fee must be submitted to the person and address with whom a complaint must be filed as shown on the assessment notice or tax notice, prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete complaint form, complaints submitted after the filing deadline or complaints without the required filing fee are invalid.

An assessment review board panel must not hear any matter in support of an issue that is not identified on the complaint form.

The clerk will notify all parties of the hearing date and location.

For more details about disclosure please see the *Matters Relating to Assessment Complaints Regulation.*

To avoid penalties, taxes must be paid on or before the deadline specified on the tax notice even if a complaint is filed.

The personal information on this form is being collected under the authority of the *Municipal Government Act*, section 460, as well as the *Freedom of Information and Protection of Privacy Act*,

section 33(c). The information will be used for administrative purposes and to process your complaint. For further information, contact your local Assessment Review Board.

AR 201/2017 Sched.1;258/2022

Schedule 2

Complaint Fees

	Complaint Fee	
Residential 3 or fewer dwellings and farm land	Up to	$ 50
Residential 4 or more dwellings	Up to	$650
Non-residential	Up to	$650
Business tax	Up to	$ 50
Tax notices (other than business tax)	Up to	$ 30
Linear property — power generation	Flat fee	$650 per facility
Linear property — other	Flat fee	$ 50 per DIPAUID *
Designated industrial property — major plant or facility	Flat fee	$650 per major plant or facility
Designated industrial property – other	Flat fee	$50 per DIPAUID *
Equalized assessment	Flat fee	$650

* Designated Industrial Property Assessment Unit Identification

Schedule 3

Table of Costs

Where the conduct of the offending party warrants it, a composite assessment review board panel or the Land and Property Rights Tribunal may award costs up to the amounts specified in the appropriate column in Part 1.

Where a composite assessment review board panel or the Land and Property Rights Tribunal determines that a hearing was required to determine a matter that did not have a reasonable chance of success, it may award costs, up to the amounts specified in the appropriate column in Part 2 or 3, against the party that unreasonably caused the hearing to proceed.

	Assessed Value			
Category	**Up to and including $5 million**	**Over $5 million up to and including $15 million**	**Over $15 million up to and including $50 million**	**Over $50 million**
Part 1 — Action committed by a party				
Disclosure of irrelevant evidence that has resulted in a delay of the hearing process.	$500	$1000	$2000	$5000
A party attempts to present new issues not identified on the complaint form or evidence in support of those issues.	$500	$1000	$2000	$5000
A party attempts to introduce evidence that was not disclosed within the prescribed timelines.	$500	$1000	$2000	$5000
A party causes unreasonable delays or postponements.	$500	$1000	$2000	$5000

At the request of a party, an assessment review board panel or the Land and Property Rights Tribunal, as the case may be, expands the time period for disclosure of evidence that results in prejudice to the other party.	$500	$1000	$2000	$5000
Part 2 — Merit Hearing				
Preparation for hearing	$1000	$4000	$8000	$10 000
For first 1/2 day of hearing or portion thereof.	$1000	$1500	$1750	$2000
For each additional 1/2 day of hearing.	$500	$750	$875	$1000
Second counsel fee for each 1/2 day or portion thereof (when allowed by an assessment review board panel or the Land and Property Rights Tribunal, as the case may be).	$250	$500	$750	$1000
Part 3 — Procedural Applications				
Contested hearings (for first 1/2 day or portion thereof).(i.e. request for adjournment)	$1000	$1500	$1750	$2000
Contested hearings (for each additional 1/2 day or portion thereof).	$500	$750	$875	$1000

AR 201/2017 Sched.3;258/2022

Schedule 4

Assessment Complaints Agent Authorization

Government of Alberta ■

Section 1 — Assessed Person/Taxpayer Information	Tax Year	
Assessed Person(s) or Taxpayer(s) (if the assessed person or taxpayer is a company, enter the complete legal name of the company)		
Business Name (if pertaining to business tax)	Business Owner(s)	
Section 2 — Municipal and Property Information	(for designated industrial property go to Section 3)	
Municipality Name (as shown on your assessment notice or tax notice)	Assessment Roll or Tax Roll Number	
Property Address	Legal Land Description (i.e. Plan, Block, Lot or ATS 1/4 Sec-Twp-Rng-Mer)	

Property Type (check all that apply)
- ☐ Residential property with 3 or less dwelling units
- ☐ Residential property with 4 or more dwelling units
- ☐ Farm land
- ☐ Non-residential property
- ☐ Machinery and equipment

Section 3 — Agent Information

Note: Agent means a person or company who for a fee or potential fee acts for an assessed person or taxpayer during the assessment complaint process or at a hearing before a panel of an assessment review board or the Land and Property Rights Tribunal.

Agent Name	Contact Name (if different) and Position Held		
Mailing Address (if different from above)	City/Town	Province	Postal Code
Telephone number (include area code)	Fax Number (include area code)		Email Address

Section 4 — Acknowledgment and Certification

By signing below, I acknowledge and certify that:

1 I am the assessed person or taxpayer identified in section 1, or a legally authorized officer of the assessed person or taxpayer.

2 To initiate the processing of this agent authorization, I am attaching this agent authorization form to

(a) the complaint form if the agent is authorized to file the complaint on my behalf, or

(b) a letter, signed by me on my personal or company letterhead, and the letter is submitted to the municipality's assessment review board clerk or to the chair of the Land and Property Rights Tribunal, as the case may be, before the hearing of the complaint.

3 I provide authority to the agent, as identified in section 3, to represent the assessed person or taxpayer, identified in section 1, to

(a) file a complaint on behalf of the assessed person or taxpayer for the property described on this form,

(b) discuss the issues or matters of the complaint with the municipal assessor (or the provincial assessor in the case of designated industrial property),

(c) prepare and submit disclosure regarding the complaint,

(d) represent the assessed person or taxpayer at hearings before a panel of the assessment review board (or before the Land and Property Rights Tribunal, in the case of designated industrial property),

(e) reach an agreement with the assessor to correct a matter under complaint, and

(f) withdraw the complaint at any time.

4 I understand that the assessed person or taxpayer continues to be subject to all applicable provisions of the *Municipal Government Act* and the regulations under that Act, despite any authorization of agency.

5 I understand that this document does not act as an authorization of agency for the purposes of section 299 or 300 of the *Municipal Government Act*.

6 I understand that the assessed person or taxpayer is liable for any costs awarded against the agent by a panel of an assessment review board (or by the Land and Property Rights Tribunal, in the case of designated industrial property) or for any change in assessment that may result from a hearing.

7 I understand that this authorization is only applicable to the tax year entered on this form.

8 The agent has disclosed the qualifications, professional designations, certifications or affiliations of the agent, if any, with respect to property assessment or appraisal.

9 I may revoke authorization at any time in writing to the clerk of the assessment review board or the chair of the Land and Property Rights Tribunal, as the case may be.

_____
Signature of the Assessed Person or Taxpayer

_____ _____
Printed name of signatory person and title Date (mm/dd/yyyy)

AR 201/2017 Sched.4;258/2022

Printed on Recycled Paper

Municipal Government Act

Section 308

Province of Alberta

MUNICIPAL GOVERNMENT ACT

Revised Statutes of Alberta 2000
Chapter M-26

Current as of April 1, 2023

Office Consolidation

Alberta King's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952

E-mail: kings-printer@gov.ab.ca
Shop on-line at kings-printer.alberta.ca

Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2016 c24 s91(d) (repealed by 2013 cS-19.3 s3 - effective December 31, 2022) amends s616; s106 (repealed by 2013 cS-19.3 s3 - effective December 31, 2022) amends s650(1); s110 (repealed by 2013 cS-19.3 s3 - effective December 31, 2022) amends s655(1)(b); s123(a) (repealed by 2013 cS-19.3 s3 - effective December 31, 2022) amends s680; s129 (2020 c39 s9 - effective December 9, 2020) amends s687(3); s131(a)(iii) (repealed by 2013 cS-19.3 s3 - effective December 31, 2022) amends s694.

2017 c13 s1(4) repeals Division 5 of Part 3; s1(39) repeals and substitutes Division 4 of Part 10 ss380.1 to 380.5; s1(40) amends ss410(e); s1(41) amends s437(c); s1(61) amends s666; s1(62) amends s667; s1(63) amends s670(1); s1(64) adds s670.2.

2020 c35 s24 amends s596(1)(b).

2022 c16 s9 amends ss297, 298(1)(y); repeals and substitutes s354(3.1).

Regulations

The following is a list of the regulations made under the *Municipal Government Act* that are filed as Alberta Regulations under the Regulations Act.

	Alta. Reg.	*Amendments*
Municipal Government Act		
Aeronautics Act Agreements	33/2014	*10/2016, 157/2020*
Airport Vicinity Protection Area Repeal	99/97	
Airport Vicinity Protection Area Repeal	92/98	
Airport Vicinity Protection Areas		
Calgary International	177/2009	*192/2010, 71/2014, 186/2017, 177/2018, 124/2019, 158/2020, 34/2021, 163/2021*
Edmonton International	55/2006	*86/2016, 185/2017, 83/2022*
NOTE: AR 83/2022 s3 comes into force May 20, 2023		
Business Improvement Area	93/2016	*123/2021*
Calgary Metropolitan Region Board	190/2017	*102/2021, 53/2022, 218/2022*
Canmore Undermining Exemption from Liability	113/97	*221/2004*
Canmore Undermining Review	34/2020	
City of Airdrie Downtown Community Revitalization Levy	253/2022	
City of Calgary Charter, 2018	40/2018	*18/2019, 56/2019, 187/2019, 216/2022, 218/2022*
NOTE: Certain provisions of AR 18/2019 come into force on later dates. See AR 40/2018		
City of Calgary Rivers District Community Revitalization Levy	232/2006	*181/2016, 266/2018*
City of Edmonton Belvedere Community Revitalization Levy	57/2010	*234/2020*
City of Edmonton Capital City Downtown Community Revitalization Levy	141/2013	
City of Edmonton Charter, 2018	39/2018	*19/2019, 56/2019, 187/2019, 216/2022, 218/2022*
NOTE: Certain provisions of AR 19/2019 come into force on later dates. See AR 39/2018.		
City of Edmonton the Quarters Downtown Community Revitalization Levy	173/2010	*235/2020*
Clean Energy Improvements	212/2018	*153/2020*
Cochrane Community Revitalization Levy	204/2012	*254/2022*
Code of Conduct for Elected Officials	200/2017	
Community Aggregate Payment Levy	263/2005	*187/2010, 175/2015, 196/2017, 205/2022*

MUNICIPAL GOVERNMENT ACT

Chapter M-26

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(7) The Minister may make regulations respecting financial plans and capital plans, including, without limitation, regulations

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(c) specifying the first financial year required to be reflected in a capital plan.

2015 c8 s40

Part 9
Assessment of Property

Interpretation provisions for Parts 9 to 12

284(1) In this Part and Parts 10, 11 and 12,

(a) "assessed person" means a person who is named on an assessment roll in accordance with section 304;

(b) "assessed property" means property in respect of which an assessment has been prepared;

(c) "assessment" means a value of property determined in accordance with this Part and the regulations;

(d) "assessor" means

(i) the provincial assessor, or

(ii) a municipal assessor,

and includes any person to whom those duties and responsibilities are delegated by the person referred to in subclause (i) or (ii);

(e) "council" includes

(i) a collecting board that is authorized under section 177 of the *Education Act* to impose and collect taxes in a school division as defined in that Act, and

(ii) the Minister, in respect of an improvement district or special area;

(f) "Crown" means the Crown in right of Alberta, and includes a Provincial agency as defined in the *Financial*

Administration Act and an agent of the Crown in right of Alberta;

(f.01) "designated industrial property" means

(i) facilities regulated by the Alberta Energy Regulator, the Alberta Utilities Commission or the Canadian Energy Regulator,

(ii) linear property,

(iii) property designated as a major plant by the regulations,

(iv) land and improvements in respect of a parcel of land where that parcel of land contains property described in subclause (i) or (iii), and

(v) land and improvements in respect of land in which a leasehold interest is held where the land is not registered in a land titles office and contains property described in subclause (i) or (iii);

(f.1) "designated manufactured home" means a manufactured home, mobile home, modular home or travel trailer;

(g) repealed 2016 c24 s21;

(g.1) "extended area network" has the meaning given to it in the regulations;

(h) "farm building" has the meaning given to it in the regulations;

(i) "farming operations" has the meaning given to it in the regulations;

(j) "improvement" means

(i) a structure,

(ii) any thing attached or secured to a structure, that would be transferred without special mention by a transfer or sale of the structure,

(iii) a designated manufactured home,

(iii.1) linear property, and

(iv) machinery and equipment;

(k) "linear property" means

(i) electric power systems, which has the meaning given to that term in the regulations,

(ii) street lighting systems, which has the meaning given to that term in the regulations,

(iii) telecommunication systems, which has the meaning given to that term in the regulations,

(iv) pipelines, which has the meaning given to that term in the regulations,

(v) railway property, which has the meaning given to that term in the regulations, and

(vi) wells, which has the meaning given to that term in the regulations;

(l) "machinery and equipment" has the meaning given to it in the regulations;

(m) "manufactured home" means any structure, whether ordinarily equipped with wheels or not, that is manufactured to meet or exceed the Canadian Standards Association standard CSA Z240 and that is used as a residence or for any other purpose;

(n) "manufactured home community" means a parcel of land that

(i) is designated in the land use bylaw of a municipality as a manufactured home community, and

(ii) includes at least 3 designated manufactured home sites that are rented or available for rent;

(n.1) "mobile home" means a structure that is designed to be towed or carried from place to place and that is used as a residence or for any other purpose, but that does not meet Canadian Standards Association standard CSA Z240;

(n.2) "modular home" means a home that is constructed from a number of pre-assembled units that are intended for delivery to and assembly at a residential site;

(n.3) "municipal assessment roll" means the assessment roll prepared by a municipality under section 302(1);

(n.4) "municipal assessor" means a designated officer appointed under section 284.2 to carry out the functions, duties and powers of a municipal assessor under this Act;

(o) "municipality" includes

(i) a school division, as defined in the *Education Act*, in which a collecting board is authorized under section 177 of that Act to impose and collect taxes or, where the school division is authorized or required to act, the collecting board, and

(ii) an improvement district and a special area or, where the improvement district or special area is authorized or required to act, the Minister;

(o.1) "operational" has the meaning given to it in the regulations;

(p) "operator" has the meaning given to it in the regulations;

(q) "owner", in respect of a designated manufactured home, means the owner of the designated manufactured home and not the person in lawful possession of it;

(r) "property" means

(i) a parcel of land,

(ii) an improvement, or

(iii) a parcel of land and the improvements to it;

(r.1) "provincial assessment roll" means the assessment roll prepared by the provincial assessor under section 302(2);

(r.2) "provincial assessor" means the provincial assessor designated under section 284.1;

(s), (t) repealed 2016 c24 s21;

(u) "structure" means a building or other thing erected or placed in, on, over or under land, whether or not it is so affixed to the land as to become transferred without special mention by a transfer or sale of the land;

(u.1) "SuperNet" has the meaning given to it in the regulations;

(v), (w) repealed 2016 c24 s21;

(w.1) "travel trailer" means a trailer intended to provide accommodation for vacation use and licensed and equipped to travel on a road;

(x) "year" means a 12-month period beginning on January 1 and ending on the next December 31.

(2) In this Part and Parts 10, 11 and 12, a reference to a parcel of land that is held under a lease, licence or permit from the Crown in right of Alberta or Canada includes a part of the parcel.

(2.1) For the purposes of subsection (1)(f.01)(i), a facility regulated by the Alberta Energy Regulator, the Alberta Utilities Commission or the Canadian Energy Regulator includes all components of the facility, including any machinery and equipment, buildings and structures servicing or related to the facility and land on which the facility is located.

(3) For the purposes of this Part and Parts 10, 11 and 12, any document, including an assessment notice and a tax notice, that is required to be sent to a person is deemed to be sent on the day the document is mailed or otherwise delivered to that person.

(4) In this Part and Parts 11 and 12, "complaint deadline" means 60 days after the notice of assessment date set under section 308.1 or 324(2)(a.1).

RSA 2000 cM-26 s284; 2007 cA-37.2 s82(17);2007 c42 s3; 2009 c29 s2;2012 cE-0.3 s279;2015 c8 s41;2016 c24 ss21,140; 2017 c13 s1(20);2021 c22 s2;2022 c16 s9(62)

Provincial assessor

284.1(1) The Minister must designate a person having the qualifications set out in the regulations as the provincial assessor to carry out the functions, duties and powers of the provincial assessor under this Act.

(2) Subject to the regulations, the provincial assessor may delegate to any person any power or duty conferred or imposed on the provincial assessor by this Act.

(3) The provincial assessor is not liable for loss or damage caused by anything said or done or omitted to be done in good faith in the performance or intended performance of the provincial assessor's functions, duties or powers under this Act or any other enactment.

2016 c24 s22

Municipal assessor

284.2(1) A municipality must appoint a person having the qualifications set out in the regulations to the position of designated

officer to carry out the functions, duties and powers of a municipal assessor under this Act.

(2) Subject to the regulations, a municipal assessor may delegate to any person any power or duty conferred or imposed on the municipal assessor by this Act.

(3) A municipal assessor is not liable for loss or damage caused by anything said or done or omitted to be done in good faith in the performance or intended performance of the municipal assessor's functions, duties or powers under this Act or any other enactment.

2016 c24 s22

Division 1
Preparation of Assessments

Preparing annual assessments

285 Each municipality must prepare annually an assessment for each property in the municipality, except designated industrial property and the property listed in section 298.

RSA 2000 cM-26 s285;2002 c19 s2;2016 c24 s135

286 Repealed 1994 cM-26.1 s286.

287 Repealed 1994 cM-26.1 s287.

288 Repealed 1994 cM-26.1 s288.

Assessments for property other than designated industrial property

289(1) Assessments for all property in a municipality, other than designated industrial property, must be prepared by the municipal assessor.

(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) the valuation and other standards set out in the regulations for that property.

(2.1) If the provincial assessor and a municipal assessor assess the same property, the municipality in which the property is situated must rescind the municipal assessment and notify the assessed person.

(3), **(4)** Repealed 2016 c24 s23.

RSA 2000 cM-26 s289;2009 c29 s3;2016 c24 s23

Land to be assessed as a parcel

290(1) If a parcel of land is located in more than one municipality, the assessor must prepare an assessment for the part of the parcel that is located in the municipality in which the assessor has the authority to act, as if that part of the parcel is a separate parcel of land.

(2) Any area of land forming part of a right of way for a railway, irrigation works as defined in the *Irrigation Districts Act* or drainage works as defined in the *Drainage Districts Act* but used for purposes other than the operation of the railway, irrigation works or drainage works must be assessed as if it is a parcel of land.

(3) Any area of land that is owned by the Crown in right of Alberta or Canada and is the subject of a grazing lease or grazing permit granted by either Crown must be assessed as if it is a parcel of land.

(4) Repealed 1995 c24 s37.

1994 cM-26.1 s290;1995 c24 s37;1999 cI-11.7 s214

Assessment of condominium unit

290.1(1) Each unit and the share in the common property that is assigned to the unit must be assessed

(a) in the case of a bare land condominium, as if it is a parcel of land, or

(b) in any other case, as if it is a parcel of land and the improvements to it.

(2) In this section, "unit" and "share in the common property" have the meanings given to them in the *Condominium Property Act*.

1995 c24 s38

Assessment of strata space

290.2 Each strata space as defined in section 86 of the *Land Titles Act* must be assessed as if it is a parcel of land and the improvements to it.

1995 c24 s38

Rules for assessing improvements

291(1) Unless subsection (2) applies, an assessment must be prepared for an improvement whether or not it is complete or capable of being used for its intended purpose.

(2) No assessment is to be prepared

(a) for new linear property that is not operational on or before October 31,

(b) for new improvements, other than designated industrial property improvements, that are intended to be used for or in connection with a manufacturing or processing operation and that are not operational on or before December 31,

(c) for new designated industrial property improvements, other than linear property, that are intended to be used for or in connection with a manufacturing or processing operation and that are not operational on or before October 31,

(d) for new improvements, other than designated industrial property improvements, that are intended to be used for the storage of materials manufactured or processed by the improvements referred to in clause (b), if the improvements referred to in clause (b) are not operational on or before December 31, or

(e) for new designated industrial property improvements, other than linear property, that are intended to be used for the storage of materials manufactured or processed by the improvements referred to in clause (c), if the improvements referred to in clause (c) are not operational on or before October 31.

(2.1) Notwithstanding subsection (2), an assessment must be prepared for new improvements, whether complete or not, on a property or a portion of a property where the improvements do not contain machinery and equipment intended to be used in connection with the manufacturing and processing operation even if another portion of the property contains a manufacturing or processing operation.

(3) to **(5)** Repealed 2016 c24 s24.

RSA 2000 cM-26 s291;2008 c24 s2;2016 c24 s24; 2019 c22 s10(8)

Assessments for designated industrial property

292(1) Assessments for designated industrial property must be prepared by the provincial assessor.

(2) Each assessment must reflect

(a) the valuation standard set out in the regulations for designated industrial property, and

(b) the specifications and characteristics of the designated industrial property as specified in the regulations.

(2.1) The specifications and characteristics of the designated industrial property referred to in subsection (2)(b) must reflect

(a) the records of the Alberta Energy Regulator, the Alberta Utilities Commission or the Canadian Energy Regulator, as the case may be, on October 31 of the year prior to the year in which the tax is imposed under Part 10 in respect of the designated industrial property, and

(b) any other source of information that the provincial assessor considers relevant, as at October 31 of the year prior to the year in which the tax is imposed under Part 10 in respect of the designated industrial property.

(2.2) Information received by the provincial assessor from the Alberta Energy Regulator, the Alberta Utilities Commission or the Canadian Energy Regulator is deemed to be correct for the purposes of preparing assessments.

(3) to **(5)** Repealed 2016 c24 s25.

RSA 2000 cM-26 s292;2007 cA-37.2 s82(17); 2008 c37 s2;2012 cR-17.3 s95;2016 c24 s25; 2022 c16 s9(62)

Duties of assessors

293(1) In preparing an assessment, an assessor must, in a fair and equitable manner,

(a) apply the valuation and other standards set out in the regulations, and

(b) follow the procedures set out in the regulations.

(2) If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.

(3) The municipal assessor must, in accordance with the regulations, provide the Minister or the provincial assessor with information that the Minister or the provincial assessor requires about property in the municipality.

RSA 2000 cM-26 s293;2002 c19 s3;2009 c29 s4; 2016 c24 s26

Right to enter on and inspect property

294(1) After giving reasonable notice to the owner or occupier of any property, an assessor may at any reasonable time, for the purpose of carrying out the duties and responsibilities of the assessor under Parts 9 to 12 and the regulations,

(a) enter on and inspect the property,

(b) request anything to be produced, and

(c) make copies of anything necessary to the inspection.

(2) When carrying out duties under subsection (1), an assessor must produce identification on request.

(3) An assessor must, in accordance with the regulations, inform the owner or occupier of any property of the purpose for which information is being collected under this section and section 295.

RSA 2000 cM-26 s294;2002 c19 s4;2017 c13 s1(21)

Duty to provide information

295(1) A person must provide, on request by an assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.

(2) The Alberta Safety Codes Authority or an agency accredited under the *Safety Codes Act* must release, on request by an assessor, information or documents respecting a permit issued under the *Safety Codes Act*.

(3) An assessor may request information or documents under subsection (2) only in respect of a property within the municipality for which the assessor is preparing an assessment.

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

(5) Information collected under this section must be reported to the Minister on the Minister's request.

(6) Despite section 294(1) and subsection (1) of this section, where an assessment of property is the subject of a complaint under Part 11 or 12 by the person assessed in respect of that property,

(a) the assessed person is not obligated to provide information or produce anything to an assessor in respect of that assessment, and

(b) the assessor has no authority under section 294(1)(c) to make copies of anything the assessed person refuses to provide or produce relating to that assessment

until after the complaint has been heard and decided by the assessment review board or the Land and Property Rights Tribunal, as the case may be.

RSA 2000 cM-26 s295;2002 c19 s5;2016 c24 s27; 2017 c13 s2(6);2020 cL-2.3 24(41)

Assessor not bound by information received

295.1 An assessor is not bound by the information received under section 294 or 295 if the assessor has reasonable grounds to believe that the information is inaccurate.

2019 c22 s10(9)

Court authorized inspection and enforcement

296(1) The provincial assessor or a municipality may apply to the Court of King's Bench for an order under subsection (2) if any person

(a) refuses to allow or interferes with an entry or inspection by an assessor, or

(b) refuses to produce anything requested by an assessor to assist the assessor in preparing an assessment or determining if property is to be assessed.

(2) The Court may make an order

(a) restraining a person from preventing or interfering with an assessor's entry or inspection, or

(b) requiring a person to produce anything requested by an assessor under section 294 or 295.

(3) A copy of the application and each affidavit in support must be served at least 3 days before the day named in the application for the hearing.

RSA 2000 cM-26 s296;2009 c53 s119;2016 c24 s28;AR 217/2022

Assigning assessment classes to property

297(1) When preparing an assessment of property, the assessor must assign one or more of the following assessment classes to the property:

(a) class 1 - residential;

(b) class 2 - non-residential;

(c) class 3 - farm land;

(d) class 4 - machinery and equipment.

(2) A council may by bylaw divide class 1 into sub-classes on any basis it considers appropriate, and if the council does so, the assessor may assign one or more sub-classes to property in class 1.

(2.1) A council may by bylaw divide class 2 into the sub-classes prescribed by the regulations, and if the council does so, the assessor must assign one or more of the prescribed sub-classes to a property in class 2.

(3) If more than one assessment class or sub-class is assigned to a property, the assessor must provide a breakdown of the assessment, showing each assessment class or sub-class assigned and the portion of the assessment attributable to each assessment class or sub-class.

(4) In this section,

(a) "farm land" means land used for farming operations as defined in the regulations;

(a.1) "machinery and equipment" does not include

(i) any thing that falls within the definition of linear property as set out in section 284(1)(k), or

(ii) any component of a manufacturing or processing facility that is used for the cogeneration of power;

(b) "non-residential", in respect of property, means linear property, components of manufacturing or processing facilities that are used for the cogeneration of power or other property on which industry, commerce or another use takes place or is permitted to take place under a land use bylaw passed by a council, but does not include farm land or land that is used or intended to be used for permanent living accommodation;

(c) "residential", in respect of property, means property that is not classed by the assessor as farm land, machinery and equipment or non-residential.

RSA 2000 cM-26 s297;2002 c19 s6;
2016 c24 s29;2017 c13 s2(7)

Non-assessable property

298(1) No assessment is to be prepared for the following property:

(a) a facility, works or system for

(i) the collection, treatment, conveyance or disposal of sanitary sewage, or

(ii) storm sewer drainage,

that is owned by the Crown in right of Alberta or Canada, a municipality or a regional services commission;

(b) a facility, works or system for the storage, conveyance, treatment, distribution or supply of water that is owned by the Crown in right of Alberta or Canada, a municipality or a regional services commission;

(b.1) a water supply and distribution system, including metering facilities, that is owned or operated by an individual or a corporation and used primarily to provide a domestic water supply service;

(c) irrigation works as defined in the *Irrigation Districts Act* and the land on which they are located when they are held by an irrigation district, but not including any residence or the land attributable to the residence;

(d) canals, dams, dikes, weirs, breakwaters, ditches, basins, reservoirs, cribs and embankments;

(e) flood-gates, drains, tunnels, bridges, culverts, headworks, flumes, penstocks and aqueducts

(i) located at a dam,

(ii) used in the operation of a dam, and

(iii) used for water conservation or flood control, but not for the generation of electric power;

(f) land on which any property listed in clause (d) or (e) is located

(i) if the land is a dam site, and

(ii) whether or not the property located on the land is used for water conservation, flood control or the generation of electric power;

(g) a water conveyance system operated in connection with a manufacturing or processing plant, including any facilities designed and used to treat water to meet municipal standards, but not including any improvement designed and used for

(i) the further treatment of the water supply to meet specific water standards for a manufacturing or processing operation,

(ii) water reuse,

(iii) fire protection, or

(iv) the production or transmission of a natural resource;

(h) a sewage conveyance system operated in connection with a manufacturing or processing plant, including any facilities designed and used to treat and dispose of domestic sewage, but not including any improvement designed and used for the treatment of other effluent from the manufacturing or processing plant;

(i) roads, but not including a road right of way that is held under a lease, licence or permit from the Crown in right of Alberta or Canada or from a municipality and that is used for a purpose other than as a road;

(i.1) weigh scales, inspection stations and other improvements necessary to maintain the roads referred to in clause (i) and to keep those roads and users safe, but not including a street lighting system owned by a corporation, a municipality or a corporation controlled by a municipality;

(j) property held by the Crown in right of Alberta or Canada in a municipal district, improvement district, special area or specialized municipality that

(i) is not used or actively occupied by the Crown, or

(ii) is not occupied under an interest or right granted by the Crown,

unless the property is located in a hamlet or in an urban service area as defined in an order creating a specialized municipality;

(k) any provincial park or recreation area, including any campground, day use area or administration and maintenance facility held by the Crown in right of Alberta or operated under a facility operation contract or service contract with the Crown in right of Alberta, but not including the following:

(i) a residence and the land attributable to it;

(ii) property that is the subject of a disposition under the *Provincial Parks Act* or the *Public Lands Act*;

(iii) a downhill ski hill, golf course, food concession, store or restaurant, and the land attributable to it, operated under a facility operation contract or a service contract with the Crown in right of Alberta;

(k.1) any national park held by the Crown in right of Canada, but not including a parcel of land, an improvement, or a parcel of land and the improvements to it held under a lease, licence or permit from the Crown in right of Canada;

(l) property held by the Crown in right of Alberta or Canada and forming part of an undertaking in respect of the conservation, reclamation, rehabilitation or reforestation of land, but not including any residence or the land attributable to the residence;

(m) property used for or in connection with a forestry tower that is not accessible by road;

(n) any interest under a timber disposition under the *Forests Act* and the timber harvest or cut authorized by the disposition;

(o) any interest under a permit or authorization for the grazing of stock under the *Forests Act* or the *Forest Reserves Act*;

(p) wheel loaders, wheel trucks and haulers, crawler type shovels, hoes and dozers;

(q) linear property used exclusively for farming operations;

(r) linear property forming part of a rural gas distribution system and gas conveyance pipelines situated in a rural municipality where that linear property is owned by a municipality or a rural gas co-operative association organized under the *Rural Utilities Act*, but not including gas conveyance pipelines owned by rural gas co-operative associations,

(i) from the regulating and metering station to an industrial customer consuming more than 10 000 gigajoules of gas during any period that starts on November 1 in one year and ends on October 31 in the next year and that precedes the year in which the assessment for those pipelines is to be used for the purpose of imposing a tax under Part 10, or

(ii) that serve or deliver gas to

(A) a city, town, village, summer village or hamlet, or

(B) an urban service area as defined in an order creating a specialized municipality

that has a population of more than 500 people;

(r.1) linear property forming part of a rural gas distribution system where that gas distribution system is subject to a franchise area approval under the *Gas Distribution Act*;

(s) cairns and monuments;

(t) property in Indian reserves;

(u) property in Metis settlements;

(v) minerals;

(w) growing crops;

(x) the following improvements owned or leased by a regional airports authority created under section 5(2) of the *Regional Airports Authorities Act*:

(i) runways;

(ii) paving;

(iii) roads and sidewalks;

(iv) reservoirs;

(v) water and sewer lines;

(vi) fencing;

(vii) conveyor belts, cranes, weigh scales, loading bridges and machinery and equipment;

(viii) pole lines, transmission lines, light standards and unenclosed communications towers;

(y) farm buildings, except to the extent prescribed in the regulations;

(z) machinery and equipment, except to the extent prescribed in the regulations;

(aa) designated manufactured homes held in storage and forming part of the inventory of a manufacturer of or dealer in designated manufactured homes;

(bb) travel trailers that are

(i) not connected to any utility services provided by a public utility, and

(ii) not attached or connected to any structure;

(cc) linear property in the extended area network that is used for SuperNet purposes.

(2) In subsection (1)(r)(i), "industrial customer" means a customer that operates a factory, plant, works or industrial process related to manufacturing and processing.

(3) Despite subsection (1)(cc), where linear property referred to in that provision is used for business, the linear property is, subject to the regulations, assessable to the extent the linear property is used for business.

RSA 2000 cM-26 s298;2005 c14 s4;2015 c8 s42

Access to municipal assessment record

299(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive information prescribed by the regulations that is in the municipal assessor's possession at the time of the request, showing how the municipal assessor prepared the assessment of that person's property.

(2) Subject to subsection (3) and the regulations, the municipality must comply with a request under subsection (1).

(3) Where a complaint is filed under section 461 by the person assessed in respect of property, a municipality is not obligated to respond to a request by that person for information under this section in respect of an assessment of that property until the complaint has been heard and decided by an assessment review board.

(4) Subsection (3) does not apply if the request for information is in respect of an amended assessment and the amended assessment notice was issued during the complaint period.

RSA 2000 cM-26 s299;2009 c29 s5;2016 c24 s30;2017 c13 s2(8)

Access to provincial assessment record

299.1(1) An assessed person may ask the provincial assessor, in the manner required by the provincial assessor, to let the assessed

person see or receive information prescribed by the regulations in the provincial assessor's possession at the time of the request, showing how the provincial assessor prepared the assessment of that person's designated industrial property.

(2) Subject to subsection (3) and the regulations, the provincial assessor must comply with a request under subsection (1).

(3) Where a complaint described in section 492(1) is filed under section 491(1) by the person assessed in respect of designated industrial property, the provincial assessor is not obligated to respond to a request by that person for information under this section in respect of an assessment of that designated industrial property until the complaint has been heard and decided by the Land and Property Rights Tribunal.

(4) Subsection (3) does not apply if the request for information is in respect of an amended assessment and the amended assessment notice was issued during the complaint period.

2016 c24 s30;2017 c13 s2(8);2020 cL-2.3 s24(41)

Municipal access to provincial assessment record

299.2(1) A municipality may ask the provincial assessor, in the manner required by the provincial assessor, to let the municipality see or receive information in the provincial assessor's possession at the time of the request, showing how the provincial assessor prepared the assessment of designated industrial property in the municipality.

(2) Subject to subsection (3) and the regulations, the provincial assessor must comply with a request under subsection (1).

(3) Where a complaint described in section 492(1) is filed under section 491(1) by a municipality in respect of designated industrial property, the provincial assessor is not obligated to respond to a request by that municipality for information under this section in respect of an assessment of that designated industrial property until the complaint has been heard and decided by the Land and Property Rights Tribunal.

(4) Subsection (3) does not apply if the request for information is in respect of an amended assessment and the amended assessment notice was issued during the complaint period.

(5) Information obtained by a municipality under this section must be used only for assessment purposes and must not be disclosed except at the hearing of a complaint before the Land and Property Rights Tribunal.

2016 c24 s30;2017 c13 s2(8);2020 cL-2.3 s24(41)

Access to summary of municipal assessment

300(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive a summary of the most recent assessment of any assessed property in the municipality of which the assessed person is not the owner.

(2) For the purposes of subsection (1), a summary of the most recent assessment must include the following information that is in the municipal assessor's possession or under the municipal assessor's control at the time of the request:

(a) a description of the parcel of land and any improvements, to identify the type and use of the property;

(b) the size and measurements of the parcel of land;

(c) the age and size or measurement of any improvements;

(d) the key attributes of any improvements to the parcel of land;

(e) the assessed value and any adjustments to the assessed value of the parcel of land;

(f) any other information prescribed or otherwise described in the regulations.

(3) The municipality must, in accordance with the regulations, comply with a request under subsection (1) if it is satisfied that necessary confidentiality will not be breached.

RSA 2000 cM-26 s300;2009 c29 s6;2016 c24 s31

Access to summary of provincial assessment

300.1(1) An assessed person may ask the provincial assessor, in the manner required by the provincial assessor, to let the assessed person see or receive a summary of the most recent assessment of any assessed designated industrial property of which the assessed person is not the owner or operator.

(2) For the purposes of subsection (1), a summary of the most recent assessment must include the following information that is in the provincial assessor's possession or under the provincial assessor's control at the time of the request:

(a) a description of the designated industrial property;

(b) the assessed value associated with the designated industrial property;

(c) any other information prescribed or otherwise described in the regulations.

(3) The provincial assessor must, in accordance with the regulations, comply with a request under subsection (1) if the provincial assessor is satisfied that necessary confidentiality will not be breached.

2016 c24 s31

Right to release assessment information

301(1) A municipality may provide information in its possession about assessments if it is satisfied that necessary confidentiality will not be breached.

(2) The provincial assessor may provide information that is in the provincial assessor's possession about assessments if the provincial assessor is satisfied that necessary confidentiality will not be breached.

RSA 2000 cM-26 s301;2016 c24 s32

Relationship to Freedom of Information and Protection of Privacy Act

301.1 Sections 299 to 301 prevail despite the *Freedom of Information and Protection of Privacy Act*.

1994 cM-26.1 s738

Division 2
Assessment Roll

Preparation of roll

302(1) Each municipality must prepare annually, not later than February 28, an assessment roll for assessed property in the municipality other than designated industrial property.

(2) The provincial assessor must prepare annually, not later than February 28, an assessment roll for assessed designated industrial property.

(3) The provincial assessor must provide to each municipality a copy of that portion of the provincial assessment roll that relates to the designated industrial property situated in the municipality.

RSA 2000 cM-26 s302;2005 c14 s5;2016 c24 s33

Contents of roll

303 The assessment roll prepared by a municipality must show, for each assessed property, the following:

(a) a description sufficient to identify the location of the property;

(b) the name and mailing address of the assessed person;

(c) whether the property is a parcel of land, an improvement or a parcel of land and the improvements to it;

(d) if the property is an improvement, a description showing the type of improvement;

(e) the assessment;

(f) the assessment class or classes;

(f.1) repealed 2017 c13 s1(22);

(g) whether the property is assessable for public school purposes or separate school purposes, if notice has been given to the municipality under section 147 or 148 of the *Education Act*;

(g.1) repealed 2016 c24 s34;

(h) if the property is fully or partially exempt from taxation under Part 10, a notation of that fact;

(h.1) if a deferral of the collection of tax under section 364.1 or 364.2 is in effect for the property, a notation of that fact;

(i) any other information considered appropriate by the municipality or required by the Minister, as the case may be.

RSA 2000 cM-26 s303;2002 c19 s7;2005 c14 s6;
2012 cE-0.3 s279;2016 c24 s34;2017 c13 s1(22);
2019 c6 s3

Contents of provincial assessment roll

303.1 The provincial assessment roll must show, for each assessed designated industrial property, the following:

(a) a description of the type of designated industrial property;

(b) a description sufficient to identify the location of the designated industrial property;

(c) the name and mailing address of the assessed person;

(d) the assessment;

(e) the assessment class or classes;

(f) repealed 2017 c13 s2(9);

(g) whether the designated industrial property is assessable for public school purposes or separate school purposes, if notice has been given to the municipality under section 147 or 148 of the *Education Act*;

(h) if the designated industrial property is exempt from taxation under Part 10, a notation of that fact;

(h.1) if a deferral of the collection of tax under section 364.2 is in effect for the property, a notation of that fact;

(i) any other information considered appropriate by the provincial assessor.

2012 cE-0.3 s279;2016 c24 s35;2017 c13 s2(9);2019 c6 s4

Recording assessed persons

304(1) The name of the person described in column 2 must be recorded on the assessment roll as the assessed person in respect of the assessed property described in column 1.

	Column 1 Assessed property		Column 2 Assessed person
(a)	a parcel of land, unless otherwise dealt with in this subsection;	(a)	the owner of the parcel of land;
(b)	a parcel of land and the improvements to it, unless otherwise dealt with in this subsection;	(b)	the owner of the parcel of land;
(c)	a parcel of land, an improvement or a parcel of land and the improvements to it held under a lease, licence or permit from the Crown in right of Alberta or Canada or a municipality;	(c)	the holder of the lease, licence or permit or, in the case of a parcel of land or a parcel of land and the improvements to it, the person who occupies the land with the consent of that holder or, if the land that was the subject of a lease, licence or permit has been sold under an agreement for sale, the purchaser under that agreement;

	Column 1 Assessed property		Column 2 Assessed person
(d)	a parcel of land forming part of the station grounds of, or of a right of way for, a railway other than railway property, or a right of way for, irrigation works as defined in the *Irrigation Districts Act* or drainage works as defined in the *Drainage Districts Act*, that is held under a lease, licence or permit from the person who operates the railway, or from the irrigation district or the board of trustees of the drainage district;	(d)	the holder of the lease, licence or permit or the person who occupies the land with the consent of that holder;
(d.1)	railway property;	(d.1)	the owner of the railway property;
(e)	a parcel of land and the improvements to it held under a lease, licence or permit from a regional airports authority, where the land and improvements are used in connection with the operation of an airport;	(e)	the holder of the lease, licence or permit or the person who occupies the land with the consent of that holder;
(f)	a parcel of land, or a part of a parcel of land, and the improvements to it held under a lease, licence or permit from the owner of the land where the land and the improvements are used for	(f)	the holder of the lease, licence or permit;

	Column 1 Assessed property	Column 2 Assessed person
	(i) drilling, treating, separating, refining or processing of natural gas, oil, coal, salt, brine or any combination, product or by-product of any of them,	
	(ii) pipeline pumping or compressing, or	
	(iii) working, excavating, transporting or storing any minerals in or under the land referred to in the lease, licence or permit or under land in the vicinity of that land.	
(g)	machinery and equipment used in the excavation or transportation of coal or oil sands as defined in the *Oil Sands Conservation Act*;	(g) the owner of the machinery and equipment;
(h)	improvements to a parcel of land listed in section 298 for which no assessment is to be prepared;	(h) the person who owns or has exclusive use of the improvements;
(i)	linear property;	(i) the operator of the linear property;

	Column 1 Assessed property	Column 2 Assessed person
(j)	a designated manufactured home on a site in a manufactured home community and any other improvements located on the site and owned or occupied by the person occupying the designated manufactured home;	(j) the owner of (i) the designated manufactured home, or (ii) the manufactured home community if the municipality passes a bylaw to that effect;
(k)	a designated manufactured home located on a parcel of land that is not owned by the owner of the designated manufactured home together with any other improvements located on the site that are owned or occupied by the person occupying the designated manufactured home.	(k) the owner of the designated manufactured home if the municipality passes a bylaw to that effect.

(2) When land is occupied under the authority of a right of entry order as defined in the *Surface Rights Act* or an order made under any other Act, it is, for the purposes of subsection (1), considered to be occupied under a lease or licence from the owner of the land.

(3) A person who purchases property or in any other manner becomes liable to be shown on the assessment roll as an assessed person

(a) must provide to the provincial assessor, in the case of designated industrial property, or

(b) must provide to the municipality, in the case of property other than designated industrial property,

written notice of a mailing address to which notices under this Part and Part 10 may be sent.

(4) Despite subsection (1)(c), no individual who occupies housing accommodation under a lease, licence or permit from a management body under the *Alberta Housing Act* is to be recorded

as an assessed person if the sole purpose of the lease, licence or permit is to provide housing accommodation for that individual.

(5) Repealed 2016 c24 s36.

(6) A bylaw passed under subsection (1)(j)(ii)

(a) must be advertised,

(b) has no effect until the beginning of the year commencing at least 12 months after the bylaw is passed,

(c) must indicate the criteria used to designate the assessed person, and

(d) may apply to one or more manufactured home communities.

(7) When a bylaw is passed under subsection (1)(j)(ii), the owner of the designated manufactured home is the assessed person for the purpose of making a complaint under section 460(1) relating to the designated manufactured home.

RSA 2000 cM-26 s304;2005 c14 s7;2008 c37 s3;
2016 c24 s36;2017 c13 s1(23)

Correction of roll

305(1) If it is discovered that there is an error, omission or misdescription in any of the information shown on the assessment roll,

(a) the assessor may correct the assessment roll for the current year only, and

(b) on correcting the roll, an amended assessment notice must be prepared and sent to the assessed person.

(1.1) Where an assessor corrects the assessment roll in respect of an assessment about which a complaint has been made, the assessor must send to the assessment review board or the Land and Property Rights Tribunal, as the case may be, no later than the time required by the regulations,

(a) a copy of the amended assessment notice, and

(b) a statement containing the following information:

(i) the reason for which the assessment roll was corrected;

(ii) what correction was made;

(iii) how the correction affected the amount of the assessment.

(1.2) Where the assessor sends a copy of an amended assessment notice under subsection (1.1) before the date of the hearing in respect of the complaint,

(a) the complaint is cancelled,

(b) the complainant's complaint fees must be returned, and

(c) the complainant has a new right of complaint in respect of the amended assessment notice.

(2) If it is discovered that no assessment has been prepared for a property and the property is not listed in section 298, an assessment for the current year only must be prepared and an assessment notice must be prepared and sent to the assessed person.

(3) If exempt property becomes taxable or taxable property becomes exempt under section 364.1, 364.2 or 368, the assessment roll must be corrected for the current year only and an amended assessment notice must be prepared and sent to the assessed person.

(3.1) If the collection of tax on property is deferred under section 364.1 or 364.2 or a deferral under one of those sections is cancelled, the assessment roll must be corrected and an amended assessment notice must be prepared and sent to the assessed person.

(4) The date of every entry made on the assessment roll under this section or section 477 or 517 must be shown on the roll.

(5), **(6)** Repealed 2016 c24 s37.

RSA 2000 cM-26 s305;2002 c19 s8;2009 c29 s7;2015 c8 s43; 2016 c24 s37;2017 c13 s1(24);2019 c6 s5;2020 cL-2.3 s24(41)

Report to Minister

305.1 If an assessment roll is corrected under section 305 or changed under section 477 or 517, the municipality must, in the form and within the time prescribed by the regulations, report the correction or change, as the case may be, to the Minister.

2002 c19 s9

Severability of roll

306 The fact that any information shown on the assessment roll contains an error, omission or misdescription does not invalidate any other information on the roll or the roll itself.

1994 cM-26.1 s306

Inspection of roll

307 Any person may inspect the municipal assessment roll during regular business hours on payment of the fee set by the council.

RSA 2000 cM-26 s307;2016 c24 s38

Division 3
Assessment Notices

Assessment notices

308(1) Each municipality must annually

(a) prepare assessment notices for all assessed property, other than designated industrial property, shown on the assessment roll referred to in section 302(1), and

(b) send the assessment notices to the assessed persons in accordance with the regulations.

(2) The provincial assessor must annually

(a) prepare assessment notices for all assessed designated industrial property shown on the provincial assessment roll,

(b) send the assessment notices to the assessed persons in accordance with the regulations, and

(c) send the municipality copies of the assessment notices.

(3) Repealed 2016 c24 s39.

(4) The assessment notice and the tax notice relating to the same property may be sent together or may be combined on one notice.

(5) Repealed 2016 c24 s39.

RSA 2000 cM-26 s308;2005 c14 s8;2016 c24 s39

Notice of assessment date

308.1(1) An assessor must annually set a notice of assessment date, which must be no earlier than January 1 and no later than July 1.

(2) An assessor must set additional notice of assessment dates for amended and supplementary assessment notices, but none of those notice of assessment dates may be later than the date that tax notices are required to be sent under Part 10.

2017 c13 s1(25)

Contents of assessment notice

309(1) An assessment notice or an amended assessment notice must show the following:

(a) the same information that is required to be shown on the assessment roll;

(b) the notice of assessment date;

(c) a statement that the assessed person may file a complaint not later than the complaint deadline;

(d) information respecting filing a complaint in accordance with the regulations.

(2) An assessment notice may be in respect of a number of assessed properties if the same person is the assessed person for all of them.

RSA 2000 cM-26 s309;2009 c29 s8; 2016 c24 s40;2017 c13 s2(10)

Sending assessment notices

310(1) Subject to subsections (1.1) and (3), assessment notices must be sent no later than July 1 of each year.

(1.1) An amended assessment notice must be sent no later than the date the tax notices are required to be sent under Part 10.

(2) If the mailing address of an assessed person is unknown,

(a) a copy of the assessment notice must be sent to the mailing address of the assessed property, and

(b) if the mailing address of the property is also unknown, the assessment notice must be retained by the municipality or the provincial assessor, as the case may be, and is deemed to have been sent to the assessed person.

(3) An assessment notice must be sent at least 7 days prior to the notice of assessment date.

(4) A designated officer must certify the date on which the assessment notice is sent.

(5) The certification of the date referred to in subsection (4) is evidence that the assessment notice has been sent.

RSA 2000 cM-26 s310;2009 c29 s9; 2016 c24 s41;2017 c13 s1(26)

Publication of notice

311(1) Each municipality must publish in one issue of a newspaper having general circulation in the municipality, or in any other manner considered appropriate by the municipality, a notice that the assessment notices have been sent.

(2) All assessed persons are deemed as a result of the publication referred to in subsection (1) to have received their assessment notices.

(3) The provincial assessor must publish in The Alberta Gazette a notice that the assessment notices in respect of designated industrial property have been sent.

(4) All assessed persons are deemed as a result of the publication referred to in subsection (3) to have received their assessment notices in respect of designated industrial property.

RSA 2000 cM-26 s311;2005 c14 s9;2016 c24 s42

Correction of notice

312 If it is discovered that there is an error, omission or misdescription in any of the information shown on an assessment notice, an amended assessment notice may be prepared and sent to the assessed person.

1994 cM-26.1 s312

Division 4
Preparation of Supplementary Assessments

Bylaw

313(1) If a municipality wishes to require the preparation of supplementary assessments for improvements, the council must pass a supplementary assessment bylaw authorizing the assessments to be prepared for the purpose of imposing a tax under Part 10 in the same year.

(2) A bylaw under subsection (1) must refer

(a) to all improvements, or

(b) to all designated manufactured homes in the municipality.

(3) A supplementary assessment bylaw or any amendment to it applies to the year in which it is passed, only if it is passed before May 1 of that year.

(4) A supplementary assessment bylaw must not authorize assessments to be prepared by the municipal assessor for designated industrial property.

RSA 2000 cM-26 s313;2016 c24 s135;2018 c11 s13

Supplementary assessment

314(1) The municipal assessor must prepare supplementary assessments for machinery and equipment used in manufacturing

and processing if those improvements are operational in the year in which they are to be taxed under Part 10.

(2) The municipal assessor must prepare supplementary assessments for other improvements if

(a) they are completed in the year in which they are to be taxed under Part 10,

(b) they are occupied during all or any part of the year in which they are to be taxed under Part 10, or

(c) they are moved into the municipality during the year in which they are to be taxed under Part 10 and they will not be taxed in that year by another municipality.

(2.1) The municipal assessor may prepare a supplementary assessment for a designated manufactured home that is moved into the municipality during the year in which it is to be taxed under Part 10 despite that the designated manufactured home will be taxed in that year by another municipality.

(3) A supplementary assessment must reflect

(a) the value of an improvement that has not been previously assessed, or

(b) the increase in the value of an improvement since it was last assessed.

(4) Supplementary assessments must be prepared in the same manner as assessments are prepared under Division 1, but must be prorated to reflect only the number of months during which the improvement is complete, occupied, located in the municipality or in operation, including the whole of the first month in which the improvement was completed, was occupied, was moved into the municipality or began to operate.

RSA 2000 cM-26 s314;2016 c24 s43

Supplementary assessment re designated industrial property

314.1(1) Subject to the regulations, the provincial assessor must prepare supplementary assessments for new designated industrial property that becomes operational after October 31 of the year prior to the year in which the designated industrial property is to be taxed under Part 10.

(2) Supplementary assessments must reflect the valuation standard set out in the regulations for designated industrial property.

(3) Subject to the regulations, supplementary assessments for designated industrial property must be prorated to reflect only the number of months, including the whole of the first month, during which the property is operational.

(4) Despite subsections (1) to (3),

(a) a supplementary assessment must be prepared only for designated industrial property that has not been previously assessed, and only when it becomes operational;

(b) a supplementary assessment must not be prepared in respect of designated industrial property that ceases to operate during the tax year.

2016 c24 s44

Supplementary assessment roll

315(1) Before the end of the year in which supplementary assessments are prepared, the municipality must prepare a supplementary assessment roll.

(2) Before the end of the year in which supplementary assessments are prepared, the provincial assessor must prepare a supplementary assessment roll for designated industrial property.

(3) A supplementary assessment roll must show, for each assessed improvement or designated industrial property, the following:

(a) the same information that is required to be shown on the assessment roll;

(b) in the case of an improvement, the date that the improvement

(i) was completed, occupied or moved into the municipality, or

(ii) became operational.

(4) Sections 304, 305, 306 and 307 apply in respect of a supplementary assessment roll.

(5) The provincial assessor must provide a copy of the supplementary assessment roll for designated industrial property to the municipality.

RSA 2000 cM-26 s315;2016 c24 s45

Supplementary assessment notices

316(1) Before the end of the year in which supplementary assessments are prepared other than for designated industrial property, the municipality must

(a) prepare a supplementary assessment notice for every assessed improvement shown on the supplementary assessment roll referred to in section 315(1), and

(b) send the supplementary assessment notices to the assessed persons.

(2) Before the end of the year in which supplementary assessments for designated industrial property are prepared, the provincial assessor must

(a) prepare supplementary assessment notices for all assessed designated industrial property shown on the supplementary assessment roll referred to in section 315(2),

(b) send the supplementary assessment notices to the assessed persons in accordance with the regulations, and

(c) send the municipality copies of the supplementary assessment notices.

RSA 2000 cM-26 s316;2009 c29 s10;2016 c24 s45

Contents of supplementary assessment notice

316.1(1) A supplementary assessment notice must show, for each assessed improvement, the following:

(a) the same information that is required to be shown on the supplementary assessment roll;

(b) the notice of assessment date;

(c) a statement that the assessed person may file a complaint not later than the complaint deadline;

(d) information respecting filing a complaint in accordance with the regulations.

(2) Sections 308(2), 309(2), 310(1.1) and (3) and 312 apply in respect of supplementary assessment notices.

2016 c24 s45;2017 c13 s2(11)

Quorum

458(1) Where a panel of a local assessment review board consists of 3 members, a quorum is 2 members.

(2) Where a panel of a composite assessment review board consists of 3 members, a quorum is 2 members, one of whom must be the provincial member.

2016 c24 s62

Decision

459 A decision of a panel of an assessment review board is the decision of the assessment review board.

2016 c24 s62

Complaints

460(1) A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.

(2) A complaint must be in the form prescribed in the regulations and must be accompanied with the fee set by the council under section 481(1), if any.

(3) A complaint may be made only by an assessed person or a taxpayer.

(4) A complaint may relate to any assessed property or business.

(5) A complaint may be about any of the following matters, as shown on an assessment or tax notice:

(a) the description of a property or business;

(b) the name and mailing address of an assessed person or taxpayer;

(c) an assessment;

(d) an assessment class;

(e) an assessment sub-class;

(f) the type of property;

(g) the type of improvement;

(h) school support;

(i) whether the property is assessable;

(j) whether the property or business is exempt from taxation under Part 10;

(k) any extent to which the property is exempt from taxation under a bylaw under section 364.1;

(l) whether the collection of tax on the property is deferred under a bylaw under section 364.1.

(6) A complaint may be made about a designated officer's refusal to grant an exemption or deferral under a bylaw under section 364.1.

(7) Despite subsection (5)(j),

(a) there is no right to make a complaint about an exemption or deferral given by agreement under section 364.1(11) unless the agreement expressly provides for that right, and

(b) there is no right to make a complaint about a decision made under a bylaw under section 364.2 in respect of an exemption or deferral.

(8) There is no right to make a complaint about any tax rate.

(9) A complaint under subsection (5) must

(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.

(10) A complaint about a local improvement tax must be made within one year after it is first imposed.

(11) Despite subsection (10), where a local improvement tax rate has been revised under section 403(3), a complaint may be made about the revised local improvement tax whether or not a complaint was made about the tax within the year after it was first imposed.

(12) A complaint under subsection (11) must be made within one year after the local improvement tax rate is revised.

(13) A complaint must include the mailing address of the complainant except where, in the case of a complaint under

subsection (5), the correct mailing address of the complainant is shown on the assessment notice or tax notice.

(14) An assessment review board has no jurisdiction to deal with a complaint about designated industrial property or an amount prepared by the Minister under Part 9 as the equalized assessment for a municipality.

(15) An assessment review board has no jurisdiction to deal with a complaint about any matter relating to an exemption or deferral under section 364.2, including a refusal to grant an exemption or deferral or a cancellation of an exemption or deferral under that section.

2016 c24 s62;2019 c6 s8

Jurisdiction of assessment review boards

460.1(1) A local assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on

(a) an assessment notice for

(i) residential property with 3 or fewer dwelling units, or

(ii) farm land,

or

(b) a tax notice other than a property tax notice, business tax notice or improvement tax notice.

(2) Subject to section 460(14) and (15), a composite assessment review board has jurisdiction to hear complaints about

(a) any matter referred to in section 460(5) that is shown on

(i) an assessment notice for property other than property described in subsection (1)(a), or

(ii) a business tax notice or an improvement tax notice,

or

(b) a designated officer's decision to refuse to grant an exemption or deferral under section 364.1.

(3) In this section, a reference to "improvement tax" includes a business improvement area tax in Part 10, Division 4 and a local improvement tax in Part 10, Division 7.

2016 c24 s62;2017 c22 s37;2019 c6 s9

Address to which a complaint is sent

461(1) A complaint must be filed with the assessment review board at the address shown on the assessment or tax notice for the property

(a) in the case of a complaint about a designated officer's decision to refuse to grant an exemption or deferral under section 364.1, not later than the date stated on the written notice of refusal under section 364.1(9), or

(b) in any other case, not later than the complaint deadline.

(1.1) A complaint filed after the complaint deadline is invalid.

(2) The applicable filing fee must be paid when a complaint is filed.

(3) On receiving a complaint, the clerk must set a date, time and location for a hearing before an assessment review board in accordance with the regulations.

2016 c24 s62;2017 c13 s2(13)

Notice of assessment review board hearing

462(1) If a complaint is to be heard by a local assessment review board, the clerk must

(a) within 30 days after receiving the complaint, provide the municipality with a copy of the complaint, and

(b) within the time prescribed by the regulations, notify the municipality, the complainant and any assessed person other than the complainant who is directly affected by the complaint of the date, time and location of the hearing.

(2) If a complaint is to be heard by a composite assessment review board, the clerk must

(a) within 30 days after receiving the complaint, provide the municipality with a copy of the complaint, and

(b) within the time prescribed by the regulations, notify the Minister, the municipality, the complainant and any assessed person other than the complainant who is directly affected by the complaint of the date, time and location of the hearing.

2016 c24 s62

Absence from hearing

463 If any person who is given notice of the hearing does not attend, the assessment review board must proceed to deal with the complaint if

(a) all persons required to be notified were given notice of the hearing, and

(b) no request for a postponement or an adjournment was received by the board or, if a request was received, no postponement or adjournment was granted by the board.

2016 c24 s62

Proceedings before assessment review board

464(1) Assessment review boards are not bound by the rules of evidence or any other law applicable to court proceedings and have power to determine the admissibility, relevance and weight of any evidence.

(2) Assessment review boards may require any person giving evidence before them to do so under oath.

(3) Members of assessment review boards, including provincial members of panels of composite assessment review boards, are commissioners for oaths while acting in their official capacities.

2016 c24 s62

Hearings open to public

464.1(1) Subject to subsections (2) and (3), all hearings by an assessment review board are open to the public.

(2) If an assessment review board considers it necessary to prevent the disclosure of intimate personal, financial or commercial matters or other matters because, in the circumstances, the need to protect the confidentiality of those matters outweighs the desirability of an open hearing, the assessment review board may conduct all or part of the hearing in private.

(3) If all or any part of a hearing is to be held in private, no party may attend the hearing unless the party files an undertaking stating that the party will hold in confidence any evidence heard in private.

(4) Subject to subsection (5), all documents filed in respect of a matter before an assessment review board must be placed on the public record.

(5) An assessment review board may exclude a document from the public record

(a) if the assessment review board is of the opinion that disclosure of the document could reasonably be expected to disclose intimate personal, financial or commercial matters or other matters, and

(b) the assessment review board considers that a person's interest in confidentiality outweighs the public interest in the disclosure of the document.

(6) Nothing in this section limits the operation of any statutory provision that protects the confidentiality of information or documents.

2016 c24 s62

Notice to attend or produce

465(1) If, in the opinion of an assessment review board hearing a complaint,

(a) the attendance of a person, or

(b) the production of a document or thing,

is required for the purpose of the hearing, the board may, on application, cause a notice to be served on a person requiring a person to attend or to attend and produce the document or thing.

(2) An application under subsection (1) must be made in accordance with the regulations made under section 484.1(n.1).

(3) If a person fails or refuses to comply with a notice served under subsection (1), the assessment review board may apply to the Court of King's Bench and the Court may issue a warrant requiring the attendance of the person or the attendance of the person to produce a document or thing.

2016 c24 s62;AR 217/2022

Protection of witnesses

466 A witness may be examined under oath on anything relevant to a matter that is before an assessment review board and is not excused from answering any question on the ground that the answer might tend to

(a) incriminate the witness,

(b) subject the witness to punishment under this or any other Act, or

(c) establish liability of the witness

(i) to a civil proceeding at the instance of the Crown or of any other person, or

(ii) to prosecution under any Act,

but if the answer so given tends to incriminate the witness, subject the witness to punishment or establish liability of the witness, it must not be used or received against the witness in any civil proceedings or in any other proceedings under this or any other Act, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

2016 c24 s62

Division 2
Decisions of Assessment Review Boards

Decisions of assessment review board

467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

(1.1) For greater certainty, the power to make a change under subsection (1) includes the power to increase or decrease an assessed value shown on an assessment roll or tax roll.

(2) An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 460(9).

(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

(a) the valuation and other standards set out in the regulations,

(b) the procedures set out in the regulations, and

(c) the assessments of similar property or businesses in the same municipality.

(4) An assessment review board must not alter any assessment of farm land, machinery and equipment or railway property that has been prepared correctly in accordance with the regulations.

RSA 2000 cM-26 s467;2009 c29 s24;2018 c11 s13; 2019 c22 s10(15)

Appeal to composite assessment review board

467.1 A complaint about a designated officer's decision to refuse to grant an exemption or deferral under section 364.1 is an appeal of the decision and a composite assessment review board may, after

hearing the complaint, confirm the designated officer's decision or replace it with the board's decision.

2016 c24 s63

Assessment review board decisions

468(1) Subject to the regulations, an assessment review board must, in writing, render a decision and provide reasons, including any dissenting reasons,

(a) within 30 days from the last day of the hearing, or

(b) before the end of the taxation year to which the complaint that is the subject of the hearing applies,

whichever is earlier.

(2) Despite subsection (1), in the case of a complaint about a supplementary assessment notice, an amended assessment notice or any tax notice other than a property tax notice, an assessment review board must render its decision in writing in accordance with the regulations.

RSA 2000 cM-26 s468;2009 c29 s25

Costs of proceedings

468.1 A composite assessment review board may, or in the circumstances set out in the regulations must, order that costs of and incidental to any hearing before it be paid by one or more of the parties in the amount specified in the regulations.

2009 c29 s26

Effect of order relating to costs

468.2 An order of the composite assessment review board under section 468.1 may be registered in the Personal Property Registry and at any land titles office and, on registration, has the same effect as if it were a registered writ of enforcement issued after judgment has been entered in an action by the Court of King's Bench.

2009 c29 s26;AR 217/2022

Notice of decision

469 The clerk must, within 7 days after an assessment review board renders a decision, send the board's written decision and reasons, including any dissenting reasons, to the persons notified of the hearing under section 462(1)(b) or (2)(b), as the case may be.

RSA 2000 cM-26 s469;2009 c29 s27;2016 c24 s64

Judicial review

470(1) Where a decision of an assessment review board is the subject of an application for judicial review, the application must be filed with the Court of King's Bench and served not more than 60 days after the date of the decision.

The Town of Okotoks vs. Walmart Canada Corp 5708

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/01/2012-J

IN THE MATTER OF A COMPLAINT filed with the Town of Okotoks Composite Assessment Review Board (CARB) pursuant to the Municipal Government Act, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the *Act.*)

BETWEEN:

The Town of Okotoks, Complainant

- and -

Walmart Canada Corp 5708 (as represented by AEC International), Respondent

BEFORE:

T. Helgeson, Presiding Officer

A preliminary hearing was held on the 9th day of August, 2012 at the Okotoks Municipal Centre Council Chamber to consider a jurisdictional matter with respect to the validity of the complaint filed against the following property tax roll number:

Roll Number	**Address**
Roll Number 0058260	**500 201 Southridge Drive, Okotoks**

Appearing on behalf of the Complainant:
- P. Huskinson, Assessor

Appearing on behalf of the Respondent:
- A. Kiegler, Agent, AEC International

Attending for the ARB:
- L. Turnbull, ARB Clerk

Background:

Submissions of the Complainant

[1] At the commencement of the hearing, Mr. Paul Huskinson, assessor for the Complainant, proceeded with his submissions. Mr. Huskinson informed the Composite Assessment Review Board ("the Board") that the 2012 assessment notices had been

mailed on March 12, 2012, and that pursuant to section 311(1) of the *Municipal Government Act* ("the *Act*") advertisements had been placed in the local newspaper, the Okotoks Western Wheel, on March 7, notifying property owners that Assessment Notices would be mailed the week of March 12.

[2] Mr. Huskinson states that the *Act* is clear with respect to the requirements for filing a complaint, i.e., that the use of the word "must" in the legislation indicates a mandatory obligation and requirement for providing documents to the Assessment Review Board ("ARB"). Mr. Huskinson went on to inform the Board that the ARB had received an e-mail message from the Respondent at 4:28 p.m. on Friday, May 11, advising that a representative of the Respondent had attended at the Okotoks Municipal Centre prior to 4:00 p.m. on May 11, only to find that the doors were locked, and there was no-one at the reception area.

[3] Mr. Huskinson said that there are six video cameras in and around the building, that the video record had been reviewed, and it showed a staff member at the reception area after 4:00 p.m. and customers entering and exiting the building. Mr. Huskinson went on to inform the Board that even if the doors of the Municipal Centre had been closed and locked, there was an after-hours drop-box at the front entrance, and a doorbell at the rear entrance by which staff could be alerted that someone was outside the building.

[4] Section 467(2) of the *Act* was then cited by Mr. Huskinson, as follows:

> *(2) An assessment review board must dismiss a complaint that was not made within the proper time frame or that does not comply with section 460(7).*

Mr. Huskinson noted that the matter of late complaints had been before the Board previously, were found to be invalid and dismissed, and cited the decision in CARB – 0203 – 0001/2012.

Submissions of the Respondent

[5] Ms. Anna Kiegler appeared on behalf of the tax agent for the Respondent AEC International Inc. ("AEC"). Ms. Kiegler informed the Board that when she arrived at the Okotoks Municipal Centre a few minutes before 4:00 p.m. on Friday, May 11, 2012, she found the doors locked, the lights off, and no one at the counter, but she did notice someone leaving the building. Ms. Kiegler then phoned AEC and requested that a copy of the complaint be e-mailed immediately to the Okotoks ARB, along with a message informing the ARB that the cheque in payment for the filing of the complaint would be delivered first thing Monday morning.

[6] Ms. Kiegler told the Board that the e-mail with complaint documents attached was sent at 4:28 p.m. on May 11 to two e-mail addresses: *Phuskinson@okotoks.ca* and *arb@okotoks.ca*. At 8:30 a.m. on Monday, May 14, Ms. Kiegler arrived at the Okotoks Municipal Building to deliver the complaint in hardcopy and the cheque. Both the complaint documents and the cheque were accepted. Ms. Kiegler said that while she was at the Municipal Building, the receptionist told her that the doors of the Municipal Building had closed early on Friday, and that complaints could have been dropped off until Saturday by putting them in the drop-box.

[7] On Monday, May 14, Ms. Kiegler received an e-mail from Ms. Linda Turnbull, Municipal Secretary and ARB Clerk, confirming receipt of the e-mail and the complaint documents, and on May 23, Ms. Turnbull e-mailed Ms. Kiegler advising that a jurisdictional hearing would be scheduled.

[8] Ms. Kiegler submitted that there was no intent to abuse the process, but simply a series of unforeseen circumstances that led up to the filing of the complaint. Ms. Kiegler informed the Board that the procedures for preparation of appeals and the filing of complaints are administratively cumbersome, and differ with each municipality in Alberta, Ms. Kiegler went on to express her opinion that the complaint process has become overly complicated.

[9] Ms. Kiegler submitted that the slight delay in filing the complaint was a minor breach of the deadline that did not result in prejudice to the Respondent. It was simply a matter of being a few minutes late in filing on a Friday afternoon.

[10] Ms. Kiegler cited the decision in *Boardwalk Reit LLP* v. *Edmonton (City),* 2008 ABCA, noting that the removal of a party's right to complain is a drastic consequence of a minor defect, and went on to submit that reasonableness, fairness and natural justice should apply in the present case. In her closing submission, Ms. Kiegler said that the discretion of the ARB should not be used to render an appeal invalid on a technical basis.

Issues:

1. Was the complaint sent electronically to the Okotoks Municipal Centre at 4:28 p.m. on May 11, 2012, valid as filed?

2. Does an ARB have discretion to extend the time for filing a complaint?

3. What is the correct time period for filing a complaint after an assessment notice has been sent?

Legislative Authority:

[11] Several decisions of the MGB and ARBs were submitted during the hearing, as was the decision of the Alberta Court of Appeal in *Boardwalk Reit LLP* v. *Edmonton (City)*. The MGB decision with the case name *Various Assessed Persons* v. *Calgary (City)* and MGB decision 105/09 deals with the requirement to file an issue statement pursuant to the *Assessment Complaints and Appeals Regulation*, a regulation that is no longer in effect. These decisions have no application to the present case.

[12] The decision in ARB 0830/2010 is a recent decision, but deals with the timing of disclosure of evidence, not the time for filing a complaint. The decision of the Alberta Court of Appeal in *Boardwalk Reit LLP* v. *Edmonton (City)* is with respect to exchange of information, not the filing of a complaint. Neither of these decisions is relevant to the present case.

[13] The only relevant decision, CARB – 0203-0001/2012, is a recent decision of the Lethbridge CARB. In that decision, the CARB found that the Composite Assessment Review Board does not have jurisdiction to extend the deadline for filing complaints. The case is on point, but the definitive case with respect to filing a complaint is a recent decision of the Court of Queen's Bench cited as *Edmonton (City)* v. *Assessment Review Board of the City of Edmonton*, 2012 ABQB 399. Commonly referred to as the *Wood* decision, it deals with a decision of the Assessment Review Board of the City of Edmonton, and in it Justice Hillier comments extensively on ss. 309(1)(c), 461(1) and 467(2) of the *Act*.

[14] The facts of the *Wood* case are as follows. On January 4, 2011, The City of Edmonton mailed the assessment notices to property owners, including Mr. Wood. Enclosed with the assessment notice was a complaint form, at the bottom of which was a notice in bold letters stating "Your completed complaint form and any supporting attachments, the agent authorization form, and the prescribed filing fee of $50.00 must be submitted no later than March 14 . . . "

[15] Mr. Wood mailed his complaint on March 8, and it was received 11 clear days later on Monday, March 21, 2011. In its decision, the Assessment Review Board held that Mr. Wood's intent was to file his complaint by the filing deadline, but was unable to do so due to circumstances beyond his control, and that to deny Mr. Wood a hearing would be a denial of natural justice.

[16] Justice Hillier had this to say about the decision of the ARB:

> 77. The ARB did not expressly consider the fact that Wood, latterly faced with a tight deadline, might have delivered the complaint by way of courier, personal delivery or electronic filing. He also might have mailed it by way of priority post, Xpresspost or

registered mail. All of these means of delivery would have provided him with more control by guaranteeing delivery within a certain time and enabling him to obtain delivery confirmation.

78. There was no evidence to the effect that Wood was precluded for any reason from delivering the complaint by one or more of these alternative means so as to ensure compliance with the instructions in the Notice. In the end, he chose a means of delivery which was not only uncertain in terms of timing, but which also left him with no documentation to support his argument that Canada Post could not possibly have taken 12 days to deliver the complaint.

79. I find that the ARB's conclusion was unreasonable. The ARB is required by the MGA to dismiss out of time complaints. The ARB concluded that a denial of natural justice would result from applying the statutory deadline to Wood's complaint. Wood had 69 days within which to file his complaint and chose to use the regular mail system several working days prior to the deadline. Even assuming the ARB might extend a deadline for reasons of natural justice in very exceptional cases, it unreasonably concluded that the circumstances in this case were beyond Wood's control so as to provide the ARB with discretion not to dismiss the complaint. (Emphasis added)

[17] In the result, Justice Hillier "cancelled" the decision of the ARB, saying that the ARB lacked authority "other than to dismiss the complaint under s. 467(2)."

[18] In the case at hand, there is conflicting evidence with respect to whether Ms. Kiegler was present at the Municipal Building a few minutes before 4:00 p.m. on Friday, May 11, 2012. Nevertheless, that the complaint documents and a copy of a cheque were e-mailed to both Mr. Huskinson and Ms. Turnbull at 4:28 p.m. on May 11th is not disputed. The question that arises is whether the delivery of a complaint by e-mail constitutes effective filing of a complaint.

[19] Because the date on the assessment notice did not stipulate that a complaint must be filed before 4:00 p.m. on May 11, the Respondent was at liberty to file the complaint until midnight on May 11. Also, since there was nothing in the assessment notice that stated that a complaint could be filed by placing it in the drop-box at the Municipal Centre after hours, the Board finds that filing the complaint by e-mail was a reasonable and effective way to meet the deadline. However, s. 2 of *the Matters Relating to Assessment Complaints* regulation ("*MRAC*") provides:

2(1) 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 complaint fee set out in Schedule 2 at the time the complaint is filed if, in accordance with section 481 of the Act, a fee is required by council. (Emphasis added)

(2) If a complainant does not comply with subsection (1)

(a) the complaint is invalid, and

(b) the assessment review board must dismiss the complaint.

[20] Obviously, sending a cheque by e-mail is effective only for the purpose of indicating that payment will be made at some time in the future, not at the time of filing the complaint, hence the filing of the complaint by e-mail, though timely, is not valid under s. 2(1)(a) of *MRAC*.

[21] As it happens, in the *Wood* case, Justice Hillier has something to say about the time period for filing a complaint, i.e.,

5. From the evidence as I will review shortly, two points deserve immediate notation:

i) It is clear that Mr. Wood objected to his assessment, sought to discuss it, then mailed the complaint before the deadline and was unaware of any specific delay in postal delivery;

ii) on the other hand, the City did all it was required to do in setting the deadline to include the required sixty days plus the period for deemed mail delivery to property owners as set by the *Interpretation Act*, RSA 2000, c I-8 and giving notice that failure *to* meet the filing deadline would invalidate a complaint. (Emphasis added)

and further:

56. The deadline by which the complaint must be made is set by the municipality. It must be prescribed in the assessment notice as a date 60 days after the deemed receipt of Notice by the owner. There is no dispute that the March 14 deadline meets this requirement derived from s. 309(1); to that extent, I agree with the ARB that not much else turns on the interpretation of that particular section. (Emphasis added)

[22] Section 23 of the *Interpretation Act*, RSA 2000, c I-8, is as follows:

23(1) If an enactment authorizes or requires a document to be sent, given or served by mail and the document is properly addressed and sent by prepaid mail other than

> double registered or certified mail, unless the contrary is proved the service shall be presumed to be effected
>
> (a) 7 days from the date of mailing if the document is mailed in Alberta to an address in Alberta, or
>
> (b) subject to clause (a), 14 days from the date of mailing if the document is mailed in Canada to an address in Canada.

[23] There is no evidence before the Board that the assessment notice was sent to the Respondent by other than regular mail. Nevertheless, before going any further, s. 284(3) of the *Act* must be addressed. Section 284(3) is a relatively new provision, and is set forth below:

> (3) For the purposes of this Part and Parts 10, 11 and 12, any document, including an assessment notice and a tax notice, that is required to be sent to a person is deemed to be sent on the day the document is mailed or otherwise delivered to that person. (Emphasis added)

What does "mailed or otherwise delivered" mean? "Deliver" is defined in the *Canadian Oxford Dictionary*, 2nd ed as follows: "**a.** distribute (letters, parcels, ordered goods, etc.) to the addressee or the purchaser, **b.** hand over (delivered the boy safely to his teacher) . . .

[24] Clearly, "mailed or otherwise delivered" in s. 284(3) implies that the day the assessment notice or tax notice is deemed to be sent is the day it is *delivered* by mail or otherwise. If the legislature intended that an assessment notice or tax notice sent by mail was to be deemed to be received by the recipient on the day it was mailed, they could have stated that intention in plain language in s. 284(3). In *Wood*, Justice Hillier had this to say about sending and receiving documents:

> 67. The Court in *Calgary (City of) v Municipal Government Board*, 2004 ABQB 85, 353 AR 332 concluded that the term "sent" in the earlier wording of s. 309 to begin the appeal period meant sent and received. In support of this interpretation, the Court relied on the reasoning in *Switzer's Investments Ltd v Calgary (City)*, [1999] AJ No 1662, citing *Bowen v Council of City of Edmonton* (1977), 2 Alta LR (2d) 112, 3 AR 63 (CA) wherein a 30 day limitation period for appeal did not begin to run until the decision in writing was communicated to the affected party. The reasoning that an appeal period cannot properly begin to run until receipt of the decision to be reviewed, or at minimum the 7 days deemed by s. 23 of the Interpretation Act is entirely logical. (Emphasis added)

[25] The case cited above by Justice Hillier, *Calgary (City of)* v. *Municipal Government Board*, 2004 ABQB 85, 353 AR 332, is generally referred to as the "Chow" case, after Mr. Louis Chow, the taxpayer whose property tax assessment complaint led to the

decision of the MGB. In the case, Justice A.G. Park dealt with a number of issues pertinent to this complaint.

[26] The facts of the Chow case are these. On July 19, 2002, a one-member panel of the MGB heard an appeal with respect to the decision of the Calgary ARB. The issue before the panel was the timeliness of Chow's complaint. In the decision, MGB Order 158/02, the MGB found in part as follows:

> Section 309(1)(c) of the Act directs that an assessment must set a date by which a complaint can be made, and such date must not be less than 30 days after the assessment notice is sent (and received). The March 4, 2002 date noted on the Assessments was incorrect, as it did not allow seven days for presumed receipt of the Assessment on mailing.
>
> The newspaper publication required by section 311 of the Act and the deeming provision for receipt cannot override the appeal rights specified in section 309(1)(c). The Act is clear that the date noted on an assessment must be a minimum of 30 days after the notice is sent (and received) and to incorporate a mailing period into that 30 days would have the effect of reducing the thirty day complaint period.

[27] The City of Calgary applied for judicial review, seeking to quash the MGB's decision. The application for judicial review came before Justice Park. In his decision, Justice Park summed up the MGB's decision in these words:

> [11] The MGB . . . decided that the 30-day period starts to run once that assessed person receives the assessment notice. In this case there was no evidence of receipt, the MGB applied section 23 of the Interpretation Act, being c. I-8 of the Revised Statutes of Alberta 2000, which deems receipt in 7 days from the date of mailing. The MGB decided that section 311 cannot operate to reduce the minimum 30 days to make a complaint.

The wording of s. 309(1)(c) was the same in 2002 as it is now, except for the time for filing a complaint (30 v. 60 days), and s. 311(1) and (2) are also the same as they were in 2002.

[28] In court, the City of Calgary argued that the reasoning of the MGB ignored the deeming provision in s. 311(2). The City argued that s. 311(2) stipulates that all assessed persons are deemed to have received their assessment notices as a result of the publication in a newspaper that the assessment notices have been sent. Justice Park had this to say regarding the City's argument:

> [66] However this argument misses one very essential point. That point makes it very important to note while section 311(2) deems receipt of the assessment as a result of a publication, section 311 does not deem receipt on the date of the publication.

> Section 311(2) clearly omits this very important consideration. Section 311(2) is a deemed presumption of service of the assessment notice.

[29] In finding that the decision of the MGB was not flawed, but clearly rational and in accordance with reason, the Court confirmed the MGB's reasoning in regard to 309(1)(c) of the *Act*, *i.e.,* that in s. 309(1)(c), the word "sent" means "sent and received," hence the (then) 30 day complaint period commenced on the date the assessment was received, and in the absence of proof or confirmation of receipt of an assessment, Mr. Chow would be entitled to rely on the presumption of receipt, i.e., 7 days after mailing as set out in s. 23 of the *Interpretation Act*.

The Board's Decision in Respect of Each Matter or Issue:

The First Issue: For the reasons stated in paragraph [20], above, the complaint that was sent electronically is not valid.

The Second Issue: Although Justice Hillier stated that an ARB might have jurisdiction to extend the time for filing a complaint in very exceptional circumstances, there is nothing in the *Act* or regulations that gives an ARB the jurisdiction to do so.

The Third Issue: The correct time for filing a complaint after an assessment notice has been sent by regular mail in the Province of Alberta is 67 days from the date the assessment notice was mailed.

Board's Decision:

By virtue of s. 23 of the *Interpretation Act*, the Complainant had until midnight, May 18, 2012, to file its complaint. Accordingly, the complaint filed on May 14, 2012 was made within the proper time, and is a valid complaint.

It is so ordered.

Dated at the Town of Okotoks in the Province of Alberta, this 27th day of August, 2012.

T. Helgeson
Presiding Officer

An appeal may be made to the Court of Queen's Bench in accordance with the Municipal Government Act as follows:

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/01/2012-J

470(1) An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

470(2) Any of the following may appeal the decision of an assessment review board:

- *(a) the complainant;*
- *(b) an assessed person, other than the complainant, who is affected by the decision;*
- *(c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- *(d) the assessor for a municipality referred to in clause (c).*

470(3) An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- *(a) the assessment review board, and*
- *(b) any other persons as the judge directs.*

Notices of Assessment

Neighbouring Municipalities

2026 NOTICE OF ASSESSMENT

This is not a tax bill. No tax payment is required at this time.

This Notice is prepared in accordance with Municipal Government Act section 308.

NOTICE OF ASSESSMENT DATE
January 20, 2026

Roll No **0005650**

Taxation Status **Taxable**

Location Address **49 MCRAE ST**

Legal Description
Lot/Unit-Block-Plan **28 -A -7019JK**
Qtr-Sec-Twp-Rge-Mer

School Support: **100** %Public
%Separate
% Undeclared

Assessment Class	Property Type	Property Use	Assessed Value
Non-Residential		Commercial Property	$1,030,000

FINAL DATE OF COMPLAINT
March 23, 2026
Complaints filed after the final date of complaint are void.

ASSESSMENT
$1,030,000
Valuation date July 1, 2025

This property assessment value reflects the valuation date of July 1 with characteristics and physical condition of the property as of December 31. This assessment value will be used to calculate the tax levy on this property. Please contact an assessor to discuss any concerns you may have regarding this assessment notice. See reverse for further details.

2026 NOTICE OF ASSESSMENT

TOWN OF OKOTOKS
PO Box 20 Stn. Main,
5 Elizabeth Street
Okotoks AB T1S 1K1

ASSESSED PERSON MAILING ADDRESS

On average, residential assessments increased 10% over 2025.

10168

BRIGHTPATH KIDS CORP
SUITE 200, 200 RIVERCREST DR SE
CALGARY AB T2C 2X5

CITY of AIRDRIE
COMMUNITY & OPPORTUNITY

Property Assessment Notice

2026 Property Assessment

Roll number	Web code
265699	4902

Assessments can be viewed online. To link your account, visit **myAIRDRIE.ca** and use this web code to register.

CCOA RED 1 GP INC
110 151 86 AVE SE
CALGARY AB T2H 3A5

Mailing date	Notice of Assessment date
January 14, 2026	January 22, 2026

Your property assessment

Your 2026 property assessment reflects the estimated market value of your property on July 1, 2025 and the physical condition as of December 31, 2025.

Total Assessment **$1,829,000**

Property use	Assessed value
Industrial Assessment Class: Non-residential Property Type: Land & Improvements	**$1,829,000** (taxable)

Final date to file a complaint
March 23, 2026
For information about the Assessment Review Board complaint process, visit **airdrie.ca/assessment** or see page 2.

Property description
208 EAST LAKE BV NE 7710285;6;3

Assessed person(s)
CCOA RED 1 GP INC

Customer review period
January 22, 2026 to March 23, 2026

All inquiries to Assessment are free of charge, and your concern could be resolved without the need to file a complaint. The Assessment department can be reached at 403.948.8855 (weekdays 8:30 a.m. to 4:30 p.m.).

Any changes to your annual assessment will be considered only if an inquiry is received during the customer review period.

School support
Undeclared 100.00% public, 0.00% separate

airdrie.ca/assessment

This is not a tax bill
Your property tax bill will be mailed separately.

Generated on: 2026-01-16 09:19:52

Assessment complaint procedure

- Review your property details through your myAIRDRIE account. Comparable properties are available on **airdrie.ca/propertyview** or by calling the Assessment Department.
- If you suspect an error, or if you believe your value is not a reasonable estimate of market value as of July 1 of the previous year, please contact the Assessment Department to discuss with an Assessor.
- If the Assessment Department is not able to resolve your concerns, you have the right to file a formal complaint to the Assessment Review Board. You have 60 days from the Notice of Assessment date, to file a complaint.
- The Assessment Review Board Clerk must receive your written complaint on or before the *'Final date to file a complaint'* as shown on your notice, or the complaint is not valid. Please review *'Complaint forms'* below for a link to the forms. *Please note, each complaint MUST be accompanied by a filing fee, or it will be invalid as per Bylaw No. B-74/2021.*
- If the Assessment Review Board decides in favor of the complainant, the filing fee will be refunded, and the adjustment will be applied to the current assessment roll.
- As a property owner, you are entitled to see or receive sufficient information about your property and a summary of any assessment in accordance with section 299 and 300 of the Municipal Government Act.

Filing fees

Property type	Examples	Complaint fee
Residential three or fewer dwellings and farmland	• Detached homes, including acreages and farm residences • Duplexes • Triplexes • Manufactured housing units • Individual condominium units • Vacant residential land	**$50**
Residential four or more dwellings	• Four-plex housing • Apartment buildings • Townhouse projects	**$650**
Non-residential	• Office buildings • Retail stores • Shopping centres • Warehouses • Vacant commercial, industrial, mixed-use and multi-residential land • Industrial plants or special purpose properties	**$650**

Complaint forms

Complaint forms are available online at:

- airdrie.ca/assessmentcomplaints
- www.municipalaffairs.alberta.ca/documents/as/LGS1402.pdf

Courier address for forms and payment:
Assessment Review Board
15 East Lake Hill NE
Airdrie, AB T4A 2K3

In-person drop off location:
City of Airdrie – City Hall
400 Main Street S
Airdrie, AB T4B 3C3

Agent authorization

You may authorize an agent to act on your behalf. An agent may not file a complaint or act for an assessed person or taxpayer at a hearing unless the assessed person or taxpayer has prepared and filed an Assessment Complaints Agent Authorization form. This form is available online at **airdrie.ca/assessmentcomplaints**.

Assessment department contact information

Phone: 403.948.8855 Fax: 403.948.6567
Email: assessment@airdrie.ca Visit us online at **airdrie.ca/assessment**

2026 Annual Property Assessment Notice

Roll / Account #	Customer ID	Notice of Assessment Date
1943500	196713	January 30, 2026

Property Description
Property Address: 50-FIRESIDE GATE, #1101
Legal Address: Block:[3] Plan:[2111290]

Town of Cochrane
101 RANCHEHOUSE RD
COCHRANE AB T4C 2K8
Inquiries: 403-851-2950
Fax: 403-851-2557
Email: assessment@cochrane.ca

Mailing Date: January 22, 2026

01074299400697000000 7585
2736825 ALBERTA LTD.
269-9768 170 ST
EDMONTON AB T5T 5L4

Complaint Deadline
March 31, 2026

THIS IS NOT A TAX BILL
Your Tax Bill will arrive in May

YOUR PROPERTY ASSESSMENT

965,600	Your property assessment for 2026 reflects the estimated market value of your property on July 1, 2025, and the physical condition as of December 31, 2025.

Code	Description	Taxation Status	Total
11	NR COMMERCIAL IMPROVED	Taxable	$965,600
	Total Assessment:		**$965,600**

Other registered owners:

School Support

Declaration Status:	Undeclared
Public:	0.000%
Separate:	0.000%

(Declared as of December 31 of the previous year)

This is the (only) original of your Assessment Notice. Please keep it for your records.

SEE REVERSE SIDE OF THIS FORM FOR CUSTOMER REVIEW STEPS
VIEW ASSESSMENT INFORMATION AT WWW.COCHRANE.CA/ASSESSMENT

2026 Property Assessment Notice

Calgary

Roll Number	Access Code
202798583	Z6FNP7

Use your roll number and access code to link your property after creating a myTax account.

Assessed Person Mailing Address

00377139*

IMC 8059 Owner #: 4345488
KATE MACGREGOR
400 632 CONFLUENCE WAY SE
CALGARY AB T2G 0G1

Property Description

400 632 CONFLUENCE WY SE
2011063;6 - Multiple Legals

Mailing Date	Notice of Assessment Date
January 14, 2026	January 22, 2026

Your 2026 Property Assessment

1,620,000

Your 2026 property assessment reflects the estimated market value of your property on July 1, 2025 and the characteristics and physical condition as of December 31, 2025.

Assessment Class	Property Use	Assessed Value
Residential	Single Residential	1,620,000

Property Type	Taxable Status	School Support
Land and Improvement(s)	Taxable	Undeclared

Additional Information

Please see the reverse for important information.

Community Revitalization Area: Rivers District

Total Assessment	Baseline Assessment	Incremental Assessment
1,620,000	0	1,620,000

Your 2026 Property Value Change

This graph displays your property's value change from last year along with the typical market change of your assessment class.

Your Property Value History

2025	1,710,000
2024	1,440,000
2023	1,240,000

The Property Value History shows the previous three years when available.

M

Customer Review Period (free service)

January 14 - March 23, 2026

Call 311 during Customer Review Period. This free service is offered to help you review and understand your assessment without the need to file a complaint with the Assessment Review Board. For more information, see reverse and visit calgary.ca/assessment.

Assessment Review Board (ARB)

Complaint Deadline: March 23, 2026 **Filing Fee:** $50

Find information and forms for ARB complaints and agent authorizations at calgaryarb.ca or by calling 403-268-5858.

Early Filing Period: Until January 31, 2026 **Early Filing Fee:** $40

Eligible for complaints on assessments of residential property with three or fewer dwelling units, or farm land.

Go paperless with eNotice

Sign-up at calgary.ca/mytax

This is not a tax bill

Your property tax bill will be mailed separately

Interpretation Act

Province of Alberta

INTERPRETATION ACT

Revised Statutes of Alberta 2000
Chapter I-8

Current as of April 1, 2023

Office Consolidation

Alberta King's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952

E-mail: kings-printer@gov.ab.ca
Shop on-line at kings-printer.alberta.ca

Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Interpretation Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	*Amendments*
Interpretation Act		
Fish Creek Provincial Park Parking and Stopping	175/2003	*210/2011, 144/2014 168/2019*
Provincial Judges and Applications Judges Registered and Unregistered Pension Plans	196/2001	*251/2001, 24/2002, 78/2002, 97/2002, 118/2005, 267/2006, 68/2008, 13/2009, 43/2009, 21/2012, 31/2012, 170/2012, 222/2017, 8/2019, 160/2019, 136/2022, 216/2022, 218/2022, 9/2023, 76/2023*

INTERPRETATION ACT

Chapter I-8

Table of Contents

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Interpretation

1(1) In this Act,

(a) "enact" includes issue, make, establish or prescribe;

(b) "public officer" includes any person in the public service of the Province

(i) who is authorized by or under an enactment to do or enforce the doing of an act or thing or to exercise a power, or

(ii) on whom a duty is imposed by or under an enactment;

(c) "regulation" means a regulation, order, rule, form, tariff of costs or fees, proclamation, bylaw or resolution enacted

(i) in the execution of a power conferred by or under the authority of an Act, or

(ii) by or under the authority of the Lieutenant Governor in Council,

but does not include an order of a court made in the course of an action or an order made by a public officer or administrative tribunal in a dispute between 2 or more persons;

(d) "repeal" includes strike out, revoke, cancel or rescind.

(2) For the purposes of this Act, an enactment that has expired or lapsed or otherwise ceased to have effect is deemed to have been repealed.

RSA 1980 cI-7 s1

Application to all enactments

2 This Act applies to every enactment whether enacted before or after the commencement of this Act.

RSA 1980 cI-7 s2

Extent of application

3(1) This Act applies to the interpretation of every enactment except to the extent that a contrary intention appears in this Act or the enactment.

(2) The provisions of this Act apply to the interpretation of this Act except to the extent that a contrary intention appears in this Act.

(3) Nothing in this Act excludes the application to an enactment of a rule of construction applicable to it and not inconsistent with this Act.

RSA 1980 cI-7 s3

Date of commencement

4(1) The date of the commencement of an Act or of any portion of an Act for which no other date of commencement is provided in the Act is the date of assent to the Act.

(2) If an Act contains a provision that the Act or any portion of it is to come into force or to be repealed other than on the date of assent to the Act, that provision comes into force on the date of assent to the Act.

(3) In this section, "date of assent", with reference to an Act that has been reserved for the signification of the Governor General's pleasure, means the date of the signification by the Lieutenant Governor that the Governor General in Council assented to the Act.

(4) A regulation that

(a) is exempted from the application of the *Regulations Act* or to which that Act does not apply, and

(b) is not expressed to come into force on a particular day

comes into force on the day that the regulation is enacted.

RSA 1980 cI-7 s4

Time of commencement or repeal

5(1) An enactment has effect immediately at the beginning of the day on which it comes into force.

(2) An enactment that is repealed and replaced ceases to have effect at the time the new enactment commences.

(3) Subject to subsection (2), where

(a) an enactment is expressed to be repealed on a particular day, or

(b) an enactment is expressed to expire or otherwise cease to have effect on a particular day,

that enactment is repealed, expires or otherwise ceases to have effect at the end of that day.

RSA 2000 cI-8 s5;2002 c17 s3

Commencement or repeal on proclamation

6 If an enactment is stated to come into force or to be repealed on proclamation,

(a) a proclamation may apply to and fix a day for

(i) the commencement of, or

(ii) the repeal of,

all or any portion of the enactment, and

(b) proclamations may be issued at different times in respect of different portions of the enactment.

RSA 1980 cI-7 s6

Exercise of powers prior to commencement

7 If an enactment that is not in force contains provisions conferring power

(a) to make a regulation, or

(b) to do any other thing,

that power may be exercised at any time before the enactment comes into force, but a regulation so made or a thing so done has no effect until the enactment comes into force except insofar as is necessary to make the enactment effective on its coming into force.

RSA 1980 cI-7 s7

Private Acts

8 No provision in a private Act affects the rights of any person, except as mentioned or referred to in the private Act.

RSA 1980 cI-7 s8

Enactments always speaking

9 An enactment shall be construed as always speaking and shall be applied to circumstances as they arise.

RSA 1980 cI-7 s9

Enactments remedial

10 An enactment shall be construed as being remedial, and shall be given the fair, large and liberal construction and interpretation that best ensures the attainment of its objects.

RSA 1980 cI-7 s10

Enacting clause

11 The words "HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:" indicate the authority by virtue of which an Act is passed.

RSA 2000 cI-8 s11;AR 217/2022

Preambles and reference aids

12(1) The preamble of an enactment is a part of the enactment intended to assist in explaining the enactment.

(2) In an enactment,

(a) tables of contents,

(b) marginal notes and section headers, and

(c) statutory citations after the end of a section or schedule

are not part of the enactment, but are inserted for convenience of reference only.

RSA 2000 cI-8 s12;2002 c17 s3

Definitions and interpretation provisions

13 Definitions and other interpretation provisions in an enactment

(a) are applicable to the whole enactment, including the section containing the definitions or interpretation provisions, except to the extent that a contrary intention appears in the enactment, and

(b) apply to regulations made under the enactment except to the extent that a contrary intention appears in the enactment or in the regulations.

RSA 1980 cI-7 s13

Crown not bound

14 No enactment is binding on His Majesty or affects His Majesty or His Majesty's rights or prerogatives in any manner, unless the enactment expressly states that it binds His Majesty.

RSA 2000 cI-8 s14;AR 217/2022

Proclamations

15(1) If a proclamation is issued pursuant to an order of the Lieutenant Governor in Council, it is not necessary to mention in the proclamation that it is issued pursuant to that order.

(2) If the Lieutenant Governor in Council has authorized the issue of a proclamation, the proclamation may purport to have been issued on the day its issue was so authorized, and, if a proclamation does not state when it takes effect, the day on which it purports to have been issued is deemed to be the day on which the proclamation takes effect.

RSA 1980 cI-7 s15

Corporate rights and powers

16 Words in an enactment establishing or continuing a corporation

(a) vest in the corporation power

(i) to sue in its corporate name,

(ii) to contract and be contracted with by its corporate name,

(iii) to have a common seal and to alter or change it at pleasure,

(iv) to have perpetual succession,

(v) to acquire and hold real property and personal property for the purposes for which the corporation is established and to dispose of the real property or personal property at pleasure, and

(vi) to regulate its own procedure and business;

(b) make the corporation liable to be sued in its corporate name;

(c) vest in a majority of the members of the corporation the power to bind the others by their acts;

(d) exempt from personal liability for its debts, obligations or acts those individual members of a corporation that is not an unlimited liability corporation as defined in the *Business*

Corporations Act who do not contravene the provisions of the enactment establishing the corporation;

(e) in the case of a corporation having a name consisting of an English and a French form or a combined English and French form, vest in the corporation power to use either the English or French form of its name, or both forms, and to show on its seal both the English and French forms of its name or to have 2 seals, one showing the English and the other showing the French form of its name.

RSA 2000 cI-8 s16;2005 c8 s61

Majority and quorum

17(1) If in an enactment an act or thing is required or authorized to be done by more than 2 persons, a majority of them may do it.

(2) If an enactment establishes or continues a board,

(a) at least 1/2 of the number of members provided for under the enactment constitutes a quorum at a meeting of the board;

(b) an act or thing done by a majority of the members of the board present at a meeting, if the members present constitute a quorum, is deemed to have been done by the board;

(c) a vacancy in the membership of the board does not invalidate the constitution of the board or impair the right of the members of the board to act, if the number of members is not less than a quorum.

(3) In subsection (2), "board" means a board, commission or other body, whether incorporated or not, consisting of 3 or more members.

RSA 1980 cI-7 s17;1991 c21 s14

Powers of judges and court officers

18(1) If by an enactment judicial or quasi-judicial powers are given to a judge or officer of a court, the judge or officer is deemed to exercise those powers in the judge's or officer's official capacity and as representing that court, and the judge or officer may for the purpose of performing the duties imposed on the judge or officer by the enactment, subject to the provisions of the enactment, exercise the powers the judge or officer possesses as a judge or officer of that court.

(2) Without restricting the generality of subsection (1), if under an enactment an appeal is given from any person, board, commission

or other body to a court or judge, an appeal lies from the decision of the court or judge as in the case of any other action, matter or proceeding in that court or in the court of which the judge is a member.

(3) If an enactment provides that a proceeding, matter or thing is to be done by or before a judge, the proceeding, matter or thing, if properly commenced before a judge, may be continued or completed before any other judge of the same court.

RSA 1980 cI-7 s18

Appointment of public officers

19 The authority under an enactment to appoint a public officer is authority to appoint during pleasure.

RSA 1980 cI-7 s19

Appointment of persons

20(1) Words in an enactment authorizing the appointment of a person include the power of

(a) fixing the person's term of office;

(b) terminating the person's appointment or removing or suspending the person;

(c) reappointing or reinstating the person;

(d) fixing the person's remuneration and varying or terminating it;

(e) appointing another in the person's place or to act in the person's place whether or not the office is vacant;

(f) appointing a person as that person's deputy.

(2) If a person is appointed by or under the authority of an enactment to an office effective on a specified day, the appointment is deemed to be effective immediately on the beginning of that day.

(3) If a person is appointed by or under the authority of an enactment to an office for a term of office that is to conclude, expire or otherwise come to an end on an expressed day, the term of office includes that day.

(3.1) If a person appointed by or under the authority of an enactment to an office resigns, the person's resignation is deemed to terminate the appointment.

(3.2) A resignation referred to in subsection (3.1) is not effective unless it is provided in writing.

(3.3) The effective date of a resignation referred to in subsection (3.1) is the later of

(a) the date the resignation is provided, or

(b) the date specified in the written resignation.

(4) If the appointment of a person by or under the authority of an enactment is terminated, revoked or rescinded effective on a specified day, that termination, revocation or rescission, whether or not that person holds office for a term of office that is to conclude, expire or otherwise come to an end on an expressed day, is deemed to be effective immediately on the beginning of the specified day.

(5) Unless otherwise expressed in an enactment and subject to section 36(1)(a), if

(a) a person is appointed by or under the authority of an enactment to an office, and

(b) while that appointment is still in effect,

(i) the office or position of the person making the appointment has changed or the occupant of that office or position has changed,

(ii) the name or designation of the office to which the person has been appointed has changed but the functions, duties and undertakings of the office remain the same or substantially the same as they were at the time of the appointment, or

(iii) the authority under which the appointment was made has changed in some manner but the authority to make the appointment remains substantially the same as it was at the time that the appointment was made,

the person appointed continues to hold the office to which the person has been appointed until the term of office expires or the appointment is terminated, revoked or rescinded.

(6) Unless otherwise expressed in an enactment, if

(a) a delegation, including any appointment made or authority given that is in the nature of a delegation, is made or otherwise given to a person by or under the authority of an enactment, and

(b) while that delegation is in effect,

(i) the office or position of the person making or otherwise giving the delegation has changed or the occupant of that office or position has changed,

(ii) the name or designation of the office or position of the person to whom the delegation was made or otherwise given has changed but the functions, duties and undertakings of the office or position remain the same or substantially the same as they were at the time that the delegation was made or otherwise given, or

(iii) the authority under which the delegation was made or otherwise given has changed in some manner but the authority to make or otherwise give the delegation remains substantially the same as it was at the time that the delegation was made or otherwise given,

that delegation remains in effect until the delegation is terminated, revoked or rescinded or expires.

(7) Unless otherwise expressed in an enactment, if

(a) a person who is appointed by or under the authority of an enactment to an office is engaged in an investigation, a hearing, a review, an appeal or a similar undertaking or in carrying out some other duty or function provided for under an enactment, and

(b) that appointment expires or otherwise ends before that person concludes the investigation, hearing, review, appeal or undertaking or the carrying out of the duty or function,

that person, unless otherwise directed by the person who has the authority to make the appointment referred to in clause (a) or the Minister responsible for the enactment under which the appointment was made, remains empowered to conclude that investigation, hearing, review, appeal or undertaking or the carrying out of that duty or function, including the making of any recommendation, report, determination or other conclusion that forms a part of that investigation, hearing, review, appeal, undertaking, duty or function.

(8) Notwithstanding subsections (6) and (7), in the case of an appointment referred to in subsection (4) that is terminated, revoked or rescinded, the person whose appointment is terminated, revoked or rescinded is not, at any time after the termination, revocation or rescission becomes effective, eligible to exercise any power, duty or function under subsection (6) or (7) unless expressly permitted to do so by the person who terminated, revoked or

rescinded the appointment or by the Minister responsible for the enactment under which the termination, revocation or rescission was effected.

RSA 2000 cI-8 s20;2002 c17 s3;2020 c23 s8;2022 c14 s5

Powers in name of office

21(1) Words in an enactment directing or empowering a Minister of the Crown to do something, or otherwise applying to the Minister by the Minister's name of office, include

(a) a Minister acting for another Minister or a Minister designated to act in the office, and

(b) the deputy of the Minister or a person appointed as acting deputy.

(1.1) Subsection (1) applies to an enactment that authorizes a Minister to delegate, subject to any restriction imposed by an enactment or by order of the Minister.

(1.2) Nothing in this section authorizes a deputy or acting deputy to exercise any authority conferred on a Minister to enact a regulation as defined in the *Regulations Act*.

(2) Words in an enactment directing or empowering a person to do something, or otherwise applying to the person by the person's name of office, include

(a) a person acting for that person or appointed to act in the office, and

(b) that person's deputy or a person appointed as that person's acting deputy.

(3) This section applies whether or not the office of a Minister or other person is vacant.

RSA 2000 cI-8 s21;2014 c8 s5

Computation of time

22(1) If in an enactment the time limited for the doing of a thing expires or falls on a holiday, the thing may be done on the day next following that is not a holiday.

(2) If in an enactment the time limited for registration or filing of an instrument, or for the doing of anything, expires or falls on a day on which the office or place in which the instrument or thing is required to be registered, filed or done is not open during its regular hours of business, the instrument or thing may be registered, filed or done on the day next following on which the office or place is open.

(3) If an enactment contains a reference to a number of days expressed to be clear days or to "at least" or "not less than" a number of days between 2 events, in calculating the number of days, the days on which the events happen shall be excluded.

(4) If an enactment contains a reference to a number of days not expressed to be clear days or "at least" or "not less than" a number of days between 2 events, in calculating the number of days, the day on which the first event happens shall be excluded and the day on which the 2nd event happens shall be included.

(5) If in an enactment a time is expressed to begin or end at, on or with a specified day or to continue to or until a specified day, the time includes that day.

(6) If in an enactment a time is expressed to begin after or to be from a specified day, the time does not include that day.

(7) If an enactment provides that anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

(8) If an enactment contains a reference to a period of time consisting of a number of months after or before a specified day, the number of months shall be counted from, but not so as to include, the month in which the specified day falls, and the period shall be reckoned as being limited by and including

(a) the day immediately after or before the specified day, according as the period follows or precedes the specified day, and

(b) the day in the last month so counted having the same calendar number as the specified day, but if that last month has no day with the same calendar number, then the last day of that month.

(9) For the purpose of construing a reference in an enactment to a specified age expressed as a number of years, a person is deemed to have attained the specified age at the beginning of the relevant anniversary of the day of the person's birth.

RSA 1980 cI-7 s22

Presumption of service

23(1) If an enactment authorizes or requires a document to be sent, given or served by mail and the document is properly addressed and sent by prepaid mail other than double registered or certified mail, unless the contrary is proved the service shall be presumed to be effected

(a) 7 days from the date of mailing if the document is mailed in Alberta to an address in Alberta, or

(b) subject to clause (a), 14 days from the date of mailing if the document is mailed in Canada to an address in Canada.

(2) Subsection (1) does not apply if

(a) the document is returned to the sender other than by the addressee, or

(b) the document was not received by the addressee, the proof of which lies on the addressee.

1981 c50 s3

Registered, certified mail

24 A reference in an enactment to double registered mail, single registered mail, registered mail or certified mail includes any form of mail for which the addressee or a person on behalf of the addressee is required to acknowledge receipt of the mail by providing a signature.

1999 c32 s10

Ancillary powers

25(1) If in an enactment anything is required or authorized to be done by or before a justice of the peace or public officer, it shall be done by or before one whose jurisdiction or powers extend to the place where the thing is to be done.

(2) If in an enactment power is given to a person to do or enforce the doing of any act or thing, all other powers that are necessary to enable the person to do or enforce the doing of the act or thing are deemed to be given also.

(3) If in an enactment a power is conferred or a duty imposed, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(4) If in an enactment a power is conferred to make regulations, the power shall be construed as including a power exercisable in a similar manner, and subject to a similar consent and conditions, if any, to repeal or amend the regulations and to make others.

(5) If in an enactment the doing of an act that is expressly authorized is dependent on the doing of any other act by the Lieutenant Governor in Council or by a public officer, the Lieutenant Governor in Council or public officer, as the case may be, has the power to do that other act.

RSA 1980 cI-7 s23

Use of forms and words

26(1) When a form is prescribed by or under an enactment, deviations from it not affecting the substance and not calculated to mislead do not invalidate the form used.

(2) In an enactment, words importing male persons include female persons, words importing female persons include male persons and words importing either sex include corporations.

(3) In an enactment, words in the singular include the plural, and words in the plural include the singular.

(4) When a word or expression is defined in an enactment, other parts of speech and grammatical forms of the same word or expression have corresponding meanings.

RSA 1980 cI-7 s24

Replacement of Government documents

27(1) In this section, "document" means letters patent, commissions and other documents issued under the Great Seal of the Province.

(2) Where a document has been lost, destroyed or damaged, a replacement for the document may be issued.

(3) The replacement for a document must

(a) have the same form and contents as the document,

(b) show the original date of issue, and

(c) be endorsed with a notation on the reverse that it is a replacement for the document and must set out the date of issue of the replacement.

(4) The replacement for the document may be signed by

(a) the person who signed the document even though the person might not hold office on the date the replacement for the document is issued, or

(b) the person who holds office at present and is entitled under an enactment to sign the document.

(5) A replacement for a document stands in the place of the document and is to be treated in the same manner and has the same effect as the document.

1997 c18 s13

General definitions

28(1) In an enactment,

(a) "Act" means an Act of the Legislature and includes an Ordinance of the North-West Territories in force in Alberta;

(b) "adult" means a person 18 years of age or older;

(b.1) "adult interdependent partner" means an adult interdependent partner as defined in the *Adult Interdependent Relationships Act*;

(b.2) "adult interdependent relationship" means an adult interdependent relationship as defined in the *Adult Interdependent Relationships Act*;

(b.3) "ALSA regional plan" means a regional plan as defined in the *Alberta Land Stewardship Act*;

(c) repealed 2006 c9 s12;

(d) "bank" means a bank named in Schedule I or II of the *Bank Act* (Canada);

(e) "civil enforcement agency" means a civil enforcement agency under the *Civil Enforcement Act*;

(f) "civil enforcement bailiff" means a civil enforcement bailiff appointed under the *Civil Enforcement Act*;

(g) "civil enforcement proceedings" means civil enforcement proceedings as defined in the *Civil Enforcement Act*;

(h) "commencement", when used with reference to an enactment, means the time at which that enactment comes into force;

(i) repealed 2002 c30 s17;

(j) "Court of Appeal" means the Court of Appeal of Alberta;

(j.1) "Court of Justice" means the Alberta Court of Justice;

(k) "Court of King's Bench" means the Court of King's Bench of Alberta;

(l) "credit union" means a credit union incorporated under the *Credit Union Act*;

(m) "enactment" means an Act or a regulation or any portion of an Act or regulation;

(n) "enforcement creditor" means an enforcement creditor as defined in the *Civil Enforcement Act*;

(o) "enforcement debtor" means an enforcement debtor as defined in the *Civil Enforcement Act*;

(p) "Executive Council" means the Executive Council of Alberta;

(p.01) "father" means a parent who is a male person;

(p.1) "former adult interdependent partner" means a former adult interdependent partner as defined in the *Adult Interdependent Relationships Act*;

(q) "Gazette" means The Alberta Gazette;

(r) "Government" or "Government of Alberta" means His Majesty in right of Alberta;

(s) "Government of Canada" means His Majesty in right of Canada;

(t) "Governor General" means the Governor General of Canada and includes the Administrator of Canada;

(u) "Governor General in Council" means the Governor General acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the King's Privy Council for Canada;

(v) "Great Seal" means the Great Seal of the Province;

(w) "Her Majesty", "His Majesty", "the Queen", "the King", "the Crown" or "the Sovereign" means the Sovereign of the United Kingdom, Canada and His other realms and territories, and Head of the Commonwealth;

(x) "holiday" includes

(i) every Sunday,

(ii) New Year's Day, Alberta Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Labour Day, Remembrance Day and Christmas Day,

(iii) the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign,

(iv) December 26, or when that date falls on a Sunday or a Monday, then December 27,

(v) any day appointed by proclamation of the Governor General in Council or by proclamation of the Lieutenant Governor in Council for a public holiday or for a day of fast or thanksgiving or as a day of mourning, and

(vi) with reference to any particular part of Alberta, the day in each year that may by proclamation of the Lieutenant Governor in Council be appointed as a public holiday for that part of Alberta for the planting of forest or other trees;

(y) "justice" means a justice within the meaning of the *Provincial Offences Procedure Act*;

(z) "lawyer" means an active member of The Law Society of Alberta;

(aa) "Legislative Assembly" or "Assembly" means the Legislative Assembly of Alberta;

(bb) "Legislature" means the Lieutenant Governor acting by and with the advice and consent of the Legislative Assembly;

(cc) "Lieutenant Governor" means the Lieutenant Governor of the Province of Alberta and includes the Administrator of the Province of Alberta;

(dd) "Lieutenant Governor in Council" means the Lieutenant Governor acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the Executive Council;

(ee) "loan corporation" means a loan corporation registered under the *Loan and Trust Corporations Act*;

(ff) "medical examiner" means a medical examiner appointed under the *Fatality Inquiries Act*;

(gg) "Metis settlement" means a settlement corporation established under the *Metis Settlements Act* or the geographic area of a settlement corporation, depending on the context in which "Metis settlement" is used;

(hh) "Metis Settlements Land Registry" means the Metis Settlements Land Registry established under the *Metis Settlements Act*;

(ii) "minor" means a person under the age of 18 years;

(ii.1) "mother" means a parent who is a female person;

(jj) "municipal police service" means a municipal police service or a regional police service under the *Police Act*;

(kk) "municipality" means a city, town, village, municipal district, specialized municipality, improvement district or special area;

(ll) "oath" or "affidavit" includes a solemn affirmation or solemn declaration whenever the context applies to any person by whom a solemn affirmation or declaration may be made instead of an oath; and in similar cases the expression "sworn" includes the expression "affirmed" or "declared";

(mm) "offence" means an offence punishable on summary conviction;

(nn) "person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person;

(oo) "Personal Property Registry" means the Personal Property Registry under the *Personal Property Security Act*;

(pp) "physician", or any similar word or expression implying legal recognition of any person as a medical practitioner, means a person who is a regulated member of the College of Physicians and Surgeons of Alberta authorized to use the title "physician" who holds a practice permit issued under the *Health Professions Act* and who is not under suspension;

(qq) "police officer" means a police officer as defined in the *Police Act*;

(rr) "police service" means a police service under the *Police Act*;

(ss) "prescribed" means prescribed by or under the enactment in which the word occurs;

(tt) "proclamation" means a proclamation of the Lieutenant Governor under the Great Seal issued pursuant to an order of the Lieutenant Governor in Council;

(uu) "Province" means the Province of Alberta;

(vv) "province", when used as meaning a part of Canada other than Alberta, includes the territories;

(ww) "provincial analyst" means a person appointed by the Minister of Justice as a provincial analyst;

(xx) repealed AR 75/2023;

(yy) "provincial judge" means a judge of the Court of Justice;

(zz) "Registrar of Land Titles" means the Registrar within the meaning of the *Land Titles Act*;

(zz.1) "spouse" means the spouse of a married person;

(aaa) "statutory declaration" or "solemn declaration" means a solemn declaration made under section 18 of the *Alberta Evidence Act* or section 14 of the *Canada Evidence Act* (Canada);

(bbb) repealed RSA 2000 c16(Supp) s49;

(ccc) "territories", when used as meaning the territories of Canada, means the Northwest Territories, the Yukon Territory and Nunavut;

(ddd) "treasury branch" means a branch referred to in section 10 of the *ATB Financial Act*;

(eee) "trust corporation" means a trust corporation registered under the *Loan and Trust Corporations Act*;

(fff) "village" includes summer village;

(ggg) "will" means a will as defined in the *Wills and Succession Act*;

(hhh) "writ of enforcement" means a writ of enforcement under the *Civil Enforcement Act;*

(iii) "writ proceedings" means writ proceedings as defined in the *Civil Enforcement Act*;

(jjj) "writing", "written" or any similar term includes words represented or reproduced by any mode of representing or reproducing words in visible form.

(2) In an enactment,

(a) "hereafter" shall be construed as referring to the time after the commencement of the enactment containing that word;

(b) "herein" used in a section or part of an enactment shall be construed as referring to the whole enactment and not to that section or part only;

(c) "may" shall be construed as permissive and empowering;

(d) "must" is to be construed as imperative;

(e) "now" and "next" shall be construed as referring to the time of commencement of the enactment containing the word;

(f) "shall" is to be construed as imperative.

(3) In a regulation, a reference to "the Act" means the Act or Acts under which the regulation is made.

RSA 2000 cI-8 s28;RSA 2000 cH-7 s146;
RSA 2000 c16(Supp) s49;2001 c28 s12;2002 cA-4.5 s46;
2002 c30 s17;2005 c13 s4(21);2005 c31 s28;2006 c9 s12;2006 c21 s26;
2007 c32 s1(35);2008 c34 s18;2009 cA-26.8 s80;2010 c16 s1(44);
2010 cW-12.2 s116;2013 c10 s34;2014 c8 s17;2016 c9 s28;2017 c22 s28;
AR 217/2022;2022 c21 s44;AR 75/2023

Definitions respecting pension plans

29 In an enactment,

(a) "Local Authorities Pension Plan" means the Local Authorities Pension Plan under Schedule 1 to the *Joint Governance of Public Sector Pension Plans Act*;

(b) "Management Employees Pension Plan" means the Management Employees Pension Plan contained partly in Schedule 5 to the *Public Sector Pension Plans Act* and partly in the plan rules made under section 4 of that Schedule;

(c) "Public Service Management (Closed Membership) Pension Plan" means the Public Service Management (Closed Membership) Pension Plan contained in Schedule 6 to the *Public Sector Pension Plans Act* and in any regulations made under section 12 of that Schedule;

(d) "Public Service Pension Plan" means the Public Service Pension Plan under Schedule 2 to the *Joint Governance of Public Sector Pension Plans Act*;

(e) "Special Forces Pension Plan" means the Special Forces Pension Plan under Schedule 3 to the *Joint Governance of Public Sector Pension Plans Act*;

(f) "Teachers' Pension Plans" means the Teachers' Pension Plan and the Private School Teachers' Pension Plan contained partly in the *Teachers' Pension Plans Act* and partly in the respective plan rules made under that Act;

(g) "Universities Academic Pension Plan" means the Universities Academic Pension Plan registered under the *Employment Pension Plans Act*.

RSA 2000 cI-8 s29;2018 cJ-0.5 Sched. 4 s4

Reference by common name

30 In an enactment a reference by name to any country, place, body, corporation, society, officer, functionary, person, party or thing means the country, place, body, corporation, society, officer, functionary, person, party or thing to which that name is commonly applied, notwithstanding that the name is not its formal or extended designation.

RSA 1980 cI-7 s26

Citation includes amendments

31 In an enactment a citation of or reference to another enactment of the Province, of another province or territory or of Canada is a citation of or reference to the other enactment as amended, whether amended before or after the commencement of the enactment in which the citation or reference occurs.

RSA 1980 cI-7 s27;1990 c29 s13

References in enactments

32(1) A reference in an enactment to a series of numbers or letters by the first and last numbers or letters of the series shall be construed as including the number or letter first mentioned and the number or letter last mentioned.

(2) A reference in an enactment to a part, subpart, division, section, schedule, appendix or form shall be construed as a reference to a part, subpart, division, section, schedule, appendix or form of the enactment in which the reference occurs.

(3) A reference in an enactment to a subsection, clause, subclause, paragraph or subparagraph shall be construed as a reference to a subsection, clause, subclause, paragraph or subparagraph of the section, subsection, clause, subclause or paragraph, as the case may be, in which the reference occurs.

(4) A reference in an enactment to regulations shall be construed as a reference to regulations made under the enactment in which the reference occurs.

RSA 2000 cI-8 s32;RSA 2000 cI-3 s859

Application of other enactments

33 If an enactment provides that another enactment of Alberta, Canada or another province or territory applies, it applies with the necessary changes and so far as it is applicable.

RSA 1980 cI-7 s29

Amending enactments

34 An amending enactment shall be construed as part of the enactment that it amends.

RSA 1980 cI-7 s30

Repeal

35(1) When an enactment is repealed in whole or in part, the repeal does not

(a) revive an enactment or thing not in force or existing immediately before the time when the repeal takes effect,

(b) affect the previous operation of the enactment so repealed or anything done or suffered under it,

(c) affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the enactment so repealed,

(d) affect any offence committed against or a contravention of the enactment so repealed, or any penalty, forfeiture or punishment incurred in respect of or under the enactment so repealed, or

(e) affect any investigation, proceeding or remedy in respect of the right, privilege, obligation, liability, penalty, forfeiture or punishment.

(2) An investigation, proceeding or remedy described in subsection (1)(e) may be instituted, continued or enforced and the penalty, forfeiture or punishment imposed as if the enactment had not been repealed.

RSA 1980 cI-7 s31

Repeal and replacement

36(1) If an enactment is repealed and a new enactment is substituted for it,

(a) every person acting under the repealed enactment shall continue to act as if appointed or elected under the new enactment until the person is reappointed or another is appointed or elected in the person's place;

(b) every proceeding commenced under the repealed enactment shall be continued under and in conformity with the new enactment so far as may be consistent with the new enactment;

(c) the procedure established by the new enactment shall be followed as far as it can be adapted

(i) in the recovery or enforcement of penalties and forfeitures incurred under the repealed enactment,

(ii) in the enforcement of rights existing or accruing under the repealed enactment, and

(iii) in a proceeding in relation to matters that have happened before the repeal;

(d) if any penalty, forfeiture or punishment is reduced or mitigated by the new enactment, the penalty, forfeiture or punishment, if imposed or adjudged after the repeal, shall be reduced or mitigated accordingly;

(e) all regulations made under the repealed enactment remain in force and are deemed to have been made under the new enactment, insofar as they are not inconsistent with the new enactment;

(f) any reference in an unrepealed enactment to the repealed enactment shall, with respect to a subsequent transaction, matter or thing, be construed as a reference to the provisions of the new enactment relating to the same subject-matter as the repealed enactment, but if there are no provisions in the new enactment relating to the same subject-matter, the repealed enactment shall be construed as being unrepealed insofar as is necessary to maintain or give effect to the unrepealed enactment.

(2) If a statute or regulation of any province or territory or of Canada is repealed in whole or in part and other provisions are substituted for it, a reference in an enactment of Alberta to the repealed statute or regulation shall, with respect to a subsequent transaction, matter or thing, be construed to be a reference to the substituted provisions relating to the same subject-matter as the repealed statute or regulation.

RSA 1980 cI-7 s32

No implications from repeal, amendment, etc.

37(1) The repeal of an enactment in whole or in part, the repeal of an enactment and the substitution of another enactment or the

amendment of an enactment shall not be construed to be or to involve

(a) a declaration that the enactment was or was considered by the Legislature or other body or person by whom it was enacted to have been previously in force, or

(b) a declaration as to the previous state of the law.

(2) The amendment of an enactment shall not be construed to be or to involve a declaration that the law under the enactment prior to the amendment was or was considered by the Legislature or other body or person by whom the enactment was enacted to have been different from the law as it is under the enactment as amended.

(3) A re-enactment, revision, consolidation or amendment of an enactment shall not be construed to be or to involve an adoption of the construction that has by judicial decision or otherwise been placed on the language used in the enactment or on similar language.

RSA 1980 cI-7 s33

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Canada Safeway Ltd. vs City of Calgary

2016 ABQB 200

Court of Queen's Bench of Alberta

Citation: Canada Safeway Ltd v Calgary (City), 2016 ABQB 200

Date: 20160406
Docket: 1101 16756
Registry: Calgary

Between:

Canada Safeway Ltd. (as represented by its Designated Agent, Altus Group Limited)

Applicant

- and -

The City of Calgary and the Assessment Review Board for the City of Calgary and the Minister of Justice and Attorney General for Alberta

Respondents

Corrected judgment: A corrigendum was issued on June 2, 2016; the corrections have been made to the text and the corrigendum is appended to this j ment.

Reasons for Judgment
of the
Honourable Mr. Justice K.D. Yamauchi

I. Introduction

[1] Canada Safeway Ltd (the "Complainant"), through its agent, Altus Group Limited ("Altus"), seeks leave to appeal D 536/2011-P (the "Decision") of th Composite Assessment Review Board (the "Board"). The Decision upheld the 2011 municipal

property tax assessment (the "Assessment") that the City of Calgary (the "City") made in respect of a Safeway grocery store located at 524 Elbow Drive SW in Calgary (roll no. 080200603) (the "Mission Safeway").

II. Background

[2] The parties do not disagree on the salient facts. The Complainant retained Altus to file a complaint from the Assessment pursuant to section 460 of the *Municipal Government Act,* RSA 2000, c M-26 [*MGA*]. Altus filed the complaint and the Board mailed a "Notice of Hearing" on April 12, 2011, to Altus and the Complainant (the "Notice"). The Notice stated that the hearing was set for October 18, 2011 (the "Hearing").

[3] The Notice contained the following direction with respect to disclosure:

> This complaint(s) is subject to the Matters Relating to Assessment Complaints Regulation AR 310/2009. **You are required to file all of the evidence/documentation that will be presented at the hearing, with the Assessment Review Board and The City of Calgary on or before the date indicated below. If received after the deadline, such evidence will not be heard by the Board.** Please see the enclosed brochure for further instructions.
>
> **Complainant Disclosure Due Date: 06-September-2011**
>
> **Complainant Rebuttal Due Date: 11-October-2011**
>
> [Emphasis in original].

[4] Altus submitted the Complainant's rebuttal evidence to the Board and the City. Altus had to break the rebuttal evidence into multiple emails commodate the 15 byte email inbox capacities of the recipients, as follows:

Subject	Attachment(s)	Sent	Received
2011 ARB Rebuttal Sub for = 080200603	080200603 – 2011 ARB Evidence Sub = Eco Demand Rebuttal.pdf	8:18 p.m. October 11	8:20 p.m. October 11
RE: 2011 ARB Rebuttal Submission for = 080200603	B Evidence Sub = 'Land Only Valuation Rebuttal = Part III.pdf	11:53 p.m. October 11	11:56 p.m. October 11
RE: 2011 ARB Rebuttal Submission for = 080200603	B Evidence Sub = 'Land Only' Valuation Rebuttal = Part 1.pdf Highest & Best Use = Theory & Legislation.pdf	11:56 p.m. October 11	11:58 p.m. October 11
RE: 2011 ARB Rebuttal Submission for = 080200603	067243808 – 2011 ARB Evidence Sub = Land Sales Reb (Part II of II).pdf	11:57 p.m. October 11	11:59 p.m. October 11
RE: 2011 ARB Rebuttal Submission for = 080200603	067243808 – 2011 ARB Evidence Sub = Land Sales Reb (Part I of II).pdf	11:59 p.m. October 11	12:01 a.m. October 12

RE: 2011 ARB Rebuttal Submission for = 080200603	B Evidence Sub = Rebuttal (Site Specific).pdf	12:00 a.m. October 12	12:01 a.m. October 12
RE: 2011 ARB Rebuttal Submission for = 080200603	City of Calgary Retail Valuation Methodologies, Procedures and Definitions	12:05 a.m. October 12	12:06 a.m. October 12
RE: 2011 ARB Rebuttal Submission for = 080200603	Various CARB Decisions	8:21 a.m. October 12	8:22 a.m. October 12

[5] The document sent at 12:05 a.m. on October 12, 2011, was the City's own document, and the documents sent at 8:21 a.m. October 12, 2011, were administrative tribunal decisions and some photographs. Rule 38(9) of the *Calgary Assessment Review Board Policies and Procedural Rules* [*CARB Rules*] provides that the Board may consider tribunal or court decisions in complaint hearings, even where such materials are not provided in disclosure materials.

[6] At the start of the Hearing, the City objected to the admissibility of the documents that Altus sent at 11:59 p.m., 12:00 a.m., 12:05 a.m., and 8:21 a.m. (c Altus sent at 11:59 p Evidence"), arguing that it received them late and therefore the missible unde 9(2) of the *Matters Relating to Assessment Complaints Regulation*, Alta Reg 310/2009 [*MRAC*]. The City also argued that the Impugned Evidence should be excluded because Altus's disclosure in relation to previous, unrelated assessment complaint hearings for other taxpayers had been late. The City sought the exclusion of the Impugned Evidence or, if the Board chose to admit the I ned Evidence, $1,000 in costs pursuant to *MRAC* Schedule 3, which Altus offered to pay.

[7] The City did not give Altus any advance notice that it intended to argue the late filing of the I ed Evidence issue at the outset of the Hearing. During its submissions on the admissibility issue, the City provided the Board with an email string as evidence, which the City had not disclosed to Altus in advance of the Hearing, although the ted from Altus. The City argued Altus ought to have known that the issue of admissibility would be raised because Altus had disclosed materials late in the past, and the Board had previously censured Altus for its past late filings.

[8] When Altus asked for a recess to retrieve its argument and the time-stamped materials to confirm when they were sent, the Board granted a 10-minute recess. When Altus indicated 10 minutes would not be enough time to gather these materials the presiding officer stated: "You might be able to call somebody": Transcript of Hearing, October 18-19, 2011, pp 18-19.

[9] I after reconvening the Hearing, the Board rendered its decision. The Board held that the I ed Evidence was inadmissible. The filing deadlines were intended to allow the City and the Board to "have the appropriate time before the hearing to respond or to develop an argument": Transcript of Hearing, October 18-19, 2011, p 20, ll 5-14.

[10] Despite the City's willingness to accept an award of costs if the Board was inclined to admit the I Evidence, the Board declined Altus's offer, stating that the costs penalty would not cover the actual costs to the Board: Transcript of Hearing, October 18-19, 2011, p 23, ll 1-9.

[11] Later, the Presiding Officer stated the following:

> Thank you. We will stick with our decision, partly because if, as these documents show, there is a pattern, I think it would behoove you to learn to submit your papers the day before or the noon before or at least by the end of the work day if you know that you have this issue.
>
> Transcript of Hearing, October 18-19, 2011, p 22, ll 4-9.

[12] On the second day of the Hearing, Altus made further submissions about whether the Board ought to have excluded the evidence that Altus had submitted at 11:59 p.m. on October 11, 2011, given that it was *sent* before the 7-day deadline. The Board ruled as follows:

> The reason the City asks for this in this special case was because it's a constant – it's a repeating behavior. It is difficult to allow you to get away with the same thing over and over because you don't seem to have taken the message to heart. Perhaps this will help you take the message to heart.
>
> Transcript of Hearing, October 18-19, 2011, p 295, ll 1-6.

[13] The Complainant argues that the Board had not given it the opportunity to present its case. The Presiding Officer said the following in that regard:

> And I suspect that because you have made a very comprehensive and extremely good presentation already that there really isn't a whole lot more that would make a whole lot of difference to your decision we make one way or the other.
>
> Transcript of Hearing, October 18-19, 2011, p 295, ll 6-10.

[14] The Decision provided the following reasons for excluding the I ed Evidence, as well as the documents Altus sent at 8:21 a.m. on October 12, 2011:

> The Board studied MRAC and the letter from Calgary ARB Counsel citing the Chairman's decision (April 13, 2011). The legislation indicates an absolute deadline, and the letter indicates that while in the past previous CARBs have allowed late disclosure, this only happens for reasons of fairness if there are extenuating circumstances to justify it.
>
> In this case a large part of the lengthy rebuttal evidence had been submitted in time, so the Complainant had the opportunity for a fair rebuttal. Further, the Complainant could not demonstrate any extenuating circumstances to justify late disclosure. For these reasons, the Board did not allow the late disclosure.
>
> Decision at 2.

III. Issues

[15] The Complainant argues that the Board made the following 3 errors of law:

(a) it failed to apply any legal test whatsoever in excluding a portion of the Complainant's relevant rebuttal evidence because it was emailed a few minutes inside the seven day period provided for in the ... [*MRAC*];

(b) it breached its duty of procedural fairness and the rules of natural justice by failing to allow the Complainant a right of reply to the City's argument about the admissibility of the Complainant's disclosure, which was raised by the City for the first time in the Hearing, and by basing its decision to exclude relevant evidence on its desire to punish the Complainant's agent; and

(c) failed to apply the statutory and common law principle requiring assessors to ensure the assessment of an assessed property is equitable relative to other like improvements, by failing to consider whether the Mission Safeway had been assessed equitably with other grocery stores in the Beltline.

omplainant's Brief, filed July 23, 2015, para 2.

IV. Discussion

A. General Principles and Legislation

[16] This Court is dealing with the Complainant's application for leave to appeal. It is not dealing with the substantive arguments that the Complainant could raise as part of the appeal if this Court were to grant leave. That would be left for a later date: ***GSL Chevrolet Cadillac Ltd v Calgary (City)***, 2013 ABQB 318 at para 13. This Court will discuss the substantive arguments only insofar as they relate to the leave application.

[17] The provisions of the *MGA* that bear on the case at bar are as follows:

464(1) Assessment review boards are not bound by the rules of evidence or any other law applicable to court proceedings and have power to determine the admissibility, relevance and weight of any evidence.

467(2) An assessment review board must dismiss a complaint that wa within the proper time or that does not comply with section 460(7).

470(1) An appeal lies to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

...

(5) (5) On hearing the opinion of the judge, affected by the application, the judge may grant permission to appeal if the judge is of the opinion that the appeal involves a question of law or jurisdiction of sufficient importance to merit an appeal and has a reasonable chance of success.

(6) If a judge al, the judg

(a) direct which persons or other bodies must be named as respondents to the appeal,

(b) specify the question of law or the question of jurisdiction to be appealed, and

(c) make any order as to the costs of the application that the judge considers appropriate.

...

[18] In ***Edmonton (City) v Edmonton (City) Composite Assessment Review Board***, 2012 QB 171 at para 11, 535 AR 215, 73 Alta LR (5th) 143, Topolniski J provided a summary of the jurisprudence that bears on the issues before this Court, when she said the following:

These points are funda tions for leave to appeal from the Board:

a. The onus rests with the applicant to establish the Three-Part Test.

b. Any reasonably arguable point of law or jurisdiction must also be capable of affecting the result.

c. A breach of procedural fairness or the rules of natural justice is reviewable as a question of law.

d. The principles governing the distinctions between a question of law and one of mixed fact and law are ...:

i. An incorrect statement of the legal standard, or test, or an application of incorrect factors in applying the law to the facts is an error of law.

ii. Where there is a discretion involved in applying the law to the facts, the application of the discretion is not a question of law, but a question of mixed law and fact.

iii. However, if a wrong legal principle is used in the application of the law to the facts, or in the exercise of the discretion, there is an error of law.

e. As a specialized tribunal, the Board's decisions are given deference for factual findings, exercise of discretion, questions of policy, and for questions of law that call upon its expertise, including the interpretation of its home statute.

f. The Court may not grant leave to re-try questions of fact nor is it to re-weigh the evidence or the Board's considerations and substitute its findings on the relevant evidence and considerations

g. The Court of Appeal in a similar type of leave to appeal application of a Subdivision and Appeal Board decision has said that an appeal court will

> only interfere in discretionary decisions of a tribunal in limited circumstances:
>
> > ... the tribunal "proceeded arbitrarily, or the decision is so clearly wrong as to amount to a failure of justice"; or where the judge proceeded "arbitrarily, on a wrong principle, or on an erroneous view of facts", or gave "no weight or insufficient weight to relevant considerations"
>
> h. An issue may be of sufficient importance to merit an appeal if it is important for jurisprudential purposes. The importance is determined on an objective scale. Generally, there should be something unsettled about the question, or the decision should have wide ranging implications.
>
> i. Inadequacy of reasons for a decision does not constitute a stand alone ground of appeal. Rather, it goes to the reasonableness of the decision.

[19] Topolniski J provides the citations of the cases fr m which she derived the for "fundamentals." This Court has chosen to omit those citations from her quotation.

[20] The 3-part test to which Topolniski J refers is contained in *MGA* s 470(5). ***MGA*** 470(5). In ***Buffalo (Regional Municipality) v Canadian Natural Resources Ltd***, 201 QB 89 at pa 6-7, Jeffrey J said the following:

> Under s 470(5) of the *MGA*, leave to appeal may be permitted only for: (1) a question of law or jurisdiction; (2) that is of sufficient importance; and (3) that has a reasonable chance of success.
>
> If Wood Buffalo satisfies all three parts of the test, s 470(5) says that I " " grant leave; it is not mandatory that I do so. If Wood Buffalo fails to satisfy any one branch of the test, I have no discretion to do so; leave must be denied.

[21] It is important that this Court characterize properly the questions before it. Are they questions of fact, mixed law and fact, or law? Questions of fact are not appealable. Neither are most questions of mixed law and fact. *MGA* s 470(1) makes it clear, however, that questions of law may form the subject-matter of an appeal. None of the parties argues that the Board exceeded its jurisdiction.

[22] Why is the characterization of the questions important? In ***Alberta (Workers' Compensation Board) v Alberta (Workers' Compensation Board Appeals Commission)***, 2005 CA 276, 371 AR 318, 51 Alta. L.R. (4th) 237 [***WCB***] at para 19, Fruman JA said the following:

> The reviewing court must also keep in mind that it is in an applicant's best interest to characterize a question as one of law or jurisdiction, as those questions generally attract a less deferential standard of review. A nimble drafter may succeed in dressing errors of fact in error-of-law clothing. Simply asserting a question of law or jurisdiction is insufficient. The reviewing court must identify the true target of the applicant's attack, determine if it raises a question of law or jurisdiction and gauge whether the issue is arguable. When a statutory right of appeal is conditioned on leave being granted ..., this inquiry is performed by the judge hearing the leave application.

[23] Thus, whether the Complainant characterizes its question as one of law or mixed law and fact is not binding on this Court. This Court must undertake its own analysis and characterize the question appropriately. Fruman JA went on to describe how this Court should go about its responsibility when she said the following:

> There is a well-recognized distinction between questions of law and questions of mixed fact and law. In *Canada (Director of Investigation & Research) v. Southam Inc.*, [1997] 1 S.C.R. 748 (S.C.C.) at paras. 35-37, the Supreme Court noted that questions of law are about the correct legal test, whereas questions of mixed fact and law are about whether the facts satisfy the legal test. A general proposition with precedential value ht qualify as a principle of law, but not its application to particular facts or circumstances.
>
> The Supreme Court confirmed this distinction in *Housen v. Nikolaisen*, [2002] 2 S.C.R. 235, 2002 S S.C.R. 235, 2002 SCC 33 that questions of mixed fact and law involve the application of a legal standard to a set of facts; conversely, errors of law involve an incorrect statement of the legal standard, or a flawed application of the legal test. An ex mple of the latter when a decision-maker only considers factors A, B, and C, but the test also requires factor D to be considered. The Court also acknowledged an exception to the distinction between questions of law and questions of mixed fact and law, when it is possible to extricate a pure legal question from what appears to be a question of mixed fact and law: at para. 34.
>
> ***WCB*** at paras 21-22.

[24] She went on to say the following:

> The concept of an extricable legal error can be difficult to understand. In *Housen* at para. 36, the Supreme Court provided clarification. In that case the alleged error was a finding of negligence, a question of mixed fact and law. The Court noted that when the error in a finding of negligence can be attributed to the application of an incorrect standard, a failure to consider a required element of a legal test or a similar error in principle, such an error can be characterized as an extricable error of law. However, when the issue on appeal involves a trial judge's interpretation of the evidence as a whole, or the application of the correct legal test to the evidence, there is no extricable error of law.
>
> ***WCB*** at para 29.

B. Standard of Review

[25] Does this Court, when it is reviewing the Board's decisions, apply a standard of reasonableness or a standard of correctness? ***New Brunswick (Board of Management) v Dunsmuir***, 2008 SCC 9, [2008] 1 SCR 190 [***Dunsmuir***] will help us understand the way in which the Supreme Court of Canada explained when a reviewing court will apply a correctness standard. The contexts are fairly narrow and include the following:

(a) Determinations of true questions of jurisdictional or *vires*;

(b) Questions regarding the jurisdictional lines between 2 or more competing specialized tribunals;

(c) A question of law that is of central importance to the legal system and outside the specialized area of expertise of the administrative decision maker; and

(d) Constitutional questions regarding the division of powers between Parliament and the provinces.

[26] ***Dunsmuir*** also provides us with situations within which reviewing courts will apply a reasonableness standard, which include the following:

(a) Questions of fact, discretion and policy;

(b) Questions where the legal issues cannot be easily separated from the factual issues;

(c) A privative clause, provided it does not trench on a jurisdictional issue;

(d) Where the administrative tribunal is interpreting its own statute or statutes closely connected to its function, with which it will have particular familiarity; and

(e) Where an administrative tribunal has developed particular expertise in the application of a general common law rule in relation to a specific statutory context.

Dunsmuir at paras 51, 53, 54 and 64.

[27] In ***ATA v Alberta (Information & Privacy Comm***, 2014 SCC 61, [2014] 3 SCR 502, 377 DLR (4th) 1, Rothstein J, for the majority, said the following

> ... True questions of jurisdiction are narrow and will be exceptional. When considering a decision of an administrative tribunal interpreting or applying its home statute, it should be presumed that the appropriate standard of review is reasonableness. As long as the true question of jurisdiction category remains, the party seeking to invoke it must be required to demonstrate why the court should not review a tribunal's interpretation of its home statute on the deferential standard of reasonableness.

[28] The Supreme Court of Canada described "reasonableness" as follows:

> Reasonableness is a deferential standard animated by the principle that underlies the development of the two previous standards of reasonableness: certain questions that come before administrative tribunals do not lend themselves to one specific, particular result. Instead, they may give rise to a number of possible, reasonable conclusions. Tribunals have a margin of appreciation within the range of acceptable and rational solutions. A court conducting a review for reasonableness inquires into the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes. In judicial review, reasonableness is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process. But it is also concerned with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.
>
> ***Dunsmuir*** at para 47.

[29] Where the question is one of fact, discretion or policy, deference will usually apply automatically: ***Dunsmuir*** at para 51; ***Canada (Attorney General) v Mossop***, [1993] 1 SCR 554 at 599-600; ***Dr Q v College of Physicians and Surgeons of British Columbia***, 2003 SCC 19,

[2003] 1 SCR 226 at para 29; ***Suresh v Canada (Minister of Citizenship and Immigration)***, 2002 SCC 1, [2002] 1 SCR 3 at paras 29-30. Thus, questions of fact, discretion and policy, as well as questions where the legal issues cannot be easily separated from the factual issues, generally attract a standard of reasonableness, while many legal issues attract a standard of correctness: ***Dunsmuir*** at para 51.

[30] In ***Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)***, 2011 SCC 62 at paras 12-16, [2011] 3 SCR 708, Abella J for the court said the following:

> ... [T]he notion of deference to administrative tribunal decision-making requires "a respectful attention to the reasons offered or which could be offered in support of a decision". ...
>
> This, I think, is the context for understanding what the Court meant in *Dunsmuir* when it called for "justification, transparency and intelligibility". To me, it represents a respectful appreciation that a wide range of specialized decision-makers routinely render decisions in their respective spheres of expertise, using concepts and language often unique to their areas and rendering decisions that are often counterintuitive to a generalist. That was the basis for this Court's new direction in *C.U.P.E., Local 963 v. New Brunswick Liquor Corp.*, [1979] 2 S.C.R. 227 (S.C.C.), where Dickson J. urged restraint in assessing the decisions of specialized administrative tribunals. This decision oriented the Court towards granting greater deference to tribunals, shown in *Dunsmuir*'s conclusion that tribunals should "have f appreciation within the range of acceptable and rational solutions" (para. 47).
>
> Read as a whole, I do not see *Dunsmuir* as standing for the proposition that the "adequacy" of reasons is a stand-alone basis for quashing a decision, or as advocating that a reviewing court undertake two discrete analyses — one for the e for the result ... I exercise — the reasons must be read together with the outcome and serve the purpose of showing whether the result falls within a range of possible outcomes. This, it seems to me, is what the Court was saying in *Dunsmuir* when it told reviewing courts to look at "the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes" (para. 47).
>
> In assessing whether the decision is reasonable in light of the outcome and the reasons, courts must show "respect for the decision-making process of adjudicative bodies with regard to both the facts and the law" (*Dunsmuir*, at para. 48). This means that courts should not substitute their own reasons, but they may, if they find it necessary, look to the record for the purpose of assessing the reasonableness of the outcome.
>
> Reasons may not include all the arguments, statutory provisions, jurisprudence or other details the reviewing judge would have preferred, but that does not impugn the validity of either the reasons or the result under a reasonableness analysis. A decision-maker is not required to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion ... In other words, if the reasons allow the reviewing court to understand why the tribunal made its

> decision and permit it to determine whether the conclusion is within the range of acceptable outcomes, the *Dunsmuir* criteria are met.

[31] Thus, this Court must examine the Board's decisions holistically and not try to parse portions of it to see if the outcome is reasonable: ***Construction Labour Relations v Driver Iron Inc***, 2012 SCC 65 at para 3, [2012] 3 SCR 405; ***Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp and Paper Ltd***, 2013 SCC 34 at para 54, [2013] SCR 458. If the decision falls within the range of reasonable outcomes, this Court should not disturb it: *ibid*.

[32] Recently, the Alberta Court of Appeal in ***Edmonton East (Capilano) Shopping Centres Ltd. v. Edmonton (City)***, 2015 ABCA 85, [2015] 5 WWR 547, leave to appeal to SCC granted, [2015] SCCA No 161 [***Capilano***] concluded in broad terms that the correctness standard was the applicable standard when interpreting provisions of the *MGA*. The Alberta Court of Appeal acknowledged ***Capilano*** in ***Altus Group Ltd v Calgary (City)***, 2015 ABCA 86, 12 Alta LR (6th) 217, 599 AR 223 at para 17, with respect to the interpretation of issue municipal bylaw as opposed to a provincial statute.

[33] In ***Capilano***, the Alberta Court of Appeal was considering the issue of whether an Assessment Review Board has the ability to increase a property assessment when a complaint is brought by a taxpayer seeking a reduction of the assessment. More particularly, the issue was whether the *MGA* permitted the city to amend its assessment upwards during the complaint process. The Board in that case said it could, and the chambers judge held that it could not do such a thing. That was the narrow issue before the Alberta Court of Appeal.

[34] After reviewing the 4 "signposts" in ***Dunsmuir*** for applying the standard of correctness, and the Supreme Court of Canada decision in ***Pushpanatha v Canada (Minister of Citizenship & Immigration)*** [1998] 1 SCR 982, 11 Admin LR (3d) 1, that described the concept of "general importance," the Alberta Court of Appeal said that the 4 "signposts" should not be regarded as a closed list and, in any event, they should be read in a "flexible and open ended manner": ***Capilano*** at para 23.

[35] As for the issue before it, the court said that "the legislature intended the superior courts to have a significant and direct role in interpretation of the taxing statutue": ***Capilano*** at para 24 (emphasis added). Why? The Alberta Court of Appeal said that "superior courts have a legitimate role to play in ensuring consistency of interpretation and result" and as well, given that there are multiple boards within Alberta applying the same statute and the statute gives a right of appeal on issues of general importance, a standard of correctness is necessary: ***Capilano*** at para 30. In the end, the Alberta Court of Appeal said the following:

> When all of these factors are weighed and considered, the appropriate standard of review of decisions of assessment review boards in interpreting provisions of the *Municipal Government Act* is correctness.
>
> ***Capilano*** at para 31 (emphasis added).

C. Exclusion of the Impugned Evidence

[36] The Complainant argues that when the Board decided not to consider the Impugned Evidence, it committed an error of law, such that the standard of this Court's review of the Decision is one of correctness, rather than reasonableness. The error is that the Board did not articulate the legal test it applied when it refused to consider the Impugned Evidence, it applied

an incorrect legal test or no legal test at all, which rebuts any deferential standard. Said differently, this Court cannot give deference to a decision that is wrong in law.

[37] What is the test to which the Complainant refers? The starting point must be *MRAC* which guides the Board in its hearings, the relevant provisions of which are as follows:

> 8(2) If a complaint is to be heard by a composite assessment review board, the following rules apply with respect to the disclosure of evidence:
>
> ...
>
> (c) the complainant must, at least 7 days before the hearing date, disclose to the respondent and the composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure clause (b) in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing.
>
> 9(2) A composite assessment review board must not hear any evidence that has not been disclosed in accordance with section 8.
>
> 10(2) Subject to the timelines specified in section 468 of the Act, a composite assessment review board may at any time by written order expand the time specified in section 8(2)(a), (b) or (c).
>
> (3) A time specified in section 8(2)(a), (b) or (c) for disclosing evidence or other documents may be abridged with the written consent of the persons entitled to the evidence or other documents.

[38] The Complainant argues that the correct interpretation of *MRAC* s 9(2) requires the Board to apply a 2-part test when determining whether to exclude evidence where the applicant or with the timelines set forth in *MRAC* s 8, namely:

> (a) Did the disclosing party comply with each requirement in s. 8 of *MRAC*?
>
> (b) If not, was disclosure still "in accordance with" s. 8 of *MRAC*, having regard to (i) the nature or severity of the non-compliance, (ii) the reasons for the non-compliance, (iii) the prejudice to the respondent as a result of the non-compliance, and (iv) the impact on the complainant's case if the late evidence were excluded.
>
> Complainant's Brief, filed July 23, 2015, para 32.

[39] The Complainant concedes that this 2-part test has not been articulated by any court, or by the Board, for that matter. Its argument is grounded on the "modern approach" to statutory interpretation, which says that *MRAC* s 9(2) must be interpreted consistently and purposively with *MRAC* s 8 and *MGA* s 464(1).

[40] Although the parties did not argue the nature of the wording contained in *MRAC* s 10, it might be worthwhile to discuss the exact wording. *MRAC* s 10(3) talks about the time being "abridged." That word is defined as, "to shorten in duration": *The Shorter Oxford English Dictionary*, 3rd ed, *sub verbo* "abridge". What that means is that, for ex mple, in *MRAC* s 8(2)(c), the time for disclosure of the information in that section could be 3 days before the hearing date, if the City and the Board were to provide their written consent to Altus.

[41] As for *MRAC* s 8(2), the Board may "expand" the time. That word is defined as, "to spread out ... to dilate, enlarge": *The Shorter Oxford English Dictionary*, 3rd ed, *sub verbo* "expand". What that means is that, for ex mple, in *MRAC* s 8(2)(c), the time for disclosure of the information in that section could be 10 days before the hearing date, if the Board, exercising its discretion, felt that such expansion were warranted.

[42] The wording is awkward. If the Alberta Legislature wanted to provide the Board with discretion to allow late disclosure, it might have used simpler, more direct wording. It has not, and the Board and this Court is left with the wording that the legislature has chosen to use.

[43] This Court does not disagree with the Complainant's articulation of the purposes of *MRAC* and the *MGA*, which are "to provide access to the tribunal and procedures that accord with natural justice": ***City of Calgary v Gaspar Sz*** ***(City) v Calgary v Gaspar Szenter Ho dings*** 11 (QB). These are basic procedural fairness rules that specify "disclosure obligations and the rules regarding the use of evidence in the event of non-disclosure": ***Metrowest Developments Ltd v Calgary (Assessment Review Board)***, 2014 ABQB 450 [***Metrowest***] at para 20 (emphasis added). They are intended to ensure that the parties to the appeal have adequate notice of the case to be met and an opportunity to respond to or rebut evidence presented by the opposite party: ***Anterra Sunridge Power Centre Ltd v Calgary (City)***, 2014 ABQB 223, 2014 CarswellAlta 638 [***Anterra***] at para 47.

[44] In ***Metrowest***, Eidsvik J observed that "The evidentiary rules binding the ARB are not strict in that they are not bound by the rules of evidence by statute (s 464(1) of the *MGA*), which clearly overrules a procedural regulation to the extent of any conflict": ***Metrowest*** at para 23 (emphasis added). The reason why the emphasized portion of Eidsvik J's quotation is important is that before the Board can exercise its discretion to overrule a procedural regulation, there must be a conflict. This was made clear in ***Boardwalk Reit LLP v Edmonton (City)***, 2008 ABCA 220, 437 AR 347, 91 Alta LR (4th)1 at para 78, where Côté JA said the following:

> ... Where an Act can be construed more than one way, courts must reject any alternative which is manifestly absurd, or extremely harsh, unjust, or capricious ... The harsher the result of one interpretation, the stronger the presumption against it ...
>
> [Citations excluded].

[45] In this case, there is no such conflict. The provisions of *MRAC* are clear. They impose a deadline for the filing of documents and the only leeway with which the Board is provided is to "expand" the time within which parties must file their documents: *MRAC* s 10(2). It has the discretion to abridge the time for filing documents with the written consent of the persons entitled to the evidence or other documents: *MRAC* s 10(3). Beyond that, the Board "must not hear any evidence that has not been disclosed in accordance with section 8": *MRAC* s 9(2).

[46] Where is the conflict that would permit the Board to deviate from *MRAC* such that it can overrule the procedural regulation that the Alberta Legislature has promulgated through the use of *MGA* s 464(1)? Although the "modern approach" to statutory interpretation allows courts (and administrative tribunals) to interpret statutes consistently and purposively, they cannot do this in a manner that deviates from the clear wording in the legislation. For example, the Alberta Court of Appeal considered *MGA* s 688, which requires an appellant to file its notice of appeal within

30 days after the issue of the decision to be appealed. In ***Northern Sunrise (Country) v De Meyer***, 2009 A at para 7, 454 88, the Alberta Court of Appeal said the following

> Where legislation provides for a specific time period (such as 30 days) for launching an appeal to this Court, and where that legislation does not expressly or impliedly incorporate by reference the *Rules of Court* AR 390/68 and their curative provisions regarding extending time to appeal, this Court lacks jurisdiction to extend that time period if the limitation is clearly a 'statutory prescription' ... [Citations excluded].

[47] In the more recent case of ***Tymchak v Ed (Subdivision and Development Appeal Board)***, 2012 ABCA 22 at paras 44-46**, 519 AR 295, Côté** JA said the following after posing the question as to whether the Alberta Court of Appeal has the power to relieve against late service of an application for leave to appeal:

> I do not see how it can. The Legislature says to serve the notice of motion within 30 days. Many Acts expressly allow the court or a judge to extend such time limits; the Legislature knows how to enact such a power. This *Act* does not do that. After this many reenactments of this legislation over half a century, that cannot be an accident.
>
> A great many cases hold that statutory time limits relating to commencing proceedings cannot be extended by the courts unless some statute says so ... That law is apt, because the time limits here relate to a stage before the notice of can be filed.
>
> The only exceptions where the court can extend time (which I have seen) are some cases which say that where an *Act* makes the *Rules of Court* apply, that incorporates by reference the *Rules*' time-extension *Rules*. There is no such statement in the *Municipal Government Act*; even the provision that the usual Court of Appeal procedure is to be followed. [Citations excluded].

[48] While the Alberta Court of Appeal was dealing with *MGA* s 688, the principles it outlines apply to the case before this Court. Neither *MRAC* nor the *MGA* contains a provision that would allow the Board or the Court of Queen's Bench to abridge the time within which a person may provide its disclosure pursuant to *MRAC* s 8, other than pursuant to *MRAC* s 10(3) which does not apply in this case, as neither the City nor the Board has consented to the abridgement. As well, neither *MRAC* nor the *MGA* contains a provision that incorporates by reference the provisions of the *Alberta Rules of Court*, Alta Reg 124/2010 concerning the extension of time.

[49] This conclusion essentially deals with the first issue that the Complainant presented to this Court. However, this Court finds it necessary to address some of the other a that the Complainant presented to it.

[50] The Complainant argues that the Board did not consider such things as the nature and severity of the Complainant's failure to comply with the time set forth in *MRAC* s 8(c), the reason why Altus filed the materials after the expiry of the 7-day period, prejudice to the City as a result for the late filing, and the impact that the exclusion of the I d Evidence had on th Complainant's case. These would be co ments absent the clarity of the procedural provisions contained in *MRAC*. Said differently, had *MRAC* or the *MGA* expressly allowed the Board to abridge the time within which Altus could disclose its rebuttal evidence, without the

consent of the City and the Board, this Court might be inclined to review these arguments more closely. Again, the Alberta Legislature did not give this power to the Board. Moreover, *MRAC* s 9(2) is mandatory in that the Board "must not hear any evidence that has not been disclosed in accordance with section 8."

[51] The time limits set forth in *MRAC* are not suggestions, guidelines, or tions. They are deadlines.

[52] It is interesting to note that the Board referred to Altus failing to demonstrate extenuating circumstances for late disclosure. Those circumstances could enter into its consideration if it were considering a postponement or adjournment of a hearing. That factor is not part of its consideration when dealing with late disclosure.

[53] The Complainant argues that the Board, when it chose to exclude the Impugned Evidence, considered the irrelevant fact that Altus showed a pattern of tardiness in the filing of its disclosure. Although the Transcript of Hearing indicates that the Board was less than impressed with Altus's behaviour, the Decision does not articulate this as a reason for the exclusion of the I ned Evidence. This might have been a reason, or even the reason why the excluded the I ed Evidence, but the real reason, as articulated in the Decision, is that the "legislation indicates an absolute deadline." Thus, the Board's articulated irritation with Altus does not elevate its decision to an error of law.

[54] In ***Anterra*** at para 38, KD Nixon J said the following:

> The issue before the CARB was compliance with s 8(2)(a) of the *MRAC*; that is, did the Applicant "disclose" its evidence within the specified time period prior to the hearing. Interpretation of s 8(2)(a) of the *MRAC* by the CARB attracts a standard of reasonableness as this involves interpretation of its home statute: *New Brunswick (Board of Management) v. Dunsmuir*, 2008 SCC 9, [2008] 1 S.C.R. 190 (S.C.C.); *A.T.A. v. Alberta (Information & Privacy Commissioner)*, 2011 SCC 61, [2011] 3 S.C.R. (S.C.C.). Deference, therefore, is owed the CARB' decision. So long as its decision falls within "... a range of possible, acceptable outcomes which are defensible in respect of the facts and law ...", a reviewing court should not interfere: *Dunsmuir* at para 47.

[55] Why did KD Nixon J find the standard of review to be "reasonableness"? In ***Wheaton Investm td. (as represented by its designated agent, Altus Gro ted) v The City of Edmonton and The Edmonton Assessment Review Board and The Minister of Justice and Attorney General for Alberta***, (13 April 2012), Edmonton 1203 00607 (QB) at p 3, ll 17-21, Gill J said the following:

> Now, the question as whether or not the CARB met with legislative requirements under section 8 and section 9(2) of *MRAC* is a question of mixed law and fact, in my opinion, that is, that CARB had to review the circumstances relating to the evidence – being the facts – and determine whether or not the provisions of *MRAC* had been complied – being with the law.

[56] In the case at bar, the range of possible outcomes is narrow. Either the Board was going to allow the I ed Evidence to be admitted or it would exclude the I ned Evidence. mentioned earlier, this Court finds that the Board's decision to exclude the I ned Evidence

to be reasonable. In fact, this Court goes further. It finds that the Board's decision was correct, as the legislation required such a conclusion.

[57] Because of the nature of the question before the Board, which was the interpretation of provisions of *MRAC* that gave it little discretion, one has to question whether "fairness" was required to be considered by it. In ***Dunsmuir***, the Supreme Court of Canada said that "[p]ublic decision makers are required to act fairly in coming to decisions": ***Dunsmuir*** at para 79. That would lead one to believe that "fairness" had to enter into the thought process of the Board when it was considering the question of whether to exclude the I ed Evidence. The Supr Court of Canada, however, went on to say that "the existence of a general duty to act fairly will depend on '(i) the nature of the decision to be made by the administrative body; (ii) the relationship existing between that body and the individual; and (iii) the effect of that decision on the individual's rights'": ***Dunsmuir*** at para 88 [citation excluded].

[58] Because this Court has found that the Board's discretion was very narrow, the fairness of *MRAC* is not for the Board to decide. It must apply it, whether it or the Complainant considers the provisions to be "fair." This Court has already commented that the Board need not have considered whether there were any "extenuating circumstances" that would justify Altus's late disclosure. Despite this, the Board did comment on the fact that it found none.

[59] In this case, the Complainant has not demonstrated why this Court should not review the Board's interpretation of *MRAC* using the deferential standard of reasonableness. Accordingly, the Complainant does not succeed on the first part of the 3-part test, as set forth in the *MGA* s 470(5). 470(5).

[60] The second part of the test is whether the question of law or jurisdiction is "of sufficient importance to merit an appeal." What is "of sufficient importance"? In ***R v Terroco Industries Ltd***, 2004 ABCA 159 at paras 18-19, 2004 CarswellAlta 638, Wittmann JA, as he then was, said the following:

> Leave to appeal should be granted only where there is "a question of law of sufficient importance" and not for "error correction"... A question of law is one of sufficient importance if there is something novel or unsettled about the question ... A decision having wide ranging implications is one of sufficient importance...

[61] As mentioned earlier, the matter before this Court does not involve a question of law or jurisdiction. Even if it did, because it deals with the application of the *MRAC* provisions and the procedure the Board undertakes, there is nothing novel or unsettled about the question. Nor does it have wide-ranging implications. It is one of mixed law and fact. Certainly, this matter has importance to the Complainant. That, however, is not the test. As Berger JA said in ***845971 Alberta Ltd. v Grande Prairie (City) Subdivision & Development Appeal Board***, 2010 ABCA 135 at para 8, 2010 CarswellAlta 755, "Sufficient importance must be determined on an objective scale and not on the basis of the subjective importance of the matter to the Applicant." Thus, the Complainant does not succeed on the second part of the 3-part test.

[62] Finally, this Court will address the third part of the 3-part test, namely whether the appeal involves a question that has a reasonable chance of success. Again, because the Board's discretion was very narrow, this Court finds that the Complainant does not have a reasonable chance of successfully appealing the Board's decision concerning its exclusion of the Impugned Evidence. The Board's decision was reasonable, as well as correct.

D. Procedural Fairness and Natural Justice

[63] This issue relates to the Complainant's argument that the Board, during the Hearing, did not give Altus a reasonable opportunity to respond to the City's objection concerning the lateness of the I ned Evidence. As well, it argues that the Board's discretion to "punish" the Complainant for Altus's repeated behaviour of providing late disclosure is a breach of the Board's duties of procedural fairness and natural justice.

[64] *MRAC* s 15 provides as follows:

> 15(1) Except in exceptional circumstances as determined by an assessment review board, an assessment review board may not grant a postponement or adjournment of a hearing.
>
> (2) A request for a postponement or an adjournment must be in writing and contain reasons for the postponement or adjournment, as the case may be.
>
> (3) Subject to the timelines specified in section 468 of the Act, if a ment review board grants a postponement or adjournment of a hearing, the assessment review board must schedule the date, ti tion for the hearing at the time the postponement or adjournment is granted.

[65] Although the Supreme Court of Canada discussed procedural fairness in ***Dunsmuir*** and the standard of review that reviewing courts should apply when considering this issue, it did not provide reviewing courts with the standard of review they must apply. It said that procedural fairness "is at issue where an administrative bod have prescribed rules of procedure tha have been breached": ***Dunsmuir*** at para 77.

[66] In ***Alberta (Se Worku*** , 20 28, 41 Alta L (5th) 48, 493 AR 1, McDonald JA, for the majority said that "[b]ecause the court decides whether the fairness standard has been met without affording deference, in that sense fairness is reviewed for 'correctness'."

[67] In ***Federated Co-operatives Limited (as represented by its designated agent, Altus Group Limited) v Wheatland County and Wheatland County Composite Assessment Review Board***, (8 December 2014), Calgary 1301-08506 (Alta QB) at p 17, ll 12-17, Campbell J considered, among other things, the following ground of appeal: "Did CARB err in law or jurisdiction in failing or refusing to consider rebuttal submissions and case law that was submitted by Federated at the direction of the CARB?" She held as follows:

> It is not a denial of natural justice or procedural fairness for a tribunal to limit or impose restrictions on the submissions made by the parties before it. CARB, as an administrative tribunal, has the power to control its own process. The *MGA* also provides the CARB with the power to determine the admissibility, relevance and weight of any evidence: section 464(1). This would also extend to provide the CARB with the discretion to limit the extent of argument, including any rebuttal submissions.

[68] Unlike the provisions of *MRAC*, which this Court discussed previously, the *MGA* provides the Board with discretion. That discretion has to be exercised "fairly," as articulated in ***Dunsmuir***. As discussed earlier, the nature of this decision was not to allow Altus an adjournment or postponement to attend its office to gather the email chain and prepare its

argument against the exclusion of the Impugned Evidence. As mentioned in the Decision, the Board found no extenuating circumstances, which is the test for a postponement or adjournment.

[69] But ***Dunsmuir*** also said that this Court must consider the nature of the decision that the Board made. Here, the Board was considering whether to grant the adjo ment for Altus to gather the email chain, which the City had in its possession and was readily able to present to both Altus and the Board. As well, with respect, this Court wonders exactly what it was that Altus was going to present as an argument. *MRAC* gives the Board very little leeway when whether to exclude the I ned Evidence. Despite this, it gave Altus an opportunity to address the issue.

[70] This Court is not surprised with the Board's decision that it found no exceptional circumstances in this case. In ***Edmonton (City) v Edmonton (City) Assessment Review Board***, QB 634 at paras 35-43, 37 Alta LR (5th) 301, 503 AR 144, Germain J) 301, 503 AR 144, Germ following:

> It is clear that the ARB has been affected in their approach to adjudicative fairness b ction 15(1) of the *Regulation*. Absent a legislative definition, the ordinary meaning of those words "exceptional circumstance" defaults the ARB into a position where they cannot routinely grant adjournments, even where it may be reasonable to do so, when considering the broader, strategic context ... The legislation also provides guidance to the ARB by including a potentially absolute hearing deadline requirement ... Most tribunals that are entrusted with something as serious as the subject matter of this case are generally expected to act wisely and grant adjournments when circumstances are appropriate. In this regulation, adjournments may not be granted except in exceptional circumstances. The regulation however must be interpreted contextually, as it is ancillary to the overarching authority given to the ARB to deal with the serious matters of municipal tax assessments ... For this reason the board must both have the power, as well exercise the power appropriately, to ensure that the parties have a fair, complete, and comprehensive hearing ... The *Regulation* must therefore be interpreted in such a way that the definition of exceptional circumstance cannot be so narrow and restrictive as to prevent hearings that are fair to both litigants ...

See also ***Arthur J McDonald v The City of Calgary and the Assessment Review Board for the City of Calgary*** (28 April 2015), Calgar ***Arthur J McDonald v The City of Calgary and the Assessment Review Board for the City of Calgary*** (28 April 2015), Calgary 1201-08010 (Alta Q

[71] The Complainant argues that the Board based its decision on the wholly irrelevant factor of its desire to teach Altus a lesson for its past failures to abide by the filing deadline. There is reference in the Transcript of Hearing that alludes to this as a factor. This Court, however, does not find that the Board based its decision on that failure. Had the Board based its decision solely on that factor, this Court might take a different approach and find that it was not correct in so doing. However, the Board considered *MRAC*, as well as the Chairman's direction, which were relevant factors.

[72] The Complainant argues that the City's objection to the rebuttal evidence "took Altus by surprise," as the City had not provided Altus with notice of its intention to object to the Board's the I ned Evidence. In ***McDonald***, Anderson J said the following:

> I also don't accept the applicant's argument that the Board breached its duty of procedural [fairness], and erred in allowing the City to present a preliminary application to dismiss the complaint without giving the applicant notice. ... The applicant knew, or ought to have known, by the instructions given to him with the complaint form, that he had the obligation or burden to provide all relevant facts supporting his complaint, and that any information not disclosed would not be heard by the tribunal. The City simply set out at the outset, to a very busy Board, what its position was going to be with respect to this hearing.
>
> ***McDonald***, p 3, ll19-28 (emphasis added).

[73] In the case at bar, Altus and the Complainant had received the complaint form. The knew the deadlines for submitting materials. Altus knew or ought to have known that it had submitted the I Evidence after the time set forth in *MRAC* s 8(2)(c). Although not critical to this Court's decision, Altus had a history of submitting its materials late and the Board had previously censured Altus for "this behaviour." In the end, this Court agrees with Anderson J that the City's raising of this issue without giving Altus notice is not a breach of procedural fairness.

[74] In sum, this Court does not find that the Board breached its duties of procedural fairness or natural justice. Similarly, neither of the Complainant's arguments are matters that are of sufficient importance to merit an appeal. The Board's procedural rulings are based on the specific evidence and circumstances of this particular case. Accordingly, the Complainant has no reasonable chance of successfully appealing the Decision on grounds of procedural fairness.

E. Equitable Assessment

[75] The Complainant argues that the Assessment was not an equitable assessment. The relevant provisions of the *MGA* are as follows:

> 293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,
>
> (a) apply the valuation and other standards set out in the regulations, and
>
> (b) follow the procedures set out in the regulations.
>
> (2) If there are no procedures set out in the regulations for pre ments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.
>
> 467(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration
>
> (a) the valuation and other standards set out in the regulations,
>
> (b) the procedures set out in the regulations, and
>
> (c) the assessments of si or businesses in the same municipality.

[76] Section 2 of the *Matters Relating to Assessment and Taxation Regulation*, Alta Reg 220/2004 [*MRAT*] states as follows:

> 2 An assessment of property based on market value

(a) must be prepared using mass appraisal,

(b) must be an estimate of the value of the fee simple estate in the property, and

(c) must reflect typical market conditions for properties similar to that property.

[77] The Complainant argues that there are 3 approaches that assessors use to assess the market value of a property, which are the sales comparison approach, the cost approach and the income approach: Alberta Municipal Affairs and Alberta Assessor's Association, *Property Assessment in Alberta Handbook (2011)* Alberta Assessor's Association: Edmonton 2004) at 4. The City does not contest this. The assessor, acting fairly, must apply the most appropriate approach. In this case, the assessor used the sales comparison approach. The Complainant argues that the assessor should have used the income approach.

[78] It is important for this portion of the discussion to articulate how the Board arrived at the Decision. The Complainant argues that the way in which the assessor should have assessed the Mission Safeway was through the income approach, because the grocery store on the property "contributes to the value of the property," and "that the property is maximally productive with its current use as a grocery store." As well, it argues that "the current assessment is inequitable with other grocery stores, thereby making it less competitive with them."

[79] The City, on the other hand, argues that "Using the Income Approach to evaluate this property would not reflect its market value, and would make its assessment inequitable with other similar properties" and that "municipalities must assess properties at market value, which may not be reflected by the economic value of Income which is a multi-year function."

[80] The findings of the Board are as follows:

> 2. The Respondent is correct in that municipalities must use mass appraisa1 to find equitable assessments. It would be unfair for properties in the same area, with similar qualities, to be assessed in different ways. If, for ex mple, a p with no improvements had a higher assessment than a very similar one with improvements, this would be inequitable. Although it may be argued that removal of the existing improvements would add extra costs for the prospective purchaser, it may also be argued that existing improvements can finance the cost of holding the property until it is feasible to redevelop it.
>
> 3. The City's list of sales supports assessing properties according to L Value in cases where the value of the land exceeds the value of the income which the I rove iven year.
>
> 4. Although Mr. Izard, for Altus, had a very thorough and sometimes supportable argument about highest and best use, he did not provide enough evidence that the subject property was atypical. He did not prove Land Value was not a fair way to assess this property, nor that this property was so different from other properties assessed in the same way that it would be inequitable to use the Land Value assessment.
>
> Decision at 4 and 5.

[81] In ***1544560 Alberta Ltd v Edmonton (City)***, 2014 ABQB 176 at para 12, Acton J said that "determination of market value and determination of equity value were two separate steps that the Board was required to do before coming to its decision." In this case, the Complainant

argues that the Board missed the second step. In particular, it argues that the Board failed to compare assessments of similar properties, as required by *MGA* s 293(2). This is presumptuous. The Board was aware of the legislation under which it was working, along with the various Board decisions, and decisions of the Court of Queen's Bench. As well, it referred specifically to Altus's arguments, and to the list of properties that the City presented to it. As mentioned earlier, the Board's reasons need not include all the details this Court might have preferred. Nor is the Board required to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion. If the Board's reasons allow this Court to understand why the Board made its decision and permit this Court to determine whether the conclusion is within the range of acceptable outcomes, it has met the ***Dunsmuir*** criteria. Said differently, this Court must examine the Board's decision holistically and not try to parse portions of it to see if the outcome is reasonable.

[82] As well, the Complainant argues that the Board confused assessment methodology with the comparison of similar properties, when it said, "If, for ex mple, a property with no improvements had a higher assessment than a very similar one with improvements, this would be inequitable." This, it argues, compares different properties using differe methodologies. Th ees with that interpretation. This statem the sales comparison approach. It says nothing about the income arising from the 2 properties.

[83] The Complainant argues that the Board should have considered "similar businesses," which, this Court assumes, refers to other grocery stores. That, this Court finds, would be "mixing apples and oranges." *MGA* s 293(2) says that the assessor must consider "similar property in the same municipality in which the property that is being assessed is located," not similar businesses. Similarly, *MGA* s 467(3)(c) says that the Board must not alter any assessment that is fair and reasonable taking into consideration "the assessments of similar property or businesses in the same municipality" (emphasis added). Finally, *MRAT* s 2(c) says that "An assessment of property based on market value ... must reflect typical market conditions for properties similar to that property" (emphasis added). This is a land comparison approach. Of course, the assessor might have used an income approach, which would have required the "business analysis" that the Complainant seeks. That is not, however, the methodology that the assessor chose to use. It was within the assessor's discretion to use whatever methodology it thought best reflected the circumstances with which it was dealing. The Board found no error in the approach that the assessor took and, for this, this Court must show deference to the Board's decision. It is not for this Court to find that the assessor should have used a different methodology. This is a question of mixed law and fact.

[84] Furthermore, the Board was well aware of the other grocery stores that Altus was arguing were the most similar and comparable, when it said that Altus "stated that the current assessment is inequitable with other grocery stores, thereby making it less competitive with them": De at 3. It chose to apply that finding in the manner it saw fit and, pursuant to *MGA* s 464(1), this Court must show deference to the relevance and weight the Board so chose. As well, *MRAT* s 2(b) requires an assessment of property b market value, to be "an estimate of the value of the fee simple estate in the property." This is important inasmuch as it requires the assessor to consider the full bundle of rights that attach to the fee simple estate, and not necessarily only the present use of the property.

[85] 85] As a result, the standard of review that this Court must apply when reviewing the Board's decision is reasonableness. The issue falls squarely within the Board's area of expertise and

requires it properly to apply its home legislation. As well, this issue is not central to the legal system as a whole. In ***FHR Real Estate Corp. v anff (Town)***, 2004 ABQB s 30-33, 34 Alta LR (4th) 50 [*FHR*] at paras 30-33, Bensler J said that courts should show deference to the Municipal Government Board (which previously heard assessment appeals) with respect to its determinations of equity, when she said the following:

> The Board routinely reviews property assessments to determine whether they are fair and equitable in relation to the assessments of other taxable properties. In ensuring fairness, the Board is mandated by the *Act* to consider the assessment of similar properties. Thus, the Board will have developed a finely honed sense of what factors cause two properties to be "similar" within the context of the legislation and its mandate. As a result of its expertise in relation to this issue relative to the Court's the Board ought to be afforded deference. I find, therefore, that this factor points to the more deferential end of the spectrum.
>
> Interpretation and application of the term "similar" for the purposes of assessment clearly concerns issues of fairness and equity as between taxable properties. Accordingly, this is a polycentric issue which requires "a delicate balancing between different constituencies". As such, this factor favours a high degree of deference.
>
> As to the nature of the question, the Court of Appeal in [*Alberta (Minister of Municipal Affairs) v Alberta (Municipal Government Board)*, 2002 ABCA 199 (*sub nom Alberta (Minister of Municipal Affairs) v Telus Communications Inc.*) (2002), 6 Alta LR (4th) 199, 312 AR 40] concluded at para. 38:
>
> > The realities of the marketplace in this case provided the context for statutory interpretation. The problem before this Board was, accordingly, one of mixed law and fact and the Board was entitled to greater deference than that extended to it by the reviewing judge.
>
> This issue required the Board to interpret the term "similar" as it is used in the legislation. In doing so the Board's decision would have been informed by its knowledge and experience in assessing property. It would also have had regard to the factual similarities and differences between the Hotel and the comparables submitted by the Applicant. The question is, therefore, one of mixed fact and law. This factor favours the application of a moderate to high standard of deference.

[86] Because the Board considered the comparable properties that the City presented, it undertook the equity analysis of which the Complainant disputes.

[87] Furthermore, the Board was cognizant of the various approach ment that we open to the assessor, and concluded that the income approach would not reflect the Mission Safeway's "market value" and it "would make its assessment inequitable": Decision at 4. Thus, it took an approach that it considered to be equitable, and that reflected market value.

[88] The Board took this approach based on the evidence and the ments that the pa made before it on October 18, 2011, and October 19, 2011. What the Board decided during earlier or later hearings involving the Mission Safeway and other properties is not relevant to this Court's analysis of the issues before it.

[89] Because this is a question of fact or mixed law and fact, it is not of sufficient importance to merit an appeal. It does not deal with the Board's interpretation of provisions of the *MGA*. It is applying the *MGA* provisions to the facts before it. In other words, the Board was simply applying the tests that the Alberta Legislature requires it to apply, based on the facts it had before it. Although it is of importance to the Complainant, it does not meet the objective standard: ***845971*** at para 8. The Complainant argues that the issue has jurisprudential value as it will provide judicial guidance to the Board on the application of the equity test. As mentioned earlier, that test is already well-known to the Board, as it applies it frequently, if not daily. Besides, courts have already commented on the proper test, such as in ***FHR***.

[90] For the foregoing reasons, this Court is of the view that the Board acted reasonably in reaching its conclusions and it explained its decision in a way that was justifiable, transparent and intelligible. As a result, the Complainant's chances of success on appeal of this issue are not strong. Said differently, this issue is not one of law or jurisdiction that can be said to be of sufficient importance to merit an appeal.

V. Conclusion

[91] For the foregoing reasons, this Court dismisses the Complainant's application in which it seeks leave to appeal the Board's decision.

Heard on the 11th day of August, 2015, and on February 23, 2016.
Dated at the City of Calgary, Alberta this 6th day of April, 2016.

K.D. Yamauchi
J.C.Q.B.A.

Appearances:

Alexis Teasdale
Bennett Jones LLP
for the Applicant

Nathan W Irving
The City of Calgary Law Department
for the Respondent The City of Calgary

Michael S Janke
Janke Law Office
for the Respondent The Assessment Review Board for the City of Calgary

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Corrigendum of the Reasons for Judgment
of
The Honourable Mr. Justice K.D. Yamauchi

Th mber in the citation line has been corrected to 2016 ABQB 200

Woodsmere Holdings Corp.
v.
The City of Medicine Hat

[2018] CARB (Medicine Hat) 0217-012/2018

Clerk of the Assessment Review Board
City of Medicine Hat
City Hall - 3nd Floor
580 First Street S.E.
Medicine Hat, AB T1A 8E6
PH: 403-529-8220
clerk@medicinehat.ca

DECISION WITH REASONS

CARB - 0217-012/2018

IN THE MATTER OF A COMPLAINT filed with the City of Medicine Hat 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:

Woodsmere Holdings Corp - Complainant

- a n d -

City of Medicine Hat - Respondent

BEFORE:

Members:
Jasbeer Singh, Presiding Officer
John Frame, Member
Terry Hurlbut, Member

A hearing was held on August 23, 2018 in the City of Medicine Hat in the Province of Alberta to consider complaints about the assessment of the following property tax roll number:

Roll No./ Property Identifier	Assessed Value	Owner
Roll #100449 *2322 Hatcher Drive NE* *Medicine Hat, AB*	$10,001,300	Woodsmere Holdings Corp.

Appeared on behalf of the Complainant:

- Andrew Izard, Agent – Altus Group
- James Lindsay – Altus Group

Appeared on behalf of the Respondent:

- Sue Sterkenburg, City Assessor, City of Medicine Hat
- Chris Down, Assessor, City of Medicine Hat
- Elisabeth Dubeau, Assessor, City of Medicine Hat

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City of Medicine Hat
City Hall - 3nd Floor
580 First Street S.E.
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DECISION WITH REASONS

CARB - 0217-012/2018

PART A: BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

1. The subject, a multi-residential property, on a 2.731 acre (118,958 sq. ft.) parcel of land, was built in 2001 and consists of two, elevated, 47 unit four-storey buildings, for a total of 94 suites. Seven One Bedroom and 87 Two Bedroom units are self-contained air conditioned units, equipped with elevators, in-suite laundry facilities and dishwashers. There is ample paved parking, complete with winter plug-ins. Located at 2322 Hatcher Drive NE, the subject property has been assessed on mass appraisal basis using income approach to value.

2. The current year assessment value of $10,001,300 is under appeal before the Board.

PART B: PROCEDURAL or JURISDICTIONAL MATTERS

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

PRELIMINARY ISSUE

4. Did the Complainant submit necessary disclosures within the time limit specified under Matters Relating to Assessment Complaints Regulation, 2018, Alta Reg 201/2017 (MRAC)?

POSITION OF THE APPLICANT (City of Medicine Hat)

5. The Applicant's position is summarized as follows.

   a. For the scheduled hearing date of August 23, 2018; the Complainant was required to file the initial disclosure of evidence, 42 days prior to hearing, i.e. by July 11, 2018.

   b. The Notice of Hearing, issued on May 25, 2018, specified a deadline of 4:30 p.m. on July 11, 2018 for submission of the initial disclosure of evidence.

   c. The Complainant's disclosure documents were stamped 'Received' on Jul 12, 2018, by the City of Medicine Hat.

   d. Section 10 of MRAC stipulates that '*A composite assessment review board panel must not hear any evidence that has not been disclosed in accordance with section 9 (of MRAC).*'

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e. The Applicant (City of Medicine Hat) declines consent to abridgement of time for the Complainant's submission of evidentiary disclosures.

f. The Complainant's late submission reduces the number of days available to the respondent to prepare the disclosure evidence with a lesser time frame and puts unfair and undue pressure on the respondent (City of Medicine Hat).

g. The Applicant questioned whether, the package had, indeed, been placed in the City's mail box on July 11, 2018.

h. Quoting from several case law examples, the Applicant stressed its position that the Board should disallow Complainant's disclosure package as evidence not received within the stipulated time frame.

POSITION OF THE COMPLAINANT (Altus Group)

6. The Complainant stated that the necessary disclosure documents were delivered to the City of Medicine Hat on the required deadline date i.e. July 11, 2018; and added the following.

a. The courier company was entrusted with the responsibility of delivering the disclosure documents to the City of Medicine Hat by the deadline of 4:30 p.m. on July 11, 2018.

b. The courier company's (DirectIT) Proof of Delivery (POD) confirmation shows the time of delivery to the City of Medicine Hat as 16:47 on July 11, 2018.

c. The City marked the package as having been delivered the next day, i.e., on July 12, 2018; presumably, because the City's offices close at 4:30 p.m.

d. Section 22(4) of the Interpretation Act states. *"**(4)** If an enactment contains a reference to a number of days not expressed to be clear days or "at least" or "not less than" a number of days between 2 events, in calculating the number of days, the day on which the first event happens shall be excluded and the day on which the 2nd event happens shall be included."* and Section 22(7) states, *"**(7)** If an enactment provides that anything is to be done within a time after, from, of or before a specified day, the time does not include that day.*

e. In *Clarke v. Moore*, the Alberta Supreme Court held that "day" is defined "both at common law and by statute as meaning the twenty-four hours from midnight to midnight."

f. In *Canada Post Corp v. CUPW*, the court noted that "day" should be read as "referring to the calendar day unless some other qualification is provided for."

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City of Medicine Hat
City Hall - 3nd Floor
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g. Based on these authorities, section 9(2) of the MRAC must be read to mean that Altus was entitled to submit its disclosure at any time before midnight on July 11, 2018.

h. The City's interpretation would require the CARB to read section 9(2) to mean "at least 42 days and seven-and-one-half hours before the hearing date".

i. There is no express language in the MGA or the MRAC that requires a complainant to deliver its disclosure before 4:30 p.m. on the due date.

j. Quoting from *Nerval Holdings v. Edmonton (City), 2007 CarswellAlta 2250*, the Complainant stated that the facts in *Nerval 2007* are almost identical to the facts in the present case. Despite the 4:30 p.m. deadline, the complainant faxed its issue statement and disclosure to the assessment review board at 5:40 p.m. The assessment review board office was closed at the time and the issue statement was stamped as received on the following day. The MGB found that the ARB, not being a legislative body, has no authority to set such a deadline.

7. As the Alberta Court of Queen's Bench in *Anterra Sunridge Power Centre v. Calgary (City)* observed, citing the Supreme Court of Canada in *Morguard*, "absent express words, a statute must not be interpreted to adversely affect a citizen's right".

8. In closing, the Complainant argued that the City's interpretation of section 9(2) of the MRAC must also be rejected because it adversely affects citizen's rights.

DECISION: Preliminary Issue

9. The Board denies the Applicant's request to disallow the Complainant's disclosure documents, that were delivered on the stipulated date, but after the City's offices were closed for the day.

REASONS FOR THE DECISION: Preliminary Issue

10. The Board finds that both parties agree on the following statements of fact;

a. The Complainant's disclosure package was delivered to the City on July 11, 2018, the date specified on the Notice of Hearing.

b. The Complainant's disclosure package was delivered at 4:47 p.m. whereas the Notice of Hearing stipulated a deadline of 4:30 p.m.

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c. The municipality's offices were closed at the time of delivery and the package was marked 'Received' on the following day, July 12, 2018.

11. The Board accepts the Complainant's evidence, by way of the courier company's proof of delivery email, confirming the time of delivery to the municipality.

12. The Board notes the Applicant's concerns pertaining to the actual time of delivery of the package; but in the absence of any supporting evidence, assigns little weight to it.

13. The Board is persuaded by the Complainant's case law evidence that the ARB, not being a legislative body, does not have the authority to curtail the citizen's rights by way of setting arbitrary timelines, which are not supported by legislation or the established case law.

14. The Board finds that the municipality's practice of marking the next day's date on the documents received after hours is totally discretionary. It may be convenient for internal administrative purposes, but is not supported by legislation or the case law.

15. The Board also notes that the delivery of the disclosure package, a little after the offices closed for the day, caused no prejudice to the Applicant or to any other party.

16. In view of the above, consistent with the law and in the interest of fairness, the Board finds that the Complainant's disclosure package for the subject property was delivered within the legislated timelines and thus, admissible for the merit hearing.

PART C: ISSUES

17. The CARB considered the complaint form together with the representations and materials presented by the parties. The matters or issues raised on the complaint form are as follows:

    a. Issue 1: The Expense Ratio used for the subject assessment is not reflective of the market.
    b. Issue 2: The Vacancy Rate used for the subject assessment is incorrect.
    c. Issue 3: The Capitalization Rate used for the subject assessment is not reflective of the market.

18. However, as of the date of this hearing, the only issues remaining in dispute and before the Board for adjudication is, the Expense Ratio used by the assessor for the subject assessment.

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City Hall - 3nd Floor
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DECISION WITH REASONS

CARB - 0217-012/2018

ISSUE:

19. Is the current year assessment correct, in view of the Expense Ratio used to determine the assessment?

Decision of the Board:

20. For the reasons outlined herein below, the Board confirms the current assessment set at $10,001,300.

POSITION OF THE COMPLAINANT

21. The Complainant presented a 114 page disclosure document that included three years' of rent rolls and expense report, with expense ratio analysis and a 14 page rebuttal document to the Board; and highlighted the following.

    a. There have been no sales of similar sized properties as the subject. The highest sale price being less than $2,000,000. In support, the Complainant included a list of 13 Large Apartment Sales in the City, from the City's 2018 Multi-Family assessment methodology. These sales occurred between October 2014 and January 2017 and the adjusted sales price ranged from $193,631 to $1,917,362. Five of the sales share the same LUC as the subject (142).

    b. The subject property is classified by the City in Land Use Code (LUC) 142 – 'Multi Family more than 8 suites'. This, in the Complainant's opinion, suggests that the subject property, with 94 suites, is having its expense ratio compared to properties that are a fraction of the size of the subject.

    c. The City of Medicine Hat's Multi-Family assessment methodology makes no mention of expense ratio for determining capitalization rates.

    d. The 12 month occupancy trend for the subject property for May 2017 to April 2018, showed vacancy rates ranging from 3.19% to 14.89%, with an average of 9.04%.

    e. The disclosure documents include three years of income and operating expenses for the subject property. These have been provided to the City assessor in response to the RFI process. These all indicate a substantially higher expense ratio than 24%, used for the current year assessment.

    f. The Complainant acknowledged the need to remove mortgage interest, amortization and structural allowances from the allowable expense items.

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g. The analysis of 2015-2017 figures for the subject property shows expense ratio ranging from 35.61% to 44.28%, which, in the Complainant's opinion, support the requested 41% expense ratio for the current year assessment.

h. The Complainant provided 'Twelve Month Profit and Loss Detail' in respect of five similar properties located in Grande Prairie, Leduc and Lethbridge municipal jurisdictions and argued that these comparables' expense ratios ranging from 31.36% to 52.34% supported the request for 41% expense ratio for the subject assessment.

i. The Complainant included 'Assessment Summaries' in respect of the two Grande Prairie properties that had been assessed with a 50% expense ratio which, in the Complainant's opinion, supported the request for a 41% expense ratio for the subject assessment.

j. Applying the equitable requested expense ratio of 41%, without changing any other assessment parameters, the current year proposed assessment for the subject property was shown to be $7,572,370.

22. In summation, the Complainant questioned the Respondent's reliance on information or the assessment methods that are not explicitly stated in the methodology posted on the website. The Complainant also questioned the assessor's redacting the identity of the properties used for analysis for typical values; on the grounds that such tax payer information needed to be protected in accordance with FOIP requirements. The Complainant referenced a City of Calgary Board Order (CARB 128952P-2018).

23. The Complainant concluded by requesting the Board to reduce the current year assessment from $10,001,300 to $7,572,370; based on a higher expense ratio of 41%.

POSITION OF THE RESPONDENT

24. The Respondent (The City of Medicine Hat), presented an 89 page disclosure document to the Board, and stated the following in support of the current year assessment of $10,001,300.

a. The legislation requires that the property assessments be prepared using mass appraisal methodology with typical assessment parameters like rental rates, vacancy rates, expense ratios and capitalization rates; to establish market value of income producing properties. Since such parameters are intrinsically interrelated, a change in any one of the values affects other values.

b. The Complainant's requested expense ratio is based on the actual values applicable to the subject property and is not the same as the typical value, used for preparing equitable assessments for similar properties in the subject's market area.

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City of Medicine Hat
City Hall - 3nd Floor
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Medicine Hat, AB T1A 8E6
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c. Merely changing the expense ratio, as requested by the Complainant, will make it inequitable and thus, inconsistent with the legislated requirements.

d. Using the rent roll information provided by the Complainant, it was shown that not including any income for vacant units, has the effect of lowering the potential income and thereby, inflating the expense ratio as a percentage. Additionally, it disrupts the assessment model which is based on the typical rental values – not actual.

e. The Respondent critiqued the Complainant's '3-year Expense Report' and showed that if these actual expense figures were treated in the same manner as other similar properties in the municipality, the resulting expense ratios for 2015-2017, would be 21.2%, 25.1% and 27.1% respectively; which support the typical expense ratio value of 24%, used for the subject assessment.

f. In response to concerns regarding exclusion of property taxes from the City's assessment model for calculating the expense ratios; the Respondent reasoned that at the time of assessment, the current year's taxes are not known and using the previous year's tax figures could yield erroneous outcomes. Since this practice is applied consistently to all similar properties, the outcomes are equitable.

g. Using an illustration, the Respondent showed that inflated operating expenses *(i.e. including property taxes)*, would warrant lower capitalization rates to arrive at the correct market value.

h. The Respondent argued that the example of five properties from Grande Prairie, Leduc and Lethbridge, quoted as comparable to the subject, is not valid. While there is no information as to age, suite mix, rents and the assessment methodology; this is also contrary to the legislative provisions which require the assessor to use comparable properties from the same municipality as the subject. (s. 293(2) MGA)

i. Using a table of 11 similar properties from the subject's market area, with the same LUC (142), the Respondent showed that all properties, with similar characteristics, had been similarly assessed with an equitable expense ratio of 24%.

j. The Respondent presented a set of 17 properties - an extract from the actual income and expense analysis, showing the actual expense ratios reported, and stated that the median age of the large apartments at 47 years, is significantly older than the subject, which was built in 2002.

k. During cross-examination, the Complainant argued that in the set of 17 similar properties, the average expense ratio in respect of the five properties built between 1995 and 2006, was not any different from the ones built between 1968 and 1977.

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City of Medicine Hat
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l. The Respondent provided another table of 13 properties that showed the assessment expense ratios varying with age. The assessment expense ratio for the newest property, built in 2014, was shown to be 22% while a 1961 built property was assessed with an expense ratio of 29%, which reflected its age.

m. The same table showed that the assessment per unit also varied with age. While a 1961 built property has been assessed at $73,159 per suite, the newest, built in 2014, has an assessment of $131,040 per suite. The Respondent showed that the subject assessment at $106,397, correctly reflected its age and value.

n. The Respondent provided sales data sheets in respect of five recent comparable sales and one assessment comparable. During cross-examination, the Complainant debated the qualitative or comparative 'inferior' or 'superior' label applied to these properties by the Respondent.

25. In summation, the Respondent addressed the Complainant's Rebuttal evidence and argument as follows.

a. The information posted on the website is intended for the general public who are not expected to be familiar with the intricacies and mechanics of assessment valuation in accordance with the legislation, professional guidelines, the specific market conditions and variable assessment factors.

b. The assessment capitalization rates, based on the analysis of typical valuation factors have been posted on the website as part of the methodology guide for multi-family properties. The posted rates are typical rates and may not coincide with the actual rates applicable to any of the properties included in the study.

c. The same reasoning holds good for the assessment expense ratios. The typical value used for an assessment may not match the corresponding actual figure for any of the properties assessed.

26. The Respondent concluded by requesting the Board to confirm the current year assessment set at $10,001,300.

COMPLAINANT's REBUTTAL:

27. The Complainant stated that there was no mention of 'Loaded Cap Rate' methodology, nor how the NOI is being calculated to determine the cap rate. How is a complainant supposed to comprehend the approach used by the assessor when the document published on the municipal website omits key information in their calculation?

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28. Large apartments were valued based on the 5 sales provided by the Respondent. The income was provided on 3 of the 5 sales, which results in a minimum cap rate of 7%. The subject is at 6%. There are no sales to support the assessed 'loaded cap rate'.

29. The Complainant stated that according to the City's evidence, the two largest sales of LUC 142 properties (located at 2398 Southview Drive SE ad 89 Collins Crescent SE) are at 7.02% and 7.36% cap rate; that question the 6% assessment cap rate used for the subject assessment.

DECISION:

30. The Board confirms the current year assessment at $10,001,300.

REASONS FOR THE DECISION:

31. The Board accepts the assessor's legislated obligation to prepare each year's assessment using mass appraisal methodology with typical assessment parameters.

32. The only unresolved issue before the Board is, the typical expense ratio of 24% used for the subject assessment. The Complainant requested the Board to increase the same to 41%.

33. The Board is not persuaded by the Complainant's assessment comparables from outside the jurisdiction of the municipality. The Board places little weight on such evidence because the legislation expects the assessor to rely on comparable similar properties in the same municipality in which the subject property is located.

34. The Complainant did not provide any reasons as to why the Board must find guidance and support for the requested assessment rate for the subject property; from such remotely located comparables; for which, the relevant assessment factors or the methodology used was not before the Board.

35. The Complainant has relied on three year' of actual expense information from the subject property which, according to the Complainant's own analysis, shows expense ratios of 35.81%, 44.29% and 41.33%, respectively.

36. The Board is persuaded by the Respondent's reasoning that if the same information (as presented by the Complainant), was treated in a manner, consistently used for assessment of all similar properties; the resulting expense ratios are 21.2%, 25.1% and 27.1%, respectively; which support the typical expense ratio used for the assessment in question.

Clerk of the Assessment Review Board
City of Medicine Hat
City Hall - 3nd Floor
580 First Street S.E.
Medicine Hat, AB T1A 8E6
PH: 403-529-8220
clerk@medicinehat.ca

37. The Board finds that the subset of 17 properties from the Respondent's assessment model analysis provides a median value of 22% and an average of 26.65%; which support the 24% assessment ratio used for the subject assessment.

38. Eliminating the seeming outliers (i.e. with reported expense ratios of more than 30% or less than 20%), from the above table of 17 properties; the Board finds that the median value is still 22% and an average of 22.1%; which do not support the Complainant's requested expense ratio value of 41%.

39. The Board acknowledges the Respondent's FOIP obligations and the need to redact portions of information that reveal the identity of the property. However, the Board fails to understand the Complainant's objection to such legislated obligation placed on the Respondent.

40. The Board acknowledges the Complainant's request for an increase in the expense ratio applied for the subject assessment; on the basis that the actual conditions applicable to the subject property so indicate. However, this is not viewed as a challenge to the correctness of the typical value determined by the assessor, through prescribed analysis of the detailed income and other information, provided by the property owners, in response to the annual requests for information (RFI).

41. The Board finds that the information and argument presented by the Complainant pertains, either to the subject property or, to an invalid comparison with properties in other jurisdictions. This, in the Board's opinion, does not constitute sufficient and legitimate grounds to question the correctness of the typical expense ratio of 24%, applied for the subject assessment.

42. The Board accepts the Respondent's evidence which shows similar expense ratios used for similar properties in the market area.

43. In view of the above, the Board finds that the Complainant has not provided sufficient compelling reasons to alter the current assessment set at $10,001,300.

DISSENT

44. There was no dissenting opinion.

Clerk of the Assessment Review Board
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clerk@medicinehat.ca

DECISION WITH REASONS

CARB - 0217-012/2018

PART D: FINAL DISPOSITION OF COMPLAINT

45. The complaint is denied and the assessment is confirmed, as follows.

Roll No./ Property Identifier	Assessed Value	Owner
Roll #100449 *2322 Hatcher Drive NE* *Medicine Hat, AB*	$10,001,300	Woodsmere Holdings Corp.

46. It is so ordered.

Dated at the City of Medicine Hat, in the Province of Alberta, this, 30th day of August, 2018.

Jasbeer Singh, Presiding Officer

Clerk of the Assessment Review Board
City of Medicine Hat
City Hall - 3nd Floor
580 First Street S.E.
Medicine Hat, AB T1A 8E6
PH: 403-529-8220
clerk@medicinehat.ca

DECISION WITH REASONS

CARB - 0217-012/2018

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

NO. ITEM

1. C-1 (114 pages) Complainant's Disclosure
2. C-2 (14 pages) Complainant's Rebuttal
3. C-3 (109 pages) Complainant's Rebuttal Argument
4. C-4 (270 pages) Changing one Input
5. C-5 (113 pages) Evidence vs, Issue
6. C-6 (331 pages) Complainant Rebuttal – legal Argument
7. R-1 (52 pages) Respondent's Submission – Preliminary Matters
8. R-2 (89 pages) Respondent's Assessment Brief – Merit Hearing

APPENDIX 'B"

ORAL REPRESENTATIONS

PERSON APPEARING CAPACITY

For the Complainant: Altus Group (Agent)
1. Andrew Izard, Senior Director, Property Tax
2. James Lindsay, Analyst, Property Tax

For the Respondent: Assessment Branch, City of Medicine Hat
1. Sue Sterkenburg AMAA, City Assessor
2. Chris Down, Assessor III
3. Elisabeth Dubeau AMAA, CRA, Assessor II

APPEAL

Decisions of the CARB are subject to appeal to the Alberta Court of Queen's Bench on questions of law or jurisdiction under Section 470 of the Act.

CARB - 0217-012\2018 Roll #100449 (For MGB Office Only)

Subject	Type	Sub-type	Issue	Sub-issue
CARB	Multi-Family		Income Approach	Expense Ratio

Calgary Assessment Review Board Website

Calgary Assessment Review Board

Step 2: Prepare and submit evidence

Once you file a Complaint Form, you'll get a deadline for providing evidence to support your complaint:

A) For residential properties with 3 or fewer dwellings, and farm land:

- The deadline is shown on your Notice of Hearing.
- The Assessment & Tax Business Unit has until 7 days before the hearing to file their evidence.
- You can file your rebuttal evidence at least 3 days before the hearing.

B) For residential properties with 4 or more dwellings and all non-residential properties:

- The deadline is shown on your Notice of Hearing.
- The Assessment & Tax Business Unit has until 14 days before the hearing to file their evidence.
- You can file your rebuttal evidence at least 7 days before the hearing.

ARB staff can help you understand the process, but they can't give opinions or advice about your complaint.

Types of hearings

- **Paper Only format:** The Board makes its decision based only on paper evidence with no interaction between the parties or with the Board. Both parties must agree to this format. Studies suggest that chances of a good outcome may be up to 2.7 times better by not using a Paper Only format.
- **In-Person, Video** (using Microsoft Teams), and **Phone** (audio only) **Hearings:** The Board considers both written evidence and verbal submissions. During the hearing, you can explain your evidence and answer questions.

Tips for gathering information for your ARB hearing

- To support your requested value, select comparable sales of similar properties that represent market conditions as of July 1st of the previous year.
- Recent sale of your property.
- Estimates of your property's value from a professional appraiser, assessor, or realtor.
- Repair estimates from a reputable contractor for physical problems (e.g., cracked foundation, roof leaks). Not all defects and maintenance items will lower your property's value.
- Assessments of similar properties in your neighborhood. You can find this information at myTax.
- Compare features like location, lot and building sizes, age, structure type, quality of finishes, level of services, basement (finished or unfinished), garages, carports, outbuildings, level of renovation or repairs, and any detrimental conditions.
- Photographs of your property and other properties you're comparing it to.
- For apartment condos compare features like: floor level, view, corner or end unit, floor plan, parking, elevators, and building amenities.
- For businesses compare square footage, net rent, location, age, use, and quality of the buildings.
- Maps to show the location of properties used in comparisons.

- Use a computer spreadsheet or make a chart by hand for your comparisons.
- You can have witnesses appear on your behalf.
- Legal arguments based on legislation and case law, if applicable.

You can't use hyperlinks to websites. You must provide the specific information you want the panel to consider.

ARB hearings are open to the public, and any documents you file as evidence will become part of the public record.

Legal resources

All Calgary ARB decisions since 2019, as well as provincial laws and legal cases, are available for free on The Canadian Legal Information Institute (CanLII) website.

Check out the summary of important case law provided by the ARB.

Submitting your evidence

Use the ePortal to upload your evidence and view the City's evidence. The ePortal automatically shares evidence with the ARB and the City, so you don't need to submit documents manually to multiple parties. It also allows for larger uploads than most email providers. You'll get an email confirmation for each evidence disclosure filing in the ePortal.

For those with multiple complaints, the ePortal has group features to make things easier, like filtering entries, notifications of upcoming deadlines, and notifications of disclosures from other parties. You can also group multiple complaints together, save these groups, and submit common evidence to grouped files.

Evidence must be filed by the deadlines set by law. It must be received by 11:59 pm MT on the disclosure deadline shown on the front of the Notice of Hearing. If you're filing in person, evidence must be delivered during office hours. Disclosure documents should be page-numbered and should not have passwords or other security features. If you don't follow the rules for disclosure due dates, your complaint might be dismissed.

Paper evidence must be delivered to **both** the ARB and the City by mail or in-person to:

Assessment Review Board

Mailing:
P.O. Box 2100, Station M, #222
Calgary, AB T2P 2M5

In-person Delivery:
4th floor, 1212 - 31 Ave N.E.
(in the black drop box beside the building mailboxes in the west hall on the main floor.)
Calgary, AB

The City of Calgary Assessment and Tax Business Unit

Mailing:
P.O. Box 2100, Station M, #8002
Calgary, AB T2P 2M5

***In-person Delivery:**
2924 - 11 Street N.E.
Ad Valorem Place
Calgary, AB

Assessment and tax questions?

For questions about assessment and tax, contact:

City of Calgary, Assessment and Tax
Telephone: 311
Outside Calgary call: 403-268-CITY (2489)

For more information, see ARB Procedural Rules and Methods for Disclosure of Evidence.

Third Step

3

Hearing

Edmonton Tribunals Website

Filing a Complaint

An assessed person, taxpayer or authorized agent may file an assessment complaint.

Complaint Deadline

March 23, 2026 is the last date to file a complaint on most 2026 property assessment notices.

- If you **file online (http://arb.edmonton.ca/)**, you must submit your form and fee by 11:59pm on the complaint deadline date
- If you file by mail or in person, you must submit your **complaint form (/sites/default/files/box-files/Complaint_Form.pdf?cb=1781124648)** and fee by 4pm on the deadline date

(If you cannot open this form, try this printable version **Printable Complaint Form (/sites/default/files/box-files/Complaint_Form_Printable.pdf?cb=1781124648)**)

Complaints filed late or without the required fee are invalid. The Board must dismiss these complaints.

Before you File

You may not need to file a complaint if you speak to a City assessor first. The assessor can explain your assessment and correct any errors. If the assessor finds your assessment is not accurate, they can issue a new assessment.

Filing a Complaint

Watch on

How to File

- **Online** at **https://arb.edmonton.ca/ (https://arb.edmonton.ca/)**. Filing online will allow you to:
  - File and pay for your complaint
  - Submit documents online
  - Track the status of your complaint
  - Request a postponement or withdrawal on-line

- **In person or by mail**. Complete the **complaint form (/sites/default/files/box-files/Complaint_Form.pdf?cb=1781124648)** or contact the Assessment Review Board Office for a paper copy. If filing by mail, please allow time for delivery.

Filing Fees

Your assessment notice indicates your filing fee. This fee will be refunded if a change is made to your assessment by either the City assessor or the Board.

Type	Fee
Residential 3 or fewer dwellings	$50
Farmland	$50
Tax Notice	$30
Residential 4 or more dwellings	$650
Non-Residential	$650

Payments Accepted

- **Online**: Credit card, debit
- **In person**: Credit card, debit card or cheque
- **By mail**: Cheques only (make your cheque payable to the City of Edmonton)

Hearing Formats

Hearings are scheduled to be heard via video conference, teleconference in writing or in person. If a party wishes to request a change to the hearing format they must complete a **Hearing Format Change Request (/sites/default/files/box-files/Hearing_Format_Change%20_Request.pdf?cb=1781124648)** at least 14 days prior to the hearing.

Related Documents

Complaint Form
(https://edmontontribunals.ca/sites/default/files/related_documents/Complaint_Form.pdf)

Filing a Complaint Tip Sheet
(https://edmontontribunals.ca/sites/default/files/related_documents/Tip_Sheet_Filing_a_Complaint.pdf)

For More Information

Assessment Review Board

The Tribunals Office is Closed for Drop-in

- **In-person services:** Please contact us to schedule an appointment.
- **Filing an appeal:** Please contact us for instructions.
- **Service of court documents:** Please deliver to:
  Emery Jamieson LLP, 2400
  10235 101 Street Edmonton AB T5J 3G1
  Attention Kate Hurlbut

Hours

Monday to Friday
8:30am-noon and 1-4pm

Location

Churchill Building
10019 - 103 Avenue
Edmonton, AB T5J 0G9
Google Map
(https://www.google.ca/maps/place/Edmonton+Tribunals/@53.5453226,-113.4950482,17z/data=!3m1!4b1!4m6!3m5!1s0x0:0x0!7e2!8m2!3d53.5453226!4d-113.4928542?shorturl=1)

Contact

Phone
780-496-5026 (Tel:780-496-5026)

Email
assessment.reviewboard@edmonton.ca
(mailto:assessment.reviewboard@edmonton.ca)

Alberta Municipal Affairs

A guide on filing a property assessment complaint and preparing for your hearing.

Filing a property assessment complaint and preparing for your hearing

Alberta Municipal Affairs

Alberta's *Municipal Government Act*, the 2018 Matters Relating to Assessment Complaints Regulation, and the 2018 Matters Relating to Assessment and Taxation Regulation are the source for the information in this guide. If there are differences between the information in the Act and regulations, and what is presented in this guide, the legislation and regulations take precedence.

Table of Contents:

Introduction

If you own a residence or business, this guide will help you understand the assessment complaint process in Alberta. This guide will assist you in filing a property assessment complaint and it offers ideas on how to prepare for your hearing with an assessment review board.

This is only a guide and is not mandatory to use when filing an assessment complaint. It may help you gather the information you need to determine if you will proceed with a complaint and to clarify in your own mind how best to present your case to the assessment review board.

You may also wish to get further help from a tax agent, appraiser, lawyer, or other persons experienced in assessment complaints. You may have one or more of these people present your case to the board.

This guide will be of help if your property has been assessed on the basis of its market value. Farmland and industrial machinery and equipment are assessed using a regulated process. For information on the assessment of these properties, contact your municipality's assessor.

Why are property assessments prepared?

The assessment process establishes the value of a property in relation to other similar properties. The purpose of property assessment is to distribute property tax fairly among property owners in a municipality.

The assessment of a property does not in itself generate property taxes. Property taxes are generated when the tax rate, established by your municipality, is applied to the assessed value of your property. Your municipality sets its tax rate based on the amount of revenue it needs for local programs and services.

Property tax dollars pay for municipal services such as police and fire protection, roads, waste management, parks and recreation, and capital projects.

Your property tax bill also includes a school tax, which is collected by your municipality and submitted to the province. The province uses the school tax to help pay for primary and secondary education programs. Your property tax bill may also include local improvement taxes or other municipal taxes.

> **Note: You cannot file a complaint about the tax rate with an assessment review board, nor appeal it to the Court of Queen's Bench of Alberta. Neither of these can change tax rates or the services that are provided by a municipality.**
>
> **If you have specific concerns about these matters, you may wish to discuss them with the administration or council of your municipality.**

How is my property assessed?

In Alberta, residential and most commercial property is assessed on the basis of a property's market value.

Market value is defined as the price a property might reasonably sell for after adequate time and exposure to an open market when sold by a willing seller to a willing buyer.

Provincial regulation states that property assessments must reflect typical market conditions as of July 1 in the previous year.

To calculate your assessment, assessors look at property characteristics such as the size, type, and age of your property, as well as its location, style, condition, upgrades, and lot size. The selling prices of similar properties in the same neighbourhood or similar areas are also considered.

Mass appraisal

An appraisal is an estimate of value. Properties in Alberta are assessed using a method called mass appraisal. Mass appraisal is the process of valuing a group of properties as of a given date, using common data, mathematical models, and statistical tests. Mass appraisal techniques allow assessors to accurately value a large number of properties in a short period of time.

Valuation date

To ensure properties are assessed fairly, the province of Alberta sets a specific date to value all property for assessment purposes. The valuation date established by legislation is July 1 of the assessment year. In other words, the assessment you receive this year shows the estimated market value assessment of your property on July 1 in the previous calendar year.

Example: The assessed value of your property on your 2018 assessment notice is based on the estimated market value of your property on July 1, 2017.

Condition date

The second legislated date in the valuation process is the condition date. This is the date on which the characteristics and physical condition of the property is recorded for property assessment purposes. Under Alberta legislation, the condition date for property other than designated industrial property is December 31. For example, for the 2018 tax year, the condition date would be December 31, 2017. This means although the value of the property reflects the market conditions as of July 1, it must also reflect the physical condition of the property as of December 31.

*Example: If a garage has been added to the property during 2017, the property assessment for **2018** would be based on its market value as of July 1, 2017, including the garage.*

*The **2017** property assessment would not have included the garage because the garage was not built by the condition date (December 31, 2016).*

If I don't agree with my assessment, what can I do?

Review your property information to make sure the description of your property is accurate. This is an important step. If you believe information about your property is not correct, arrange a meeting with your municipality's assessor. Discuss any problems that might affect your property's value (for example, a major structural problem such as a cracked foundation).

Find out if these problems were taken into account when your assessment was prepared. The assessor can re-inspect your property and correct the information if necessary.

> **Note: It is your responsibility to contact your municipal office and check your property record to make sure the details are accurate.**

You can also compare your assessment with other assessments of similar properties in your neighbourhood. Talk with a professional appraiser, assessor, or realtor who can estimate your property's comparative value in the current market.

Remember the value shown on your assessment notice is based on the estimated value of your property on July 1 in the previous year.

How do I get information about my property?

You are entitled to receive all documents, records and other information in respect of your property that the assessor has in their possession at the time of the request, such as:

- information about the parcel of land including legal description, civic address, the use of the land, the size of the parcel of land, etc.
- information about the improvements including classification, type of improvement, and interior and exterior characteristics, such as number of rooms, quality, size or measurement of any improvements, physical condition, site improvements, etc.
- key factors, components and variables of the valuation model applied in preparing the assessment of property including site area, ancillary site improvements, location, physical condition, and adjustments for time.
- property related information including building permits, inspection reports, and sales information.

Alberta legislation requires that a municipality must provide this information to you within 15 days from the date of your request, or make reasonable arrangements for you to see the information at the municipality's office. For further information on this, you can refer to the information pamphlet "Access to Property Assessment Information" available on the Municipal Affairs website or from your municipality.

Tip: Your municipality may have your property information available online.

Tip: Free access to the Internet is available to library cardholders in most libraries.

Look for sales data on properties similar to yours (size, age, location) that sold close to July 1 in the assessment year. The data that you collect on these "comparison" properties will help you to estimate the market value of your property.

How do I get information about other comparable properties?

In addition to the above sources of information, you are entitled to receive from your municipality a summary of information on similar properties to yours such as:

- a description of the parcel of land and any improvements to identify the type and use of the property;
- the size and measurements of the parcel of land;
- the age and size or measurement of any improvements;
- the key attributes of any improvements to the parcel of land;
- the assessed value and any adjustments to the assessed value of the parcel of land; and
- the key factors, components and variables of the valuation model applied in preparing the assessment of property.

You may request summary information on up to five comparable properties. Alberta legislation requires that a municipality must provide this information to you within 15 days from the date you requested the information. For further information, please refer to the information pamphlet "Access to Property Assessment Information" available on Alberta Municipal Affairs' website or from your municipality.

Tip: Your municipality may have comparative value information available online.

If you believe a municipality has failed to comply with your information request under section 299 or 300 of the *Municipal Government Act*, you may write to the Minister of Municipal Affairs who will review whether the municipality provided the required information.

Once you have filed an assessment complaint with the assessment review board, the municipality is no longer required to fulfill a section 299 or 300 request for information until after the complaint has been heard and decided upon.

Comparable features:

Look at the recent sale prices of properties that are comparable to yours in terms of the following characteristics or features:

- Location (neighbourhood, access to transportation, open space, etc.)
- Services (near schools, recreation facilities, shopping, etc.)
- Lot size
- House size
- Age of house
- Landscaping
- Number and size of bathrooms
- Basement (finished or unfinished)
- Fireplaces
- Garage/carport
- Outbuildings
- Major or minor repairs needed
- Environmental problems (odours, high traffic, loud noise, etc.)

Condominium units:

If you own a condominium unit, you might also want to compare features such as:

- What floor the unit is on
- View
- Location of the unit (corner, inside, or end unit)
- Floor plan
- Parking (underground, surface, or street)
- Elevators
- Other features (health club, party room, swimming pool, tennis court, etc.)

Rural areas:

If you live in a rural area, you may have to look further than your neighbours to find comparable properties. If this is the case, remember that market conditions and selling prices may vary significantly in different locations and regions. If you own property in a rural setting, consider the following when looking for properties that are comparable to yours:

- Land area or dimensions
- Site improvements
- Non-assessable improvements
- Services (garbage, water, sewer, etc.)
- Location

Building:

- General description
- Number of bedrooms
- Finished area
- Number of bathrooms
- Year built
- Basement
- Outbuildings
- Number of storeys

The following are a number of ways you can find sales information on properties comparable to your own:

Multiple Listing Service

Search the Multiple Listing Service database on the internet (at www.realtor.ca). This is a collection of properties listed for sale in your community through a real estate office. If you are using this service, search for properties with characteristics and in neighbourhoods that are similar to yours. When entering the features of your home for your search, be sure to specify a "minimum" and "maximum" that match your property. For example, if you own a three-bedroom house, search for comparison properties with a "minimum" and a "maximum" of three bedrooms.

> **Note: MLS listings are representative of current market conditions and may not reflect market value as of the July 1 valuation date or the December 31 condition date.**

Local Registry Office

Go to your local registry office to search for recent sale prices. There will likely be a fee for this service. To find the nearest registry office, look in the Yellow Pages under License and Registry Services. Get a computer printout of the search at the registry office. Make sure the "declared value" of the property (usually the same as the sale price) is on the computer printout. Keep copies of the search results to bring to your hearing.

> **Tip: You will need the legal land description of the properties you want to search for when you go to the registry office. You can find this information on the assessment roll at your municipal office by first looking up the street addresses of the properties. The legal land descriptions may also be available on your municipality's website.**

Develop a comparison chart

By now, you should have enough information to compare your assessment to assessments of similar properties. You should have an idea of whether your assessment is a fair estimate of the value of your property in comparison to other similar properties.

Look at the property characteristics and details that might affect the value or price of your property and the comparison properties. If you list these comparable properties in a chart, the assessor can review your evidence at a glance. If the assessor agrees the original assessment or tax notice is not accurate, a new assessment or tax notice can be issued.

Tip: All of the information gathered, including the chart, will be useful evidence at an assessment review board hearing.

Here is an example of how the chart may look.

Sample Comparison Chart

	Sale price	Sale date	Feature 1	Feature 2	Feature 3	Feature 4	Feature 5
Property 1 (include address)							
Property 2 (include address)							
Property 3 (include address)							

Do the facts support your case?

Make sure you have enough information to demonstrate your property is similar to those you have selected as comparable properties and the assessed value of your property differs significantly from those properties.

Choose comparable properties located in your neighbourhood. Properties outside your neighbourhood may be affected by factors that may cause prices to differ significantly from those in your neighbourhood. If this is the case, it would not be feasible to use these properties to compare to your own.

If possible, take photographs of the outside of the compared properties and of your own. Contact your municipality to get a map of the neighbourhood and mark the locations of all the properties on a map of the area.

If after reviewing the information about your property and comparative properties, and if you are unable to come to an agreement about your assessment with the assessor, you can file a complaint with your municipality's assessment review board.

You have 60 days from the notice of assessment date on your assessment or tax notice to file a complaint with the clerk of the assessment review board.

An assessment complaint must be filed using the Government of Alberta "Assessment Review Board Complaint Form" (form number LGS1402). This form may be included with your assessment or tax notice, or provided by your municipality upon request. You can also download it from Municipal Affairs' website at: www.municipalaffairs.alberta.ca.

The Complaint Form

It is important to complete all fields on the complaint form that are relevant to your property. This will help the assessment review board clerk schedule the appropriate time for your hearing and allow the board members to familiarize themselves with your case prior to the hearing.

Section 1 – Notice Type

In this section you will indicate what type of assessment or tax notice you received. The type of notice you received will be indicated on the notice, for example, "Annual Assessment" or "Supplementary Assessment".

Section 2 – Property Information

This section identifies your property within the municipality. The assessment roll or tax roll number is unique to your property and is indicated on your assessment notice or tax notice. The address or legal land description further verifies the property under complaint. It is important to identify your property type so the clerk of the assessment review board can schedule your hearing with the proper board. For example, if you own a house in the city, you would select the "Residential property with 3 or less dwelling units". If you own a residence that is located on a farm, you would select "Residential property with 3 or less dwelling units" and "Farm land".

Section 3 – Complainant Information

This is where you identify who is filing the complaint on the property described in section 2. For example, if you are going to have a family member or friend represent you at the hearing, you would identify them in this section. It is important for the municipality and the assessment review board to know who the complainant is because confidentiality could be an issue.

If you have hired someone to file the complaint and represent you at the hearing, you must identify them in this section and submit the Assessment Complaint Agent Authorization form along with the complaint form.

Section 4 – Complaint Information

This is where you identify the specific issues (matters) you are filing the complaint about. On the back of the complaint form you will find a list numbered 1 to 10 of the matters a complaint can be about. Check the corresponding box on the front of the complaint form. You can check more than one box if your complaint is about more than one matter.

Section 5 – Reason(s) for Complaint

In the previous section, you identified the matter(s) for complaint. This section is where you provide the details about the matter. For instance, you may be filing a complaint about matter number 3 (the assessment amount).

Here is where you state what information on the assessment notice is incorrect (in this case it would be the assessment amount). You need to explain why the information is incorrect (for example, the square footage on your property record is wrong), what the correct information should be (for example, the actual square footage), and what the requested assessed value is.

> **Note: An assessment review board must not hear any matter regarding an issue that is not identified on the complaint form. This means you cannot introduce new evidence or issues at the hearing that have not been disclosed.**

Section 6 – Complaint Filing Fee

If your municipality has set a filing fee payable by persons wishing to file a complaint, the filing fee must be submitted with the complaint form or the complaint will be invalid. If the assessment review board makes a decision in your favour, or you and the assessor have reached an agreement and your assessment has been corrected and your complaint is withdrawn prior to the hearing, the filing fee must be returned to you.

Section 7 – Complainant Signature

Be sure to sign, print your name, and date your complaint form, or have the family member or friend representing you sign, print their name, and date it.

> **Note: Your completed complaint form and any supporting attachments, including the agent authorization form and the prescribed filing fee, must be submitted together prior to the deadline indicated on your assessment notice or tax notice. Complaint forms that are incomplete, filed late, or without the required filing fee are invalid.**

Who do I send my complaint to?

All complaints are sent to the clerk of the assessment review board for your municipality. Your assessment notice or tax notice will indicate the address.

> **Tip: To avoid penalties, taxes must be paid on or before the deadline specified on the tax notice even if a complaint is filed.**

What happens next?

The clerk of the assessment review board will review the complaint to ensure required information, proper attachments, and the filing fees have been provided. If there are no problems, the clerk will determine what type of assessment review board will hear your complaint. There are two types of assessment review boards that hear complaints depending on the type of property:

- Local Assessment Review Board (LARB) – Members of this board are appointed by the municipality to hear assessment complaints about farmland and residential property with up to three dwelling units.
- Composite Assessment Review Board (CARB) – Two members of this board are appointed by the municipality and one member is appointed by the Municipal Government Board. This board hears complaints about residential property with four or more dwelling units and non-residential property.

Once the clerk determines which board will hear your complaint, you will be notified of the hearing date and location. If your hearing is scheduled with a LARB, you will receive notice at least 35 days prior to the hearing date. If your hearing is scheduled to be heard by a CARB, you will receive notice at least 70 days prior to the hearing date.

Disclosure timelines

Once the date of your hearing has been set, you need to be aware of the following critical dates:

*For a complaint about an assessment to be heard by a **LARB:***

*Complainant must provide full disclosure at least **21** days before the scheduled hearing date.*
*Respondent must provide full disclosure at least **7** days before the scheduled hearing date.*
*Complainant must provide rebuttal at least **3** days before the scheduled hearing date.*

*For a complaint about an assessment to be heard by a **CARB**:*

*Complainant must provide full disclosure at least **42** days before the scheduled hearing date*
*Respondent must provide full disclosure at least **14** days before the scheduled hearing date.*
*Complainant must provide rebuttal at least **7** days before the scheduled hearing date.*

For a complaint about any matter other than an assessment, the parties must provide full disclosure at least 7 days before the scheduled hearing date. An example of a non-assessment matter would be the name or mailing address of an assessed person or taxpayer being incorrect.

Disclosure of evidence

As the complainant, you are obligated to provide the assessor with the information you will be presenting at the hearing. This is referred to as disclosure. Disclosure must include:

- All relevant facts supporting the matters of complaint described on the complaint form.
- All documentary evidence to be presented at the hearing.
- A list of witnesses who will give evidence at the hearing.
- A summary of testimonial evidence.
- The legislative grounds and reason for the complaint.
- Relevant case law and any other information that the complainant considers relevant.

Note: The timelines for disclosure must be followed. Any information that has not been disclosed will not be heard by the assessment review board. The disclosure timelines can be reduced if the disclosure information is provided at the time the complaint is filed, and only if agreed to by both parties.

Preparing for your hearing

When you are preparing for your hearing, it is important to remember you are responsible for gathering information proving your assessment is unfair or inaccurate. Your goal is to demonstrate the assessment on your property is not a fair estimate of the market value of your property in comparison to other similar properties in your neighbourhood.

Think about how you want to present your comparison information to the board. You could describe your property and explain how each of your comparable properties is similar to or different from your property. Use the sale prices or assessments of your comparison properties to show how the assessment of your property is inaccurate or unfair.

Bring your comparison chart to the hearing along with other information you have gathered including:

- The notes you took when you reviewed the assessment roll.
- Copies of the registry searches.
- Any other material you have gathered, such as photographs and maps.

This information will help you to answer questions about the accuracy of your comparisons.

If you say there is a physical problem with your property that affects its value, bring to the hearing:

- Written confirmation that the problem exists and a repair estimate from at least

one reputable contractor.

- Photographs of the problem area.
- The written opinion of a realtor or appraiser saying how this might affect the value of your property in the current market. This opinion may or may not be accepted as evidence.

Tip: Make copies of all your material (including photographs) to take to the hearing for yourself, the board members, and the assessor. Contact the assessment review board to confirm the number of copies you will need to provide.

Note: Information that has not been disclosed prior to the hearing will not be heard by an assessment review board.

At the hearing

The following is a typical sequence of events at an assessment review board hearing:

- The hearing is called to order and board members are introduced.
- The clerk reads the assessment complaint.
- You and the assessor introduce yourselves.
- The presiding officer outlines the hearing process.
- You and the assessor summarize your presentations.
- You present your case.
- The assessor and board members may ask you questions.
- The assessor presents his or her case.
- You and the board members may ask questions.
- You may offer evidence regarding the assessor's case.
- You summarize your case and state your argument.
- The assessor summarizes his or her case and states an argument.
- The board considers the information presented.
- The board must complete a written decision within 30 days; the clerk will send that decision to you within 7 days of receiving it.

An assessment review board may make any of the following decisions:

- Dismiss the complaint if it was not made within the proper time.
- Dismiss the complaint if you have not explained why you think information in the assessment or tax notice is incorrect or unfair.
- Change the assessment; the description of your property or business; the name and mailing address on the assessment notice; an assessment class; an assessment subclass; the type of property; the type of improvement; the school support; whether the property is assessable; and whether the business or property is exempt from taxation.
- Decide no change is required.

If you believe the assessment review board made an error in its decision, you may file an application for judicial review with the Court of Queen's Bench of Alberta.

You have 60 days from the date of the written decision of the assessment review board to file your application.

Notice of an application for judicial review must be given to:

a) the assessment review board that made the decision;
b) the complainant, other than an applicant for the judicial review;
c) an assessed person who is directly affected by the decision, other than the complainant;
d) a municipality, if the decision that is the subject of the judicial review relates to property within the boundaries of that municipality; and
e) the Minister.

If an applicant for judicial review makes a written request for materials to the assessment review board for the purposes of the application, the assessment review board must provide the materials within 14 days from the date on which the written request is served.

Judicial Review

Judicial review is the process whereby a judge of the Alberta Court of Queen's Bench reviews the decision of the assessment review board. Judicial review is not the same as an appeal. Among other things, it has two important differences:

1. **Remedies** - A judicial review is not a re-hearing of a case. Rather, the decision of the assessment review board is reviewed to determine whether it has acted in a fair, reasonable, and lawful manner. The most common remedy is to refer the matter back to the board with instructions to re-hear the complaint.
2. **Standard of Review** - The standard of review refers to how closely a judge will review a board's decision.

   There are two standards of review:

   a. Reasonableness – if this approach is adopted, a judge will simply consider whether the board's decision falls within the wide and flexible range of reasonable outcomes. As such, the judge is more likely to respect the board's ruling and allow it to stand.
   b. Correctness – under the correctness standard, a judge will review the decision to determine if it is correct. It is more likely that a decision will be overturned or altered if the court adopts the correctness approach.

For further information

To obtain information on your property assessment or on filing a complaint, contact your municipality at the address or telephone number printed on your assessment notice or tax notice. Your municipality may also provide detailed information on their website.

Contact Alberta Municipal Affairs:
Alberta Municipal Affairs Assessment Services Branch
15th Floor, Commerce Place 10155 - 102 Street Edmonton, Alberta T5J 4L4
Phone: 780 422-1377 (To call toll free, dial 310-0000 first) Fax: 780 422-3110
Website: http://municipalaffairs.alberta.ca/

You can view the *Municipal Government Act*, the Matters Relating to Assessment Complaints Regulation, and the Matters Relating to Assessment and Taxation Regulation on the Municipal Affairs Website.

You can also purchase copies of the above Acts from the Queen's Printer:
Queen's Printer Bookstore Location: Main Floor, Park Plaza
10611 - 98 Avenue
Edmonton, Alberta T5K 2P7
Phone: 780 427-4952 (To call toll free, dial 310-0000 first) Fax: 780 427-4952
Website: www.qp.alberta.ca

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Additional Decisions

The City of Calgary

v.

Lowe's Companies Canada

[2017] CARB (Calgary) 116189J-2017P

Calgary Assessment Review Board

DECISION WITH REASONS

This is a jurisdictional application in respect of the validity of a complaint filed in accordance with s. 460 of the *Municipal Government Act*, Revised Statutes of Alberta 2000, Chapter M-26 (the Act).

between:

THE CITY OF CALGARY, APPLICANT (Assessor)

and

Lowe's Companies Canada, ULC OWNER
(as represented by ALTUS GROUP, Agent), RESPONDENT (Complainant under s. 460)

before:

L. Pesowski, PRESIDING OFFICER

The preliminary jurisdictional hearing before the Calgary Assessment Review Board is in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2017 Assessment Roll as follows:

ROLL NUMBER:	201492212
LOCATION ADDRESS:	13417 52 ST SE
FILE NUMBER:	116189
ASSESSMENT:	$20,730,000

This complaint was heard April 26, 2017 in Boardroom 9 located at the office of the Assessment Review Board 1212 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Applicant:

- C. Fox, Assessor, The City of Calgary
- B. Smith, Assessor, The City of Calgary

Appeared on behalf of the Respondent:

- A. Izard, Altus Group

Procedural or Jurisdictional Matters:

[1] A number of preliminary matters were raised. The legal evidence presented in File 109354, noted as R-1, in addition to the comments, summaries, and cross examination should be carried forward as it also pertains to this file. Both parties agreed and requested that comments, summaries, and cross examination with respect to File 116552, and File 116559 also be carried forward to this hearing.

[2] The matter was heard and decided by a one member Composite Assessment Review Board pursuant to s 36(2)(c) of *Matters Relating to Assessment Complaints Regulation* AR 310/2009 (MRAC).

Property Description:

[3] The subject property is classified as Land and Improvement located in the community of McKenzie Towne. The Land Use designation is Commercial – Regional 1 and the valuation approach is Income.

Issues:

[4] Should a merit hearing be allowed on account of a failure to provide information requested under s 295(1)?

Board's Decision:

[5] For reasons outlined herein, the decision of the Board is the information requested to prepare an assessment pursuant to s 295(1) is already in the possession of the Applicant. The consequences set out in s 295(4) are not applicable and the merit hearing should proceed as scheduled.

Legislative Authority, Requirements and Considerations:

[6] Sections 36, 39 and 41 of the *Matters Relating To Assessment Complaints Regulation* AR 310/2009 state:

> 36 (1) of Pursuant to section 454.2(3) of the Act, a council may establish a composite assessment review board consisting of only one member.

(2) A one-member composite assessment review board may hear and decide one or more of the following matters:

a) a complaint about a matter shown on an assessment notice, other than an assessment;

(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;

(c) an administrative matter, including, without limitation, an invalid complaint;

(d) any matter, other than an assessment, where all of the parties consent to a hearing before a one-member composite assessment review board.

39 (1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a one-member composite assessment review board, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 7 days before the hearing date,

(i) disclose to the respondent and the one-member composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the one-member composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence;

(b) the respondent must, at least 7 days before the hearing date,

(i) disclose to the complainant and the one-member composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

(ii) provide to the complainant and the one-member composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence.

41 (2) Subject to the timelines specified in section 468 of the Act, a one-member composite assessment review board may at any time by written order expand the time specified in section 39(2)(a) or (b).

[7] Section 295 of the Act states:

(1) 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.

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of 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.

Position of the Parties

[8] Both parties acknowledged the 2017 Property Assessment Notices for the subject property has been sent to the correct address and were received by the property owner.

Applicant's Position:

[9] The Applicant confirmed the 'Assessment Request For Information' (ARFI) was mailed to the correct address for the property owner on June 27, 2016. The Applicant reviewed the details of the 3rd party mailing process used by the city, the information outlined in the cover letter about the information request including The City of Calgary contact information to the business unit and methods of filing. A 'Reminder Notice' letter went out August 2, 2016 and the 'Failure to Provide Information' letter August 30, 2016. No responses were received.

[10] The Applicant submitted the information requested on the ARFI pursuant to s 295(1) MGA was necessary to prepare the assessment for the subject property and similar properties. The Applicant presented each year the assessment is established to meet audit standards and will start the process from scratch to determine what methodology of the three options is best for the respective property, based on the information submitted. The request includes:

a) contact information for the property owner/property manager

b) total rentable area

c) total vacant area

d) number of buildings

e) name of person completing the form

f) any 3rd party value information

g) parking information

h) any tenant information including leased area; owner-occupied, lease type, commencement date, lease term, lease status, annual rental rate, annual operating costs, any leasehold allowances, rent concessions and step ups in leases.

[11] The Applicant presented that the subject property has one building constructed in 2010 and the previous ARFI was submitted in 2014.

[12] The Applicant submitted it is unable to determine if the subject property continues to be owner-occupied, if any leases are in place or is the building vacated based on the lack of information available. The Applicant argued without the submission of the annual ARFI information cannot be confirmed.

[13] The Applicant requested the Board uphold the appeal and invoke s 295(4) thereby dismissing the merit hearing.

Respondent's Position:

[14] The Respondent presented information about the property owner, is Lowe's Companies Canada, ULC, and there are no lease interests on the Land Titles Certificate.

[15] The Respondent presented the property is occupied by Lowes, a big box store over 100,000 square feet (SF) in size. Evidence was presented this same space configuration and use has been reflected in the 'Non-Residential Properties – Assessment Explanation Supplement' (AES) for 2014, 2015 and 2017. The 2015 AES noted the building quality as 'B' and in 2017 the building quality was upgraded to 'A2'.

[16] The Respondent submitted the 2015 ARFI request was sent to the owner with the 2014 information prepopulated in the attachment. The entire square footage of the building is recorded as owner-occupied. An owner-occupied building has no income therefore has nothing to report.

[17] The Respondent presented in the 'Assessment Information Package – 2017 Suburban Retail Freestanding', the owner-occupied comparables are not used in the study, only leased sites. The Respondent also submits the Applicant was aware the subject property was occupied since it was not included in the '2017 Citywide Big Box 100,001+SF Vacancy Study'. The Applicant argued any changes to occupancy would require notification to Business Registries and new occupants would initiate a Building Permit or Development Permit. Therefore, the ownership and occupancy is known to the Applicant and not necessary to provide for the purposes of preparing an assessment.

[18] The Respondent argued legal precedent exists to guide what is 'necessary' to prepare an assessment, as required in Section 295(1) of the Act "... any information necessary for the assessor to prepare an assessment or determine if property is to be assessed". Boardwalk REIT LLP v Edmonton (City), 2008 ABCA 220 [Boardwalk] defines necessary to mean "indispensable, not merely expedient, nor useful, nor convenient". The Respondent presented two additional decisions (Edmonton (City) v. Innvest Properties MacDonald Nominee Ltd., 2011 ABCA 333 that concurs with the definition of necessity as stated originally in Boardwalk where "...s 295 cannot be used to obtain information that is not necessary for the assessment of a particular property".

[19] The Respondent argued it is not necessary to have an annual ARFI completed to prepare an assessment for the subject property since it is owner-occupied. The Respondent submitted an owner-occupied site has no operating costs to report and the Applicant has access to all available information. In the NALCO Canada Company v The City of Leduc, [206] CARB 20-2016D1, the Board stated the information request "was not necessary for the assessor to prepare an assessment of the property in accordance with section 295(1) of the Act. The request was to obtain information for revenue generating properties including rental rates, vacancy levels, potential/actual income and operating expenses. That information is not applicable in this instance as this is an owner-occupied property.".

[20] The Respondent submitted that the request for information pursuant to s 295(1) was not necessary for an assessor to prepare the assessment of the subject property and therefore the consequences set out in s 295(4) should not apply. The merit hearing should proceed as scheduled.

Board's Findings of Fact and Reasons for Decision:

[21] The decision of the Board is the information requested to prepare an assessment pursuant to s 295(1) is already in the possession of the Applicant. The consequences set out in

s 295(4) are not applicable and the merit hearing should proceed as scheduled.

[22] The Board concurs with the evidence that the Assessment Notice was received by the taxpayer and assumes the ARFI packages have also been received since the addresses coincide and receipt was not disputed by the Respondent.

[23] The Board did not receive compelling evidence regarding the necessity of the information from the ARFI to prepare an assessment of the property in 2016. The submitted 2014 ARFI clearly states who is the occupant and their occupied square footage demonstrating previous compliance. The Board concurs with the evidence presented that the buildings are owner-occupied and there are no leases registered on the Land Titles Certificate to indicate any existing leasing interests. The 'Non-Residential Properties – Assessment Explanation Supplement' for the property also corresponds with this information and the building on the subject property has existed since 2010, validating the information is known.

[24] The Board notes if the property owner simply completed the basic information on the ARFI as requested, a jurisdictional hearing would be avoided and the property owner could move directly into a merit hearing without the extra step, time and expense. It is the legislative responsibility of a property owner to provide the necessary information for the preparation of an assessment and would be in their best interests to file the requested information in the future to retain their compliance in accordance with s 295(1).

DATED AT THE CITY OF CALGARY THIS 24th **DAY OF** May **, 2017.**

L. Pesowski, PRESIDING OFFICER

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING

AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Applicant Disclosure
2. R1	Respondent Disclosure – Carry Forward 109354
3. R2	Respondent Disclosure

An application for Judicial Review may be made to the Court of Queen's Bench with respect to a decision of an assessment review board.

An application for Judicial Review must be filed with the Court of Queen's Bench and served not more than 60 days after the date of the decision, and notice of the application must be given to

(a) the assessment review board

(b) the Complainant, other than an applicant for the judicial review

(c) an assessed person who is directly affected by the decision, other than the Complainant,

(d) the municipality, and

(e) *the Minister.*

The City of Calgary

v.

Snowcat Mission Developments

[2017] CARB (Calgary) 116669J-2017P

Calgary Assessment Review Board

DECISION WITH REASONS

This is a jurisdictional application in respect of the validity of a complaint filed in accordance with s. 460 of the *Municipal Government Act*, Revised Statutes of Alberta 2000, Chapter M-26 (the Act).

between:

THE CITY OF CALGARY, APPLICANT (Assessor)

and

SNOWCAT MISSION DEVELOPMENTS INC., OWNER
(as represented by ALTUS GROUP, Agent), RESPONDENT (Complaint under s. 460)

before:

L. Pesowski, PRESIDING OFFICER

The preliminary jurisdictional hearing before the Calgary Assessment Review Board is in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2017 Assessment Roll as follows:

ROLL NUMBER:	080200603
LOCATION ADDRESS:	524 ELBOW DR SW
FILE NUMBER:	116669
ASSESSMENT:	$30,660,000

This complaint was heard April 27, 2017 in Boardroom 9 located at the office of the Assessment Review Board 1212 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Applicant:

- C. Fox, Assessor, The City of Calgary
- B. Smith, Assessor, The City of Calgary

Appeared on behalf of the Respondent:

- A. Izard, Altus Group
- R. Dupuis, taxpayer

Procedural or Jurisdictional Matters:

[1] A number of preliminary matters were raised. The legal evidence presented in File 109354, noted as R-1, in addition to the comments, summaries, and cross examination should be carried forward as it also pertains to this file. Both parties agreed and requested that comments, summaries, and cross examination with respect to File 116552 (which includes all carry forward Files 116547, File 116659 and File 116655) also be carried forward to this hearing.

[2] The matter was heard and decided by a one member Composite Assessment Review Board pursuant to s 36(2)(c) of *Matters Relating to Assessment Complaints Regulation* AR 310/2009 (MRAC).

Property Description:

[3] The subject property is classified as Land and Improvement located in the community of Cliff Bungalow. The Land Use designation is Commercial-Corridor 1 and Commercial-Corridor 2; and the valuation approach is Sales Comparison (valued as land only).

Issues:

[4] Should a merit hearing be allowed on account of a failure to provide information requested under s 295(1)?

Board's Decision:

[5] The decision of the Board is that the information requested to prepare an assessment pursuant to s 295(1) is already in the possession of the Applicant. The consequences set out in s 295(4) are not applicable and the merit hearing should proceed as scheduled.

Legislative Authority, Requirements and Considerations:

[6] Sections 36, 39 and 41 of the *Matters Relating To Assessment Complaints Regulation* AR 310/2009 state:

36 (1) of Pursuant to section 454.2(3) of the Act, a council may establish a

36 (1) of Pursuant to section 454.2(3) of the Act, a council may establish a composite assessment review board consisting of only one member.

(2) A one-member composite assessment review board may hear and decide one or more of the following matters:

a) a complaint about a matter shown on an assessment notice, other than an assessment;

(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;

(c) an administrative matter, including, without limitation, an invalid complaint;

(d) any matter, other than an assessment, where all of the parties consent to a hearing before a one-member composite assessment review board.

39 (1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

(2) If a complaint is to be heard by a one-member composite assessment review board, the following rules apply with respect to the disclosure of evidence:

(a) the complainant must, at least 7 days before the hearing date,

(i) disclose to the respondent and the one-member composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and

(ii) provide to the respondent and the one-member composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence;

(b) the respondent must, at least 7 days before the hearing date,

(i) disclose to the complainant and the one-member composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

(ii) provide to the complainant and the one-member composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence.

41 (2) Subject to the timelines specified in section 468 of the Act, a one-member composite assessment review board may at any time by written order expand the time specified in section 39(2)(a) or (b).

[7] Section 295 of the Act states:

(1) 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.

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of 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.

Position of the Parties

[8] Both parties acknowledged the 2017 Property Assessment Notices for the subject property has been sent to the correct address and were received by the property owner.

Applicant's Position:

[9] The Applicant confirmed the 'Assessment Request For Information' (ARFI) was mailed to the correct address for the property owner on May 30, 2016. The Applicant reviewed the details of the 3rd party mailing process used by the city, the information outlined in the cover letter about the information request including The City of Calgary contact information to the business unit and methods of filing. A 'Reminder Notice' letter went out June 27, 2016 and the 'Failure to Provide Information' letter August 08, 2016. No responses were received.

[10] The Applicant submitted the information requested on the ARFI pursuant to s 295(1) MGA was necessary to prepare the assessment for the subject property and similar properties. The Applicant presented each year the assessment is established to meet audit standards and will start the process from scratch to determine what methodology of the three options is best for the respective property, based on the information submitted. The request includes:

a) contact information for the property owner/property manager
b) total rentable area
c) total vacant area
d) number of buildings
e) name of person completing the form
f) any 3rd party value information
g) parking information
h) any tenant information including leased area; owner-occupied, lease type, commencement date, lease term, lease status, annual rental rate, annual operating costs, any leasehold allowances, rent concessions and step ups in leases.

[11] The Applicant presented that the subject property has one building constructed in 1971 and the previous ARFI was submitted in 2014.

[12] The Applicant did not conduct a corporate search or contact the owner to confirm the identity of the owner, Snowcat Mission Developments, and has received no information from the property owner to show any relationships between itself and any subsidiaries.

[13] The Land Titles Certificate identifies a lease interest for Sobeys West Inc. The Applicant presented the dates on the Land Titles Certificate for the lease interest were registered November 22, 2013 prior to the transfer of title on October 15, 2015, and the address for the lease interest is different than the ownership.

[14] The Applicant submitted it is unable to determine if the subject property is owner-occupied, if any leases are in place or vacated based on the lack of information available. The Applicant argued that without the submission of the annual ARFI information this cannot be confirmed.

[15] The Applicant requested the Board uphold the appeal and invoke s 295(4) thereby dismissing the merit hearing.

Respondent's Position:

[16] The Respondent presented information about the property owner, Snowcat Mission Developments Inc., which is a holding company for the corporate owner Empire Group. The Respondent submitted the corporate head office is in Stellar, Nova Scotia and has expanded to New Glasglow, Nova Scotia. The former Safeway head office located at 1020 64 Ave NE in Calgary, is the Western Canada head office for Sobeys.

[17] The Respondent presented the property is occupied by a Safeway grocery store and occupies the entire square footage. The Respondent presented information from the 2014 ARFI highlighting the occupants as Safeway. The entire square footage of the building is recorded as owner-occupied and Safeway is the legal name of the occupant. An owner-occupied building has no income therefore has nothing to report. A copy of the 2013 ARFI was presented and the information recorded is the same.

[18] The Respondent explained that the lease registered on the Land Title Certificate is done for corporate purposes to track comparability of performance, mortgaging and taxation, and not for income generation.

[19] The Respondent presented it is a priority for the property owner to complete the ARFIs, notwithstanding the lack of response over the past few years, which likely occurred due to the 2013 transfer of ownership.

[20] The Respondent presented in the 'Assessment Information Package – 2017 Suburban Retail Freestanding', the owner-occupied comparables are not used in the study, only the leased sites. The Respondent also submits the Applicant was aware the subject property was occupied since it was not included in the 2017 Citywide Supermarket Vacancy Study. The Applicant argued any changes to occupancy would require notification to Business Registries and new occupants would initiate a Building Permit or Development Permit. Therefore, the ownership and occupancy is known to the Applicant and not necessary to provide for the purposes of preparing an assessment.

[21] The Respondent argued legal precedent exists to guide what is 'necessary' to prepare an assessment, as required in Section 295(1) of the Act "... any information necessary for the assessor to prepare an assessment or determine if property is to be assessed". Boardwalk REIT LLP v Edmonton (City), 2008 ABCA 220 [Boardwalk] defines necessary to mean "indispensable, not merely expedient, nor useful, nor convenient". The Respondent presented two additional decisions (Edmonton (City) v. Innvest Properties MacDonald Nominee Ltd., 2011 ABCA 333 that concurs with the definition of necessity as stated originally in Boardwalk where "...s 295 cannot be used to obtain information that is not necessary for the assessment of a particular property".

[22] The Respondent argued it is not necessary to have an annual ARFI completed to prepare an assessment for the subject property since it is owner-occupied. The Respondent submitted an owner-occupied site has no operating costs to report and the Applicant has access to all available information. In the NALCO Canada Company v The City of Leduc, [206] CARB

20-2016D1, the Board stated the information request "was not necessary for the assessor to prepare an assessment of the property in accordance with section 295(1) of the Act. The request was to obtain information for revenue generating properties including rental rates, vacancy levels, potential/actual income and operating expenses. That information is not applicable in this instance as this is an owner-occupied property."

[23] The Respondent submitted that the request for information pursuant to s 295(1) was not necessary for an assessor to prepare the assessment of the subject property and therefore the consequences set out in s 295(4) should not apply. The merit hearing should proceed as scheduled.

Board's Findings of Fact and Reasons for Decision:

[24] It is the observation of the Board, that the grocery store market is a distinct category of retail characterized by long-term occupancy in stores that change little over time. The majority of the grocery stores are owner-occupied (including the subject property) and any changes in physical characteristics of the premises tend to be interior renovations or updates to the building façade which would be evidenced by building permits. In Calgary, the market is dominated by three main players, which includes the subject property owner - Sobeys/Safeway. The Safeway stores are a known commodity in the grocery store market. It is reasonable to assume the Applicant has an established working knowledge of these properties, notwithstanding little or no effort was undertaken on the subject property to confirm the ownership transfer or the origin of the lease interests. The decision of this Board therefore gives consideration to whether a merit hearing be allowed on account of a failure to provide information requested under s 295(1) is reasonable and offers its decision as follows:

> The decision of the Board is that the information requested to prepare an assessment pursuant to s 295(1) is already in the possession of the Applicant. The consequences set out in s 295(4) are not applicable and the merit hearing should proceed as scheduled.

[25] The Board concurs with the evidence that the Assessment Notice was received by the taxpayer and assumes the ARFI packages have also been received since the addresses coincide and receipt was not disputed by the Respondent.

[26] The Board did not receive compelling evidence regarding the necessity of the information from the ARFI to prepare an assessment of the property in 2016. The submitted 2013 ARFI clearly states who are the occupants and their occupied square footage for the building demonstrating previous compliance. The Board concurs with the evidence presented that the building is owner-occupied and the lease interests reflect their occupancy. In the 'Assessment Information Package – 2017 Suburban Retail Freestanding', the subject property was not included in the 2017 Citywide Supermarket Vacancy Study, and the building on the subject property has existed since 1971, validating the information is known.

[27] The Board notes if the property owner simply completed the basic information on the ARFI as requested, a jurisdictional hearing would be avoided and the property owner could move directly into a merit hearing without the extra step, time and expense. It is the legislative responsibility of a property owner to provide the necessary information for the preparation of an assessment and would be in their best interests to file the requested information in the future to retain their compliance in accordance with s 295(1).

DATED AT THE CITY OF CALGARY THIS 24th DAY OF May, 2017.

L. Pesowski, PRESIDING OFFICER

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING

AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Applicant Disclosure
2. R1	Respondent Disclosure – Carry Forward 109354
3. R2	Respondent Disclosure

An application for Judicial Review may be made to the Court of Queen's Bench with respect to a decision of an assessment review board.

An application for Judicial Review must be filed with the Court of Queen's Bench and served not more than 60 days after the date of the decision, and notice of the application must be given to

(a) the assessment review board

(b) the Complainant, other than an applicant for the judicial review

(c) an assessed person who is directly affected by the decision, other than the Complainant,

(d) the municipality, and

(e) *the Minister.*

The City of Calgary

v.

Brandt Tractor

[2018] CARB (Calgary) 124561J-2018P

Calgary Assessment Review Board

DECISION WITH REASONS

In the matter of a complaint against the Property assessment as provided by the *Municipal Government Act*, Revised Statutes of Alberta 2000, Chapter M-26 (the MGA).

between:

The City Of Calgary, *APPLICANT*

and

BRANDT TRACTOR PROPERTIES LTD, OWNER
(as represented by ALTUS GROUP),
RESPONDENT

before:

R. Roy, PRESIDING OFFICER

This is an application to the Calgary Assessment Review Board (the "Board") for a jurisdictional determination as to whether the Board may hear the merit complaint (the "Complaint") in respect of a property assessment prepared by the Assessor of the City of Calgary and entered in the 2018 Assessment Roll as follows:

ROLL NUMBER:	200482321
LOCATION ADDRESS:	10121 BARLOW TR NE
FILE NUMBER:	124561
ASSESSMENT:	$35,450,000

This application was heard May 1, 2018 in Boardroom 9 located at the office of the Assessment Review Board 1212 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Applicant:

- B. Smith, Assessor, City of Calgary
- J. Ermube, Assessor, City of Calgary
- T. Squire, Lawyer, City of Calgary

Appeared on behalf of the Respondent:

- M. Robinson, Agent, Altus Group
- B. Dell, Lawyer, Wilson Laycroft

Procedural or Jurisdictional Matters:

[1] This matter was heard and decided by a one member Composite Assessment Review Board Panel pursuant to section 40 of *Matters Relating to Assessment Complaints Regulation, 2018*, AR 201/2017 (MRAC).

[2] The Parties requested that all argument and summary from file #132199 be carried forward to this file. The Panel agreed to this request.

Issue(s):

[3] Did the Respondent fail to respond to the Applicant's 2017 Sale Assessment Request for Information (ARFI) as required by section 295 of the MGA?

[4] Was the information requested necessary pursuant to section 295(1) of the MGA?

Panel's Decision:

[5] For reasons outlined herein the Panel denies the application for dismissal of the Complaint. The merit hearing can proceed when scheduled by Board administration.

Position of the Parties

Applicant's Position:

[6] The Applicant indicated that a request for a Sales ARFI had been forwarded, in 2017, to the Respondent as well as a reminder letter. No response was received. All correspondence had been sent to the address indicated on the land titles documents. In accordance with section 23 of the *Interpretation Act* R.S.A. 2000 C. I-8 mail is deemed to have been received if it is sent to the correct address and not returned. During questions there was an indication that a conversation (Email) had occurred between the owner and a member of the Applicant's staff. The Applicant indicated that all of the 2017 emails of that staff member had been deleted so it could not confirm any correspondence in that regard.

[7] The Applicant also indicated that it would be appropriate to utilize the revised version of s. 295(1) of the MGA which came into force on 1 January 2018 rather than the former version. It stated that in discussions with provincial assessment staff the intent was for the revised s. 295(1) to be applied this year.

[8] The Applicant indicated that all information on the ARFI was absolutely essential for preparing an accurate assessment.

[9] The Applicant explained that it could not have obtained this information through other means because that would have been an onerous and time consuming process for which the municipality is not appropriately staffed.

Respondent's Position:

[10] The Respondent provided evidence regarding the issue of retroactivity of the revised s. 295(1) of the MGA. In addition, it addressed the question of necessity regarding the information requested. It also discussed the issue of mailing address and why the Applicant's letters may have been delivered to the wrong party even if the address was correct.

[11] It also provided a brief description of the improvement indicating that it has in the past been assessed using the cost approach to value and that as a special purpose building, this is likely to continue.

[12] The Respondent also provided a discussion regarding the appropriate version of s. 295(1) to apply. There is no indication that retroactivity was anticipated when the MGA is read in its entirety. Without specific instructions for it to apply to the previous year the revised s. 295(1) should only apply to ARFI requests as of 1 July 2018. As all of the activities related to the ARFI occurred in 2017 it is the MGA in force at that time which should apply. The submission of the Complaint in 2018 does not affect what version of s. 295(1) was in force at the time the ARFI request was sent.

[13] The Respondent indicated that the ARFI was completed in November 2017 although it was not forwarded to the Applicant until April 2018. No reason was given for the delay. In part the argument was that late compliance was still compliance. There was some discussion of communication between the parties in the fall of 2017 which resulted in a new copy of the ARFI being sent.

[14] The information requested on the ARFI is readily available from other sources. The Applicant has access to all of this information and the confirmation by the purchaser would not have affected the assessment.

Panel's Findings of Fact and Reasons for Decision:

[15] The Panel does not accept the Applicant's argument that the revised 2018 version of s. 295(1) should be applied. There are transitional provisions specifically outlined in the revised MGA. It is clear the application of these provisions was considered by the Legislature as part of the revision of the MGA. As this section is not noted in these transitional provisions the Panel finds that there was no intention to provide a retroactive application of the revision of s 295(1).

[16] The Panel also notes that although the retroactive application of the current MGA was an issue brought up by the Applicant, it was not prepared to provide any judicial or legislative references supporting the request. A guide was offered but was rejected by the Panel as it is not considered legislation and had not been disclosed in accordance with MRAC.

[17] The Panel accepts the Respondent's argument that the correct version of s. 295(1) of the MGA to apply is the one that was in force at the time the ARFI was sent and not a later revised version.

[18] The Panel confirms that the ARFI was not received by the Applicant within the assessment year. However, based on the cost approach valuation methodology utilized by the Applicant the Panel finds the requested information was not necessary for the preparation of the assessment as the sales ARFI would not have provided any information which would have changed the assessment of the property. The sale price may have some value in confirming data however this is not in itself necessary to the creation of the subject assessment.

[19] The Panel also notes that the sale of the subject property is a post facto sale. As it occurred outside of the normal valuation period utilized by the Applicant the sale would not have been used as a primary factor in any of the Applicants assessments and would, at best, have been utilized to show trends.

[20] The subject is a special purpose building and was assessed on the cost approach. It has, according to the evidence received, been assessed this way for a number of years. While the Applicant indicated it could use a different methodology there was no compelling reason to change the methodology. The Panel does not accept that the information requested was necessary to prepare the assessment even if it may have other value to the Applicant.

[21] The Application is denied and the Respondent's Complaint may be scheduled for a merit hearing with the Calgary Assessment Review Board.

DATED AT THE CITY OF CALGARY THIS 17th DAY OF May, 2018.

R. Roy, PRESIDING OFFICER

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING

AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. A1	Applicant Disclosure
2. A2	Applicant Legal Brief
3. R1	Respondent Disclosure
4. R2	Respondent Legal Brief

An application for Judicial Review may be made to the Court of Queen's Bench with respect to a decision of an assessment review board.

An application for Judicial Review must be filed with the Court of Queen's Bench and served not more than 60 days after the date of the decision, and notice of the application must be given to

(a) the assessment review board

(b) the Complainant, other than an applicant for the judicial review

(c) an assessed person who is directly affected by the decision, other than the Complainant,

(d) the municipality, and

(e) *the Minister.*

APPENDIX "B"

LEGISLATIVE AUTHORITIES CONSIDERED BY THE BOARD

***Municipal Government Act*, Revised Statutes of Alberta 2000, Chapter M-26 (the MGA)**

Duty to provide information

s. 295(1) 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.

...

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of 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.

Revised January 1, 2018:

s. 295(1) A person must provide, on request by the assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.

...

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

***Matters Relating to Assessment Complaints Regulation, 2018*, Alberta Regulation 201/2017**

s. 40(1) Pursuant to section 454.2(3) of the Act, a council may establish a composite assessment review board consisting of only one member.

(2) A one-member composite assessment review board may hear and decide one or more of the following matters:

(a) a complaint about a matter shown on an assessment notice, other than an assessment;

(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;

(c) an administrative matter, including, without limitation, an invalid complaint;

(d) any matter, other than an assessment, where all of the parties consent to a hearing before a one-member composite assessment review board.

***Interpretation Act*, Revised Statutes of Alberta 2000, Chapter I-8**

Presumption of service

23(1) If an enactment authorizes or requires a document to be sent, given or served by mail and the document is properly addressed and sent by prepaid mail other than double registered or certified mail, unless the contrary is proved the service shall be presumed to be effected

(a) 7 days from the date of mailing if the document is mailed in Alberta to an address in Alberta, or

(b) subject to clause (a), 14 days from the date of mailing if the document is mailed in Canada to an address in Canada.

(2) Subsection (1) does not apply if

(a) the document is returned to the sender other than by the addressee, or

(b) the document was not received by the addressee, the proof of which lies on the addressee.

Calgary Assessment Review Board

DECISION WITH REASONS

In the matter of a complaint against the Property assessment as provided by the *Municipal Government Act*, Revised Statutes of Alberta 2000, Chapter M-26 (the MGA).

between:

The City of Calgary, *APPLICANT*

and

POSTMEDIA NETWORK INC, OWNER
(as represented by ALTUS GROUP), ***RESPONDENT***

before:

R. Roy, PRESIDING OFFICER

This is an application to the Calgary Assessment Review Board (the "Board") for a jurisdictional determination as to whether the Board may hear the merit complaint (the "Complaint") in respect of a property assessment prepared by the Assessor of the City of Calgary and entered in the 2018 Assessment Roll as follows:

ROLL NUMBER:	070031109
LOCATION ADDRESS:	215 16 ST SE
FILE NUMBER:	128735
ASSESSMENT:	$38,960,000

This complaint was heard May 1, 2018 in Boardroom 9 located at the office of the Assessment Review Board 1212 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Complainant:

- B. Smith, Assessor, City of Calgary
- J. Ermube, Assessor, City of Calgary
- T. Squire, Lawyer, City of Calgary

Appeared on behalf of the Respondent:

- J. Smiley, Agent, Altus Group
- B. Dell, Lawyer, Wilson Laycroft

Procedural or Jurisdictional Matters:

[1] This matter was heard and decided by a one member Composite Assessment Review Board Panel pursuant to section 40 of *Matters Relating to Assessment Complaints Regulation*, AR201/2017 (MRAC).

[2] The Parties requested that the testimony, argument and questions from files #132139 and #124561 be carried forward to this file. The Panel agreed to this request.

Issue(s):

[3] Did the Respondent fail to respond to the Applicant's 2017 Assessment Request for Information (ARFI) as required by section 295 of the MGA?

[4] Was the information requested necessary pursuant to section 295(1) of the MGA?

Panel's Decision:

[5] For reasons outlined herein the Panel denies the application for dismissal of the Complaint. The merit hearing can proceed when scheduled by Board administration.

Position of the Parties

Applicant's Position:

[6] The Applicant indicated that an ARFI request and reminder had been sent to the Respondent, during 2017, regarding an Environmental ARFI. No response was received during the assessment year, although a response has since been submitted. The Environmental ARFI is a relatively new mechanism for the municipality and this is the first year they have pursued dismissal of a complaint as result of noncompliance with the request.

[7] The Applicant also submitted that as the provincial standards had changed in 2016 it

was seeking an updated environmental assessment that would meet the new standards. The Environmental ARFI is an internal assessment policy.

[8] The Applicant noted several times that the Risk Management Report (RMR) , as provided by the Respondent, was an important tool for assessing property.

[9] The Applicant also indicated that it would be appropriate to utilize the revised version of s. 295(1) of the MGA which came into force on 1 January 2018 rather than the former version. It stated that in discussions with provincial assessment staff the intent was for the revised s. 295 to be applied this year.

Respondent's Position:

[10] The Respondent provided a description of the property and the steps the owner had taken to comply with the Environmental ARFI. It also provided testimony regarding the information the Applicant should already have in its possession. There was some discussion regarding documentation the Applicant could have found from other sources if the information was in fact critical to the assessment. In addition the Respondent noted that the RMR was not actually requested by the Applicant.

[11] The Respondent also discussed the appropriate version of s. 295(1) to apply. There is no indication that retroactivity was anticipated when the MGA is read in its entirety. Without specific instructions to apply the revised s. 295(1) to the previous year it should only apply to ARFI requests as of 1 July 2018. As all of the activities related to the ARFI occurred in 2017 it is the version of s. 295(1) in force at that time of the request which should apply. The submission of the Complaint in 2018 does not affect what version of s. 295(1) applies at the time the ARFI request was sent.

Panel's Findings of Fact and Reasons for Decision:

[12] The Panel reviewed all evidence and testimony provided. Only that evidence which applies to the decision in this specific file will be discussed in this decision.

[13] The Panel does not accept the Applicant's argument that the revised version of s. 295(1) should be applied to the ARFI sent in 2017. There are transitional provisions specifically outlined in the revised MGA. It is clear the application of these provisions was considered by the Legislature as part of the revision of the MGA. As this section is not noted in these transitional provisions the Panel finds that there was no intention to provide a retroactive application to the revised version of s. 295.

[14] The Panel does not accept a number of the Applicant's positions as they relate to this ARFI. Firstly, the Applicant indicates that the Respondent should complete an updated PH2 Environmental Assessment (EA) to comply with the revised regulations. This is indicated as a municipal policy. There is no evidence that this is a requirement under the applicable act or its regulations. This in itself would place a significant financial burden on landowners through a municipal assessment policy that may not be supported by legislation. Of note the RMR requested is not listed as a document on the ARFI and the EA requested only indicates "recent" which is open to interpretation.

[15] Secondly the subject property is contaminated as a result of its proximity to a former municipal landfill. The Panel was provided no evidence that the party affected by the contamination should provide all information and studies while the polluter bears no responsibility, which appears to be the Applicant's policy. In fact, at several points the Applicant

stated that the underlying concept in Alberta is that the polluter pays.

[16] Thirdly the Applicant has, or should have, all of the information required to prepare an assessment on this property. There is no new information provided by the Respondent and in fact no new information actually requested. A review of the Environmental ARFI indicates that for a property with ongoing contamination concerns it would be reasonable for a property owner to assume only new information would be required.

[17] Finally, regardless of the version of s 295(1) of the MGA that is utilized the information requested is extremely site specific and the Panel does not see any value, in terms of assessment, for this environmental information beyond the assessment of this property. The Applicant failed to indicate how this information, or the lack of it, would affect any aspect of the assessment.

[18] The application is denied and the Respondent's complaint may be scheduled for a merit hearing with the Calgary Assessment Review Board.

DATED AT THE CITY OF CALGARY THIS 17th DAY OF May, 2018.

R. Roy, PRESIDING OFFICER

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING

AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. A1	Applicant Disclosure
2. A2	Applicant Legal Brief
3. R1	Respondent Disclosure
4. R2	Respondent Legal Brief

An application for Judicial Review may be made to the Court of Queen's Bench with respect to a decision of an assessment review board.

An application for Judicial Review must be filed with the Court of Queen's Bench and served not more than 60 days after the date of the decision, and notice of the application must be given to

(a) the assessment review board

(b) the Complainant, other than an applicant for the judicial review

(c) an assessed person who is directly affected by the decision, other than the Complainant,

(d) the municipality, and

(e) *the Minister.*

APPENDIX "B"

LEGISLATIVE AUTHORITIES CONSIDERED BY THE BOARD

***Municipal Government Act*, Revised Statutes of Alberta 2000, Chapter M-26 (the MGA)**

Duty to provide information

s. 295(1) 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.

...

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of 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.

Revised January 1, 2018:

s. 295(1) A person must provide, on request by the assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.

...

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

***Matters Relating to Assessment Complaints Regulation, 2018*, Alberta Regulation 201/2017**

One-member composite assessment review board

s. 36(1) Pursuant to section 454.2(3) of the Act, a council may establish a composite assessment review board consisting of only one member.

(2) A one-member composite assessment review board may hear and decide one or more of the following matters:

(a) a complaint about a matter shown on an assessment notice, other than an assessment;

(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;

(c) an administrative matter, including, without limitation, an invalid complaint;

(d) any matter, other than an assessment, where all of the parties consent to a hearing before a one-member composite assessment review board.

***Interpretation Act*, Revised Statutes of Alberta 2000, Chapter I-8**

Presumption of service

23(1) If an enactment authorizes or requires a document to be sent, given or served by mail and the document is properly addressed and sent by prepaid mail other than double registered or certified mail, unless the contrary is proved the service shall be presumed to be effected

(a) 7 days from the date of mailing if the document is mailed in Alberta to an address in Alberta, or

(b) subject to clause (a), 14 days from the date of mailing if the document is mailed in Canada to an address in Canada.

(2) Subsection (1) does not apply if

(a) the document is returned to the sender other than by the addressee, or

(b) the document was not received by the addressee, the proof of which lies on the addressee.

City of Grande Prairie

v.

Altus Group Ltd. et al

[2015] CARB (Grande Prairie) 0312-01-2015

CARB Decision 0312-01-2015

IN THE MATTER OF THE *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act);

AND IN THE MATTER OF ALBERTA REGULATION 310/2009 *Matters Relating to Assessment Complaints Regulation* (MRAC);

AND IN THE MATTER OF A PRELIMINARY HEARING before a Combined Assessment Review Board (CARB) regarding assessments appeals of specified properties.

BETWEEN:

The City of Grande Prairie in the Province of Alberta (Applicant)

AND

The Following Property Owners represented by ALTUS GROUP (Respondent):

Assessment Roll Number	Name of Business	Represented By
772120	Alberta Treasury Branch	ALTUS
310550	Superstore	ALTUS
860240	No Frills	ALTUS
701100	Safeway North	ALTUS
804790	Safeway South	ALTUS
804760	Former Blockbuster –Southside	ALTUS
804780	CRUS – Southside	ALTUS
510380	Canadian Freightways	ALTUS

BEFORE:

J. R. (Rick) McDonald, MGB Member, Presiding Officer

CASE MANAGER

Noreen Zhang, City of Grande Prairie

MGB CASE MANAGER

Pam Gill

ATTENDANCE:

- Luisa Adams, CARB Coordinator MGB

Representing the Applicant:

- Liz Jones, AMAA
- Scott Smith, AMAA
- Mark Sandul, AMAA

Representing the Respondent:

- Andrew Izard, Agent ALTUS GROUP

- Brian Dell, Lawyer, Wilson Laycraft, Barristers and Solicitors
- Randall Worthington

Upon notice given to both parties a hearing was held on July 8, 2105 by conference telephone with the parties calling in. The presiding officer was located at the MGB office in Edmonton and the other parties called in from their locations.

BACKGROUND

The Applicant (City of Grande Prairie Assessment Department) has objected to the Respondents assessment appeal of non-residential assessment roll number 772120 for the 2015 tax year on the grounds that the Respondent has not complied with Section 295 (1) of the Act;

> *295(1) A person must provide, on request by the Assessor, any information necessary for the Assessor to prepare and assessment of determine if the property is to be assessed.*

The Applicant therefore submits that the Respondents Assessment Complaint must be dismissed as instructed by Section 295(4) of the Act;

> *295(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of linear property, under section 492(1) about an assessment if the person has failed to provide the information under subsection (1) within 60 days from the date of request.*

The Respondent disagrees with the Applicants position respecting the Applicants decision to reject their assessment appeal on the basis of *Section 295 (1) and (4)* and therefore the Applicant has requested a jurisdictional hearing to decide.

PROCEDURAL OR JURISDICTIONAL MATTERS

[1] The matter was heard and decided by one member Composite Assessment Review Board pursuant to section 36(2) of MRAC.
[2] The parties had no objections to the matter being heard by the presiding officer.
[3] The Respondent indicated all of the assessment roll subject properties being placed before this hearing have a similar challenge [s 295(1) & (4)], and therefore assessment roll number 772120 (ATB) would be the lead file for purposes of presentation with the balance of properties being addressed for any aspects that may differ or require further input at the time each are reviewed. The Applicant agreed to this process.

ISSUES

[4] Should the appeal by the respondent for the eight (8) assessments be dismissed for non-compliance under section 295(1) and (4) of the Act?

BOARD DECISION

[5] For reasons provide herein the Board denies the appeal by the applicant to invoke s. 295(4) against hearing assessment complaints regarding the properties in question and a Merit hearing should proceed.

[6] The Board orders that this decision applies to all eight (8) properties noted in this decision order.
[7] The Board further directs that the parties quickly communicate with the case manager to establish dates for sharing of evidence and establishing an ARB Merit hearing date.

POSITION OF THE PARTIES

Applicants Position:

[8] The applicants' evidence and legal argument for all eight properties (marked as exhibit A-1) was provided and reviewed at this hearing. A-1 followed assessment roll # 772120 as the master file with supporting evidence for each of the properties (each marked as exhibit A-2).
[9] The applicant submitted that it had requested information from all owners of non-residential properties on an annual basis to prepare market value assessments for the following tax year.
[10] A property assessment complaint was filed regarding assessment roll number 772120 for the 2015 tax year.
[11] The main issue of the complaint was equity and lease rate.
[12] To prepare the market value assessment the assessor required a review of the property's income and expenses from the most recent operating year to determine the market value through mass appraisal.
[13] The applicant indicated that it was unable to determine if there had been any major internal upgrades and occupancy, without the RFI.
[14] The assessor mailed a request for information (RFI) on June 27, 2014 requesting a response within 60 days.
[15] The applicant submitted that the assessor did not receive a written or verbal response from the assessed person, property owner or agent.
[16] The applicant submitted that the mailed RFI was never returned by Canada Post and therefore can only assume that it was delivered.
[17] The applicant submitted that no financial information has been provided to the assessor to date.
[18] The applicant submitted that it is unfair to the other land owners when one land owner does not provide their RFI.
[19] The applicant submitted that section 295(1) establishes that the assessed person has a "Duty to provide information" (page 4 of A-1).
[20] The applicant further noted that pursuant to section 304(3) (b) of the Act that the person or property owner or Agent must provide to the municipality written notice of mailing address to which notices under the Act may be sent.
[21] The applicant submitted that the assessor gave proper notice by mail to the address on record and the request contained the necessary forms for the property owner to complete and return in 60 days. As such the applicant submits that the Respondent is not in compliance with section 295(1) of the Act.
[22] The applicant submitted that the assessed person must respond to the RFI or lose the opportunity to appeal or make a complaint in the following assessment year.
[23] The applicant submitted that the assessor clearly identified the consequences to the property owner for failing to comply with the assessor's RFI.
[24] The applicant submitted that the assessor made reference to the fact that the RFI is required for assessors to do a proper job in assessing properties within a municipality. The information was

being requested for revenue producing properties that are assessed based on the income approach to value.

[25]The applicant position is that the complaint must be dismissed under s 295(4) of the Act.

[26]In support of the its position noted above the applicant noted the following supporting CARB cases provided in evidence in A-1 "Pertinent Board Decision":

1. CARB – 0131-01/2010, Town of Grande Cache, Page 2, Paragraph 4, 6, 7 & 8
2. CARB – 0203-0001/2013, City of Lethbridge, Page 3, Paragraph 6
3. CARB - 0269-2/2012, Rockyview County, Page 3, Item 6; Page 4, Paragraph 2
4. CARB – 0217-030/2013, City of Medicine Hat, Page 3
5. CARB – 0098-01/2012, City of Edmonton, Preliminary Matter section 295(1) & (4)

Respondents Position

[27]The respondent provided nine (9) documents that included testimonial evidence for the eight (8) properties (R-2) and one (1) document of 226 pages (R-1) that provided background, testimonial evidence and nine (9) copies of related case law in support of the respondent position.

[28]The respondent submitted that the June 19, 2015 CARB Notice of Hearing was the first time that the land owner was made aware that their assessment appeal was being denied because of s. 295(4).

[29]The respondent submitted that "*there is no documentation to prove that the RFI was sent or even delivered to the taxpayer"*, and there was no follow-up by the assessor on the RFI.

[30]The respondent challenged that the applicants lack of follow-up to the RFI was a method to use section 295 (4) as a technical basis for a plausible case management tool.

[31]The respondent submitted that the assessor has sufficient information to assess the property 772120 based on the Income Approach. Page 33 of 45 in R-2 ATB evidence states *"The 2014 Assessment of office and bank properties will utilize the income approach … There is sufficient income information to form a reliable value base for this property type."*

[32]The ATB roll 772120 is an owner occupied building and the respondent submitted that there is no change to the information and therefore there would be no effect on the assessment calculations.

[33]The Respondent submitted that of the eight (8) subject properties listed six (6) are owner occupied and would contain no rental information with which to assist in determination of market rents.

[34]Property 804760 is a vacant building and there is no information to report, and

[35]Property 804780 is leased, has no rental information to report, other than what the assessor is already aware of, is using and reporting on, in the City of Grande Prairie property record for this property.

[36]The respondent submitted that section 295(1) cannot be used to obtain information that is not necessary for the assessment: *Boardwalk REIT LLP v Edmonton (City), 2008 ABCA, 220, 437 AR 347.* Therefore the respondent believes that the assessor cannot obtain information for the purposes of mass appraisal.

[37]The respondent reviewed past ABCA, MGB and CARB decisions and orders. The main focus and considerable attention was given to ABCA case "Boardwalk REIT LLP v Edmonton (City) [2008] ABCA 220 (Boardwalk).

[38]The respondent suggested that in accordance with the Boardwalk decision dismissal of an appeal of an assessment on section 295(4) grounds is considered a draconian relief and contradicts the case law.

[39]It is the respondent's positon that the rental information requested by the assessor is neither "necessary nor indispensable" for the preparation of the assessment on these properties.

[40]The respondent submitted that information requested by the assessor was not necessary to prepare the assessment as it is the respondents' belief that the assessor already possessed information related to income for the subject property and did use that information to assess the subject property.

[41]The respondent submitted that the RFI process followed by the assessor was unfair because the landowner was not provided with a notice of default before notice of assessment. Referenced Boardwalk para 156. *"The oldest rule of administrative law is to give a citizen notice of alleged transgression or failing, before penalizing him or her or removing his or her office, property or liberty because of it."*

[42]The respondent submitted that the property was assessed in the previous year and that an assessment was prepared for 2015. Therefore in the Respondents view the only matter to determine is if the RFI was reasonable? In asking for information regarding matters relating to mass appraisal it is the opinion of the respondent that the general information requested was not necessary. Citing Edmonton (City) v. Invest Properties MacDonald Nominee Ltd., 2011 ABCA 333;

> *"Section 295 of the MGA cannot be used to obtain information that is not necessary for the assessment of a particular property: Boardwalk Reit LLP v Edmonton (City), 2008 ABCA 220, 437 AR 347. Therefore, s. 295 does not authorize the City to obtain information for the purpose of mass appraisal."*

[43]The respondent submitted that the RFI was not received, yet had it been the respondent noted that at the time the assessor had all the information necessary to determine an assessment and therefore the respondent believes there was substantial compliance. The respondent submitted they could only give what they had in their possession at the time, within the 60 day period, and if there was no new information then there would have been no apparent need to update the assessor.

[44]Presumption of Service: Citing section 23(1) (a) & (b) of the *Interpretation Act* RSA 2000 Chapter I-8 the respondent submitted that the Act does not authorize or require that an RFI be sent, given or served by mail. Therefore the respondent questioned the assessor authority to mail the RFI. The respondent submitted that this places the onus on the assessor to ensure the RFI is in fact received by the taxpayer.

[45]The respondent submitted that RFI and assessment notices may have been sent to improper mailing addressed as follows:

- Assessment Roll # 860240 – assessment notice sent to Calgary mailing address while the RFI was sent to a Toronto mailing address
- Assessment Roll # 310550 – assessment notice sent to Toronto mailing address while the property title provides a Calgary mailing address

[46]The respondent provided case law, CARB and MGB Orders in support of the respondents position regarding s. 295:

a. *Boardwalk* REIT LLP v *Edmonton (City)* [2008] ABCA 220
b. *Amoco Canada Petroleum Co. Ltd. v. Alberta* [2000] ABCA 252

c. *Edmonton (City) v. Invest Properties MacDonald Nominee Ltd.,* 2011 ABCA 333
d. *691363 Alberta Ltd. v. Calgary (City*) [2012] CARB (Calgary) 1632-2012-P
e. Edmonton House Realty Ltd. v. City of Edmonton [2009] AMGBO No. 122-09
f. The *City of Calgary* v. *First Capital Holdings (ALB) Corp*. [2015] CARB (Calgary) 84695J-2015
g. *The City of Calgary v. M. Strangemann* [2015] CARB (Calgary) 79446J-2015
h. *Lethbridge (City) v. Altus Group* [2010] CARB (Lethbridge) 0203-0001-2010
i. Costco Wholesale Canada Ltd. v. Rocky View County [2013] CARB (Rocky View) 0269-01-2013
j. Bisma Centre Group Inc. v. The City of Calgary [2014] CARB (Calgary) 75710P-2014
k. Core Ventures Inc. v. The City of Calgary [2014] CARB (Calgary) 74258-2014
l. Okotoks Square Inc. v. Town of Okotoks [2010] CARB 0238 04-2010-M

BOARD FINDINGS AND REASONS FOR DECISION

[47]The Board finds that the ownership of the property (properties) is not in question.

[48]The Board finds that the applicant did mail an RFI to the property owner at an address in the assessors' records.

[49]The Board found insufficient proof of the delivery of the RFI was presented before it, and no reviewable evidence was presented by the applicant to verify delivery.

[50]The Board finds that even if the RFI was received and not responded to, by the land owner(s), within the 60 day time-frame allotted the information requested would not be, in the opinion of the Board, deemed as "necessary" for the purposes of preparing an annual assessment pursuant to s. 289(1) of the Act for the 2015 assessment.

[51]The Board is of the opinion that the purpose of s. 295(1) of the Act is to provide the assessor with a regulatory process to assist in gathering information necessary for the assessor to prepare an assessment or determine if a property is to be assessed. However, the board is also of the opinion that the assessor has other mechanisms to gather information if required. Specifically direct inspection and request pursuant to s. 294(1) (4) and s. 296.

[52]In the Boards opinion the word "*necessary*" in s. 295(1) is poorly defined and somewhat unclear; it may mean an absolute requirement or a necessary convenience to a desired end. ABCA in Boardwalk has taken a more liberal view, and the Board is taking guidance from Boardwalk.

[53]If s. 295(1) purpose is to gather information is "necessary" then the burden of proof of necessity is, in the opinion of the Board, the assessors. In this case the applicant has not provided the Board with sufficient evidence to support the assessors' view that the information on the RFI is needed or necessary to prepare an assessment of the property.

[54]In referencing Edmonton (City) v. Invest Properties MacDonald Nominee Ltd., 2011 ABCA 333, which is an appeal of the decision of The Hon. Madam Justice A. B. Moen, page 122 of R-1, paragraph [15] the ABCA writes;

> [15]"*Therefore the Chambers Judge was correct to conclude the City was not entitled to obtain the appraisal under s. 294(1)(b) … Section 294(1)(b) provides the test for production. That is, the document must be such as to assist the assessor in preparing an assessment of the property … whether the disputed document will so assist an assessor will depend on a review of the disputed document in the context of any evidence adduced at the application for production."*

[55]The applicant suggested that the parties should have at least responded by saying there was no change is understandable, however it is not in the Boards opinion an appropriate reason to apply s. 295(4) as avoidance to an assessment appeal.

[56]The respondent counters that if the information was necessary for the assessor why would the assessor not follow-up with the land owner to determine if the information is forthcoming?

[57]The Board is of the opinion that not providing information requested pursuant to s. 295(1) should not in itself automatically negate the opportunity for an assessed person, land owner or taxpayer to appeal an assessment as long as the appeal complies with s. 9(3) of MRAC.

[58]The ARB hearing the assessment appeal will weigh the information presented and determine if it is admissible pursuant to s. 9(3) of MARC.

[59]The Board is of the opinion that the applicants RFI is a broad brush approach to gathering information and s. 295(4) is being applied rigidly by the applicant without consideration for the land owners issues or concerns with respect to the current assessment notice. This approach is considered "wrong in principle" *Boardwalk, page 92, paragraph [81].*

[60]In Boardwalk page 102, ABCA states *"2. Aim of the Penalty is Compliance, not Punishment"* and it is the opinion of the Board that it would be unfair punishment to apply s. 295(4) in a rigid fashion without giving the land owner an opportunity to be heard.

[61]The Board therefore finds that an assessment appeal merit hearing should proceed.

DATED AT THE CITY OF EDMONTON THIS ____16____ DAY OF ___July___, 2015

J R McDonald[1]

_____

J. R. (Rick) McDonald, Presiding Officer.

[1] Electronic signature

Argument & Jurisprudence:

Land / under construction / no income or rent roll existed

The City of Calgary

v.

First Capital Holdings (ALB) Corp.

[2015] CARB (Calgary) 84695J-2015


Prime Office Space
COMING SOON
LEASING INQUIRIES

Calgary Assessment Review Board

DECISION WITH REASONS

This is a complaint against the Property assessment as provided by the *Municipal Government Act*, Revised Statutes of Alberta 2000, Chapter M-26 (the Act).

between:

THE CITY OF CALGARY, APPLICANT

and

FIRST CAPITAL HOLDINGS (ALB) CORPORATION, OWNER (as represented by ALTUS GROUP), RESPONDENT

before:

L. WOOD, PRESIDING OFFICER

This is a jurisdictional hearing before the Calgary Assessment Review Board to determine the validity of the complaint filed in respect of a Property assessment prepared by the Assessor of The City of Calgary and entered in the 2015 Assessment Roll as follows:

ROLL NUMBER:	067190504
LOCATION ADDRESS:	936 16 AV SW
FILE NUMBER:	84695
ASSESSMENT:	$3,930,000

This application was heard on May 14, 2015 in Boardroom 8 located at the office of the Assessment Review Board 1212 – 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Applicant:

- Ian McDermott, Assessor, City of Calgary
- Dan Lidgren, Assessor, City of Calgary

Appeared on behalf of the Respondent:

- Andrew Izard, Agent, Altus Group
- Brian Dell, Lawyer, Wilson Laycraft, Barristers & Solicitors

Procedural or Jurisdictional Matters:

[1] The matter was heard and decided by a one member Composite Assessment Review Board pursuant to section 36(2)(c) of *Matters Relating to Assessment Complaints Regulation* AR 310/2009 (MRAC).

[2] The parties cross referenced their evidence and argument to the lead file **#79445**, a vacant land parcel located at 829 6 AV SW. The Board has rendered its decision on that matter in **CARB 79445J-2015**.

[3] In this instance, the parties identified discrepancies not addressed in that previous application; specifically, Crown ownership and assessment class.

Background:

[4] A jurisdictional hearing was held to determine the validity of the complaint filed by the Respondent in regards to a non-residential property assessment.

Issue:

[5] Was the information requested pursuant to section 295(1) necessary for the assessor to prepare an assessment?

Board's Decision:

[6] For reasons outlined herein, the decision of the Board is that the information requested pursuant to section 295(1) was not necessary for the assessor to prepare the property assessment. The consequences set out in section 295(4) are not applicable to the case at hand. The complaint filed on March 3, 2015 is valid and the merit hearing set for June 22, 2015 will proceed as scheduled.

Legislative Authority, Requirements and Considerations:

Duty to provide information

295(1) 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.

(2) An agency accredited under the Safety Codes Act must release, on request by the assessor, information or documents respecting a permit issued under the Safety Codes Act.

(3) An assessor may request information or documents under subsection (2) only in respect of a property within the municipality for which the assessor is preparing an assessment.

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of 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.

Position of the Parties

Applicant's Position:

[7] The Applicant submitted that they had sent a request for information pursuant to section 295(1) to the property owner on July 7, 2014 in relation to a vacant land parcel, used for surface parking. This was followed by a reminder letter dated August 8, 2014 and a non - compliance letter dated September 15, 2014 (Exhibit R1 pages 14 - 22). The Applicant submitted that the information requested pursuant to section 295(1) was necessary to prepare an assessment for the subject property and similar properties.

[8] The information requested was in the format of an ARFI (Assessment Request for Information, Parking), seeking information pertaining to the following: (1) property owner and property manager contact information; (2) tenant information including if the property is owner occupied; lease commencement date; lease term; lease type; leased area; annual rental rate; annual expenses; and name of lessee; (3) type of parking structure; (4) type of parking arrangement; (5) number of parking stalls; (6) type of parking stalls; (7) revenue per parking stall; (8) total annual and monthly parking revenue; (9) parking lot expenses; and (10) any third party valuation information (Exhibit R1 pages 16 - 19).

[9] The Applicant submitted that this information would have been considered in the property assessment based on the income approach to value and/or to reconcile the value derived by the sales comparison approach. Further, the leasing information is necessary to prepare the assessment based on the income approach, and information pertaining to the parking is necessary to be factually correct. However there was no response from the property owner and therefore the assessor was unable to utilize the income approach to value in preparing the assessment. Without the income information, the Applicant is unable to ensure that the assessment is fair, equitable and correct. The Applicant submitted that a similar request was made in 2013 and no response was provided in that year either (Exhibit R1 pages 27 - 36).

[10] The Applicant submitted that the Respondent is seeking a change to the assessment class for the subject property in the complaint filed for the 2015 Property Assessment (Exhibit R1 pages 37 – 39). The Applicant referred to section 460(5) which states:

> 460(5) A complaint may be about any of the following matters, as shown on an assessment or tax notice:

(a) the description of a property or business;

(b) the name and mailing address of an assessed person or taxpayer;

(c) an assessment;

(d) an assessment class;

(e) an assessment sub-class;

(f) the type of property;

(g) the type of improvement;

(h) school support;

(i) whether the property is assessable;

(j) whether the property or business is exempt from taxation under Part 10.

[11] The Applicant submitted that if the Respondent had provided information in response to the section 295(1) request, then the requested assessment class may have been considered. It is unfair of the property owner not to provide that information, and then file a complaint. The Applicant asked the Board to apply section 295(4) and dismiss the complaint.

Respondent's Position:

[12] The Respondent submitted that the request for information pursuant to section 295(1) was not received by First Capital Holdings (ALB) Corporation. The Respondent submitted that even if they had received the request, there was no income information to report on the subject property. The Respondent also submitted that a section 295(1) request was unnecessary in any event given that the subject property is owned by the City of Calgary and it would have access to that information.

[13] The Respondent submitted an email dated April 28, 2015, from Ms. Crystal Hodgson, Manager, Property Tax Western Region, First Capital Asset Management ULC, in support of his position (Exhibit C1 pages 11 & 12). In that email, Ms. Hodgson states that they did not receive the request for information for the subject property. She notes that the 2014 Property Assessment Notice for the subject property shows that it was valued as land only. She indicates that they did provide information for the property located at 908 17 AV SW, which they consider part of the subject property, so the information was not intentionally omitted.

[14] The Respondent submitted a photograph of the subject property that he took last year to show that the subject property is not being used for surface parking. He submitted that there is no income on this property and it is used in conjunction with the building, commonly referred to as "The Royal" on the adjacent property, 908 17 AV SW. The Respondent indicated that First Capital Holdings (ALB) Corporation owns 100 properties in the Calgary area and this is the only property that is subject to a section 295(4) application.

[15] The Respondent argued that section 295(1) is a request for information pertaining to "an assessment". An assessment, defined in section 284(1)(c) of the Act, means "value". That section states:

284(1) In this Part and Parts 10, 11 and 12,

(c) "assessment" means a value of property determined in accordance with this Part and the regulations;

[16] The Respondent argued that while section 460(5) lists what the complaint may be about, an assessment is just one of the issues listed. A request for information pursuant to section 295(1) seeks information pertaining to an assessment; it does not seek information pertaining to an assessment class. In the case at hand, the subject property has an improper assessment class of 100% non-residential and should be reclassified as 100% residential since its future use will be a park. This further supports why the consequences of section 295(4) should not apply in this instance.

[17] The Respondent submitted that the request for information pursuant to section 295(1) was not necessary for an assessor to prepare the assessment of the subject property and therefore the consequences set out in section 295(4) should not apply. The merit hearing should proceed as scheduled.

Board's Finding of Facts and Reasons for Decision:

[18] The Board sets out its findings as follows:

i. The Board finds that First Capital Holdings (ALB) Corporation is the assessed person;

ii. The Board finds that this vacant land parcel is not used for surface parking in which revenue is generated from the subject property; and,

iii. The Board finds that the section 295(1) request for information was not necessary for the purpose of preparing this property assessment.

[19] The evidence before the Board was inconclusive whether the subject property is owned by the City of Calgary and leased to First Capital Holdings (ALB) Corporation or owned by First Capital Holdings (ALB) Corporation. Notwithstanding the Board is satisfied that First Capital Holdings (ALB) Corporation is the assessed person in accordance with section 304(1)(a) or section 304(1)(c) of the Act which states:

304(1) The name of the person described in column 2 must be recorded on the assessment roll as the assessed person in respect of the assessed property described in column 1.

Column 1 **Assessed property**	**Column 2** **Assessed person**
(a) a parcel of land, unless otherwise dealt with in this subsection;	(a) the owner of the parcel of land;
(b) ...	(b) ...

(c) a parcel of land, an improvement or a parcel of land and the improvements to it held under a lease, licence or permit from the Crown in right of Alberta or Canada or a municipality;	(c) the holder of the lease, licence or permit or, in the case of a parcel of land or a parcel of land and the improvements to it, the person who occupies the land with the consent of that holder or, if the land that was the subject of a lease, licence or permit has been sold under an agreement for sale, the purchaser under that agreement;

[20] The evidence pertaining to the vacant land parcel was uncontested. The Board placed weight on the Respondent's submission that the vacant land parcel is not being used for public parking and therefore no parking revenue is being derived from it. The Applicant did not inspect the subject property and was relying on the ARFI instead. However if there is no public parking on the subject property for the purposes of generating income, then there is nothing to provide in response to the section 295(1) request. There is no information upon which to prepare the income approach to value or to reconcile the assessment if there is no income. Even if there was public parking, the parking revenue is a non-realty component that should be analyzed separately from the realty. For the purposes of preparing a property assessment, that business information is irrelevant to determine the underlying land value.

DATED AT THE CITY OF CALGARY THIS 12th **DAY OF** JUNE **, 2015.**

L. WOOD, PRESIDING OFFICER

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING

AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. R1	Applicant Disclosure
2. R1	Applicant Disclosure (contained in file **#79445**)
3. C1	Respondent Disclosure
4. C1	Respondent Disclosure (contained in file **#79445**)
5. C2	Respondent Disclosure (contained in file **#79445**)

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

(a) the complainant;

(b) an assessed person, other than the complainant, who is affected by the decision;

(c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;

(d) the assessor for a municipality referred to in clause (c).

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

(a) the assessment review board, and

(b) any other persons as the judge directs.

The City of Calgary

v.

Penguin Developments

[2018] CARB (Calgary) 129785J-2018


APPROVED
DEVELOPMENT SITE
FOR SALE
403-355-6003
APPROVED
DEVELOPMENT SITE
FOR SALE
403-355-6003

Calgary Assessment Review Board

DECISION WITH REASONS

In the matter of a complaint against the Property assessment as provided by the *Municipal Government Act*, Revised Statutes of Alberta 2000, Chapter M-26 (the MGA).

between:

The City of Calgary, *APPLICANT*

and

PENGUIN DEVELOPMENTS LTD, OWNER
(as represented by ALTUS GROUP), ***RESPONDENT***

before:

R. Roy, PRESIDING OFFICER

This is an application to the Calgary Assessment Review Board (the "Board") for a jurisdictional determination as to whether the Board may hear the merit complaint (the "Complaint") in respect of a property assessment prepared by the Assessor of the City of Calgary and entered in the 2018 Assessment Roll as follows:

ROLL NUMBER:	069000107
LOCATION ADDRESS:	1001 8 ST SE
FILE NUMBER:	129785
ASSESSMENT:	$1,900,000

This application was heard May 1, 2018 in Boardroom 9 located at the office of the Assessment Review Board 1212 31 Avenue NE, Calgary, Alberta.

Appeared on behalf of the Applicant:

- B. Smith, Assessor, City of Calgary
- J. Ermube, Assessor, City of Calgary
- T. Squire, Lawyer, City of Calgary

Appeared on behalf of the Respondent:

- D. Mewha, Agent, Altus Group
- B. Dell, Lawyer, Wilson Laycroft

Procedural or Jurisdictional Matters:

[1] This matter was heard and decided by a one member Composite Assessment Review Board Panel pursuant to section 40 of *Matters Relating to Assessment Complaints Regulation, 2018 Regulation*, AR 201/2017 (MRAC).

[2] Both parties requested that the testimony and argument from files #132199 and #124561 be carried forward to this file. Both parties also agreed that there was no issue of receipt of mail on this file.

Issue(s):

[3] Did the Respondent fail to respond to the Applicant's 2017 Assessment Request for Information (ARFI) as required by section 295 of the Act?

[4] Was the information requested necessary pursuant to section 295(1) of the Act?

Panel's Decision:

[5] For reasons outlined herein the Panel denies the application for dismissal of the Complaint. The merit hearing can proceed when scheduled by Board administration.

Position of the Parties

Applicant's Position:

[6] The Applicant indicated that the 2017 annual ARFI for the subject property had not been submitted. The information was required in order to determine how the assessment would be completed, what methodology would be utilized, and for completion of the general duties and responsibilities of the assessor.

[7] The Applicant also indicated that it would be appropriate to utilize the revised s. 295(1) of the MGA which came into force on 1 January 2018 rather than the former version. It stated

that in discussions with provincial assessment staff the intent was for the revised s. 295 to be applied this year.

[8] The Applicant discussed that the property could have been leased out since the ARFI was provided last year. It inferred that this could have been done without any notice to the municipality.

Respondent's Position:

[9] The Respondent provided a detailed description of the status of the property. It is under development and slated for demolition. The demolition cannot occur until several conditions imposed by the municipality have been met. At times the Respondent declared the property condemned although this was corrected for accuracy to it being in a state of disrepair.

[10] The Respondent also provided a discussion regarding the appropriate version of s. 295(1) of the MGA to apply. There is no indication that retroactivity was anticipated when the MGA is read in its entirety. Without specific instructions to apply it to the previous year the revised s. 295(1) should only apply to ARFI responses as of 1 July 2018. As all of the activities related to the ARFI occurred in 2017 it is the version of s. 295(1) in force at that time which should apply. The submission of the Complaint in 2018 does not affect which version of s. 295(1) applied at the time the ARFI request was sent.

Panel's Findings of Fact and Reasons for Decision:

[11] The Panel reviewed all evidence and testimony provided. Only that evidence which applies to the decision at hand will be discussed.

[12] The Panel does not accept the Applicant's argument that the revised 2018 version of s 295(1) should be applied to the Respondent's ARFI response. There are transitional provisions specifically outlined in the revised MGA. It is clear the application of these provisions was considered by the Legislature as part of the revision of the MGA. As this section is not noted in these transitional provisions the Panel finds that there was no intention to provide a retroactive application of the revision of s 295.

[13] This request to dismiss deals with a property that is slated for demolition. Even if it were not the Applicant indicated that it would be unlikely that this property, in its primary use, would have been assessed using the income approach to value.

[14] The Panel does not see the necessity of requesting information that is clearly already available to the Applicant. While the Panel is cognizant of separating the merit and jurisdictional aspects of this file it is clear that the Applicant knows the status of this property. The Respondent did provide a summary of the condition of the property and the future plans of the owner. The restrictions have been put in place as part of the planning process and were established by the Municipality.

[15] The Applicant's submission that this property could have been leased out without any application or reference to the municipality shows a serious lack of trust towards ratepayers. The property is in a state of disrepair and destined for demolition. In addition, the Panel notes that the Applicant has determined that the improvement on this property has no value to the property itself. In determining the assessment as land only rather than land plus improvement the Applicant has indicated that a willing buyer and willing seller would not consider the improvement as adding value to the property.

[16] Notwithstanding that the Respondent failed to submit the ARFI the information requested was not necessary o prepare the assessment. The Application is denied and the Respondent's complaint may be scheduled for a merit hearing with the Calgary Assessment Review Board.

DATED AT THE CITY OF CALGARY THIS 17th DAY OF May, 2018.

R. Roy, PRESIDING OFFICER

APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING

AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. A1	Applicant Disclosure
2. A2	Applicant Legal Brief
3. R1	Respondent Disclosure
4. R2	Respondent Legal Brief

An application for Judicial Review may be made to the Court of Queen's Bench with respect to a decision of an assessment review board.

An application for Judicial Review must be filed with the Court of Queen's Bench and served not more than 60 days after the date of the decision, and notice of the application must be given to

(a) the assessment review board

(b) the Complainant, other than an applicant for the judicial review

(c) an assessed person who is directly affected by the decision, other than the Complainant,

(d) the municipality, and

(e) *the Minister.*

APPENDIX "B"

LEGISLATIVE AUTHORITIES CONSIDERED BY THE BOARD

***Municipal Government Act*, Revised Statutes of Alberta 2000, Chapter M-26 (the MGA)**

Duty to provide information

s. 295(1) 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.

...

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of 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.

Revised January 1, 2018:

s. 295(1) A person must provide, on request by the assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.

...

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

***Matters Relating to Assessment Complaints Regulation, 2018*, Alberta Regulation 201/2017**

One-member composite assessment review board

s. 40(1) Pursuant to section 454.2(3) of the Act, a council may establish a composite assessment review board consisting of only one member.

(2) A one-member composite assessment review board may hear and decide one or more of the following matters:

(a) a complaint about a matter shown on an assessment notice, other than an assessment;

(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;

(c) an administrative matter, including, without limitation, an invalid complaint;

(d) any matter, other than an assessment, where all of the parties consent to a hearing before a one-member composite assessment review board.

***Interpretation Act*, Revised Statutes of Alberta 2000, Chapter I-8**

Presumption of service

23(1) If an enactment authorizes or requires a document to be sent, given or served by mail and the document is properly addressed and sent by prepaid mail other than double registered or certified mail, unless the contrary is proved the service shall be presumed to be effected

(a) 7 days from the date of mailing if the document is mailed in Alberta to an address in Alberta, or

(b) subject to clause (a), 14 days from the date of mailing if the document is mailed in Canada to an address in Canada.

(2) Subsection (1) does not apply if

(a) the document is returned to the sender other than by the addressee, or

(b) the document was not received by the addressee, the proof of which lies on the addressee.

IN THE MATTER OF A COMPLAINT filed with the Town of Okotoks Composite Assessment Review Board (CARB) pursuant to the *Municipal Government Act (Act)*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000.

BETWEEN:

Anthem D'Arcy Commercial Holdings GP Ltd
as represented by Altus Group Limited (Complainant)

- and -

The Town of Okotoks (Respondent)

BEFORE:

H. Kim, Presiding Officer

This is the decision of the Town of Okotoks Composite Assessment Review Board (CARB) in respect of a complaint of an amended property assessment prepared by the Assessor of the Town of Okotoks and entered in the 2022 assessment roll as follows:

Roll Number	Address	Amended Assessment
0122100	10 D'Arcy Ranch Drive	$18,751,000

A hearing was held on the 19th day of January 2023 via video conference to consider a preliminary matter with respect to an application to dismiss the complaint pursuant to section 295 of the *Act*.

Appearing on behalf of the Respondent (Applicant in preliminary request to dismiss):

- D. Genereux, Town of Okotoks Assessor

Appearing on behalf of the Complainant (Respondent in the application to dismiss):

- A. Izard, Altus Group Limited
- B. Robinson, Altus Group Limited (observer)

Attending for the Assessment Review Board:

- P. Huber, ARB Clerk

Jurisdiction

[1] Alberta Regulation 201/2017 *Matters Relating to Assessment Complaints Regulation (MRAC)*, allows the matter to be set for a preliminary hearing to be considered by a one-member panel:

> 40 A one-member composite assessment review board panel may hear and decide one or more of the following matters but no other matter:
> ...
> (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;
> (c) an administrative matter, including, without limitation, an invalid complaint;
> …

Background

[2] This complaint relates to a parcel of land on the northwest corner of Highway 2A (Northridge Drive) and D'Arcy Ranch Drive in the Town of Okotoks (Town). It is under development as the D'Arcy Crossing shopping centre, and received conditional development permit (DP) approval in May 2021 and building permit (BP) approval in August 2021; however, the DP was not issued until November 17, 2021 and at December 31, 2021 construction of buildings on the site had not commenced.

[3] The original Notice of Assessment for the 2022 tax year was issued January 12, 2022 in the amount of $14,800,000 and no complaint was filed. An amended Notice of Assessment was issued October 5, 2022 and the subject complaint was filed on November 25, 2022. On December 8, 2022 the Applicant provided notice of intent to request a preliminary hearing prior to the scheduling of a merit hearing, to decide the matter of loss of right of complaint due to non-response to the assessment request for information. Section 295 of the *Act* states:

> 295(1) A person must provide, on request by an assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.
> ...
> (4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

[4] A Notice of Preliminary Hearing was issued on December 14, 2022 setting the matter for January 19, 2023 and advising of disclosure timelines for both the Complainant

and Respondent on or before January 11, 2023. The day prior to the hearing, the Complainant provided materials with respect to a second preliminary matter to be raised at the outset of the hearing, late filing of disclosure by the Applicant.

[5] In the interests of clarity, due to the second preliminary matter for which the Complainant is the Applicant, the Assessor will be referenced throughout this order as Respondent, and the property owner's agent will be referenced as Complainant notwithstanding their actual position in each matter.

Preliminary Matter 1: Late Disclosure

Complainant's Position

[6] The Complainant presented evidence, in the form of a delivery confirmation email dated January 11, 2023 at 11:59 pm, showing the Complainant's evidence with respect to the application to dismiss was submitted on January 11, 2023 as required. The email containing the Respondent's evidence was sent at 10:09 pm on January 12, 2023. Thus, the Respondent's submission was late, and not disclosed in accordance with the requirements of *MRAC*, which states:

> 43(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.
> (2) If a complaint is to be heard by a one-member composite assessment review board panel, the following rules apply with respect to the disclosure of evidence:
> (a) the complainant must, at least 7 days before the hearing date,
> (i) disclose to the respondent and the one-member composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the complainant intends to present at the hearing in sufficient detail to allow the respondent to respond to or rebut the evidence at the hearing, and
> (ii) provide to the respondent and the one-member composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence;
> (b) the respondent must, at least 7 days before the hearing date,
> (i) disclose to the complainant and the one-member composite assessment review board the documentary evidence, a summary of the testimonial evidence, including a signed witness report for each witness, and any written argument that the respondent intends to present at the hearing in sufficient detail to allow the complainant to respond to or rebut the evidence at the hearing, and

(ii) provide to the complainant and the one-member composite assessment review board an estimate of the amount of time necessary to present the complainant's evidence.

44 A one-member composite assessment review board panel must not hear
(a) any matter in support of an issue that is not identified on the complaint form, or
(b) any evidence that has not been disclosed in accordance with section 43.

[7] As set out in the *Interpretation Act, MRAC* requires disclosure 7 clear days prior to the hearing, i.e. on January 11, 2023 and must not be heard. The Complainant presented Court and CARB decisions in which late submissions were disallowed.

[8] In this preliminary matter, there is no evidence to support the application to dismiss and the request must be denied. Further, the Respondent's request to schedule the application for dismissal and his failure to provide evidence in a timely manner has caused an unreasonable delay in the hearing process, and caused the taxpayer to incur significant time and costs to attend a hearing to defend their right to file a complaint and have a merit hearing. The Complainant reserved the right to make an application for costs resulting from this abuse of process, and for the Respondent making this application, which does not have a reasonable chance of success.

Respondent's Position

[9] The Respondent had received the email notification of the hearing, but had not opened the attachment which set out the disclosure deadlines. He had understood disclosure in preliminary matters was required three days prior to the hearing, and it was only when he received the Complainant's disclosure that he noted the January 11, 2023 deadline. The Complainant's disclosure was delivered by email after midnight on January 12, 2023 and was therefore also late. The Respondent argued that this hearing is for a preliminary matter, and if this application is dismissed, another preliminary application can be made. The options are to either to carry forward with the preliminary hearing or to reschedule.

Decision on Late Disclosure

[10] The hearing will proceed with the Respondent's late disclosure considered.

Reasons

[11] The purpose of a preliminary hearing is to decide matters in advance of the merit hearing in order to improve the efficiency of the hearing process. There is nothing in the legislation that bars a Respondent from raising a s. 295 application to dismiss at the outset of a merit hearing, after both parties have expended significant effort to prepare,

and, if successful, may result in wasted effort for both parties. It is more efficient to have matters that may result in dismissal of a complaint without a merit hearing to be considered in advance. The facts of the cases presented by the Complainant are distinguishable from the subject, as they related to late disclosure of evidence in support of a complaint, in which disallowing the late disclosure impacted the final disposition of the complaint.

[12] In the subject case, the CARB agrees that the Respondent's disclosure was late, and, without agreement from the parties, the time lines may not be abridged. In the absence of evidence to support the preliminary application for dismissal, it cannot be heard; however, the matter would not have been decided. As stated above, the Respondent could raise it again at the merit hearing. The CARB expressed the opinion that it would be more efficient to have the hearing proceed and the preliminary matter decided, but in order to do so, it would be necessary for the Complainant to agree to abridge the time lines in *MRAC*.

[13] In view of the circumstances, the Complainant agreed to proceed, but requested that the record reflect the Respondent's late disclosure. Accordingly, pursuant to s. 45 of *MRAC*, the CARB notes that notwithstanding the Respondent's late disclosure, it abridged the time specified in s. 43 and proceeded with the hearing.

Preliminary Matter 2: Application to Dismiss

Respondent's Position

[14] The Respondent submitted a letter dated June 18, 2021 sent to the property owner, with the subject: REMINDER: Information Request for Tax Assessment Commercial Properties. This request for information (RFI) letter stated that it was follow up to the previous important request made on May 20, 2021, and included a rent roll form along with instructions for completion, requested the information by July 9, 2021 and detailed the consequences of non-response.

[15] A representative of the property owner responded on July 7, 2022, stating that this property is currently under development and does not have rental information to provide, and to advise if additional information is required. The Respondent stated that he had followed up over the phone clarifying that the rental information requested were agreements that were in place notwithstanding that the buildings had not yet been built. He provided an email sent on April 7, 2022 indicating that the requested information was the rent roll and copies of the Sobeys and Shoppers leases.

[16] The Respondent presented an excerpt from the certificate of title showing a caveat dated November 2021 re. lease interest, registered by Sobeys Capital Incorporated, with respect to the Safeway lease, and news articles from September and October 2021 indicating that Safeway was relocating to D'Arcy Crossing and would be the grocery anchor. At this point, lease commitments were in place. This is information that should have been provided pursuant to the RFI.

[17] The Respondent argued that physical improvements are only part of the value, and other influences, such as having lease and financing commitments, municipal development and construction permits, architectural and engineering documents, environmental and feasibility studies, add value to an undeveloped parcel of land. The requested information was summary in nature and represented an absolute minimum request, it was not intrusive or disruptive, nor were there demands for detailed documents such as construction schedules, development and soft costs, details of title encumbrances, corporate records, engineering or environmental reports.

[18] The Respondent's preferred method of valuing a project during construction is to value it as completed, and advance the proportion of value as the project moves forward. This is assessing the present worth of future benefits. With respect to the Complainant's argument that this is not in accordance with the legislation that mandates mass appraisal, there are no similar properties in the Town. This property is unique in character, location, age and nature of development with nine buildings. Every investment property in the Town is assessed on the income approach; therefore, contracted income information is necessary.

[19] Market value is what a property would sell for in the open market, and a willing buyer would pay more for a vacant parcel with approvals in place. The Respondent agrees that rents will not be paid until the building is completed; however, the rent roll is based on economic activity today and is indispensable to determine value at completion. The RFI requested asking rent and lease commitments and was set out in clear detail. There was no response provided; therefore, the complaint must be dismissed.

Complainant's Position

[20] The Complainant stated that the request for income and expense information related to a property not yet constructed, leased, or occupied is unreasonable. The Respondent acknowledges that there were no physical improvements on the site. It was clearly communicated that the property was under construction and there was no income information to provide at the time of the RFI. Construction could not commence until the DP was issued by the Town on November 17, 2021, six months after the RFI. In fact, the current schedule indicates the property will not have income and expense information to present until the third quarter of 2023, two years after the subject RFI was sent and responded to.

[21] The Complainant presented time stamped photographs showing the progress of construction. In June 2021, there were no improvements of any kind on the property, and even in June 2022, six (6) months after the December 31, 2021 condition date, only the steel frame was in the process of being erected.

[22] The RFI letter stated the purpose of the information requested:

> The requested information is necessary for preparing this and other assessments, and confirming the appropriate evaluation method. In

particular, among other things, to indicate pertinent history, verify information in terms of physical and economic influences including operating expenses, rental rates, determine tenancies and leases as well as evaluating risk. It will determine the number of units leased and rental rates. It will identify and categorize use, occupancy, and utilization. It will define space types and size allocations, categorize unit occupancies and uses, and determine property type as distinguished by number and type of occupancies and uses. The information will be used for classifying the building, space types, quality, vacancy, operating costs and recoveries. It will be used for comparing the property and grouping any subleasing activity, risk characteristics, and provide information for follow-up inquiries regarding, among other things, items such as leasehold improvement allowances, leasing commissions, rent and other concessions.

[23] The stated purpose of the RFI is not relevant to the property in terms of the physical state and condition of the property, nor is it necessary in order to apply the valuation standards required by the legislation. The *Act* states:

289(2) Each assessment must reflect
(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and
(b) the valuation and other standards set out in the regulations for that property.

The valuation standard is set out in Alberta Regulation 203/2017 Matters Relating to Assessment and Taxation Regulation (MRAT) which requires property to be assessed using mass appraisal:

5 An assessment of property based on market value
(a) must be prepared using mass appraisal,
(b) must be an estimate of the value of the fee simple estate in the property, and
(c) must reflect typical market conditions for properties similar to that property.

6 Any assessment prepared in accordance with the *Act* must be an estimate of the value of a property on July 1 of the assessment year.

[24] The Complainant submits that the Respondent's assessment approach is inappropriate for a property under development; however, even if this process were to be used, mass appraisal would require the Respondent to consider typical rents of comparable property in order to use the income approach to value the property as completed. The assessment is based on the fee simple estate, not the leased fee estate, and typical market conditions. The lease interest registered on title cited by the

Respondent is in the nature of a promissory note and not the same as an actual lease. In any event, it was not in place at the time of the RFI.

[25] The soft costs incurred in obtaining development approvals are not assessable under current legislation. The Complainant argued that assessors must comply with quality guidelines and best practices. The Respondent had argued that all other commercial property in the Town is assessed on income approach; however, this property is not improved and there is no income. All other municipalities use land value plus progressive costs to assess land that is under development. The information required to complete a standard RFI related to an income producing property simply did not exist. Construction could not start until some five months after the RFI was sent and responded to.

[26] The property owner responded to the RFI within the time requested. In addition to the initial July 7, 2022 email response, a second response was sent on September 22, 2021 reiterating that the project is still in its development phase and does not expect to have any rental revenue in 2022. The rent roll form attached to the RFI containing space for the requested information is clearly intended for space that is rented and occupied, information that could not be provided at the time.

[27] In summary, the RFI instructions were not clear, complete, or appropriate to the subject property, and was twice responded to, stating that it was not possible to provide the information requested as the property was not yet constructed as, in fact, the necessary permits had not been issued by the Town at the time of the request, the response and the further response in 2021. The Respondent therefore knew about the state of the property, the construction process, the regulations, and the response to the request, and should not have pursued a s. 295(4) application to dismiss. The Complainant submitted that the Respondent abused the process by applying to dismiss an appropriately filed complaint for the 2022 tax year.

Decision on Application to Dismiss

[28] The application is denied, and the complaint shall be set for a merit hearing.

Reasons

[29] The Respondent indicated the information requested was contracted lease information prior to construction; however, an inspection of the RFI shows the included form is clearly intended to obtain information for income producing properties that are occupied, or capable of occupancy. The heading states Building Summary, with space to fill in Occupied Area, Vacant Area, and Total Area in square feet (sq ft), as well as Actual Operating Costs in $/sq ft/year. Similarly, details requested under Lessee state to indicate Name of Tenant, Owner Occupied, or Vacant as the three options. Such information can only be available for space that exists. The sample form provided for illustrative purposes also shows information that can only be provided for property that is or could be occupied for commercial purposes.

[30] The Respondent provided evidence of lease intent pursuant to news articles and stated that this was the information that had been requested; however, the only evidence detailing the nature of this clarification were emails dating from 2022 and later, and not from the relevant time period for this application. Accordingly, the CARB finds that the information that was requested in 2021 pursuant to s. 295(1) was provided, albeit only to state that it was unavailable. For that reason, the Respondent's application to dismiss the complaint pursuant to s. 295(4) is denied.

Additional Comments

[31] As noted above, the CARB finds that the Respondent did not clearly request the information that was actually desired in the 2021 RFI. While not relevant to this decision, the CARB is of the opinion that had such information with respect to contracted intent to lease been clearly requested but not provided, any application to dismiss pursuant to s. 295(4) would have required an analysis of whether the information requested was necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 of the *Act* and the regulations. Such an analysis would require significant merit argument, and an application to dismiss would be more appropriately considered at the outset of a merit hearing, where detailed argument with respect to the legislation and appropriate assessment methodology would be submitted on the usual merit hearing disclosure timelines. A preliminary hearing provides for simultaneous disclosure seven (7) days prior to the hearing, and, in the opinion of the CARB would not be appropriate to properly present the evidence and argument in this matter.

[32] The Complainant indicated that the Respondent's application to dismiss was an abuse of process and reserved the right to make an application for costs. A previous decision of the CARB awarding costs for a failed application to dismiss under s. 295(4) was submitted in support of this position.

[33] *MRAC* provides for a party to make an application for costs:

> 56(1) Any party to a hearing before a composite assessment review board panel … may make an application … at any time, but no later than 30 days after the conclusion of the hearing, for an award of costs in an amount set out in Schedule 3 that are directly and primarily related to matters contained in the complaint and the preparation of the party's submission.
>
> (2) In deciding whether to grant an application for the award of costs, in whole or in part, the composite assessment review board panel … may consider the following:
>
> (a) whether there was an abuse of the complaint process;
>
> (b) whether the party applying for costs incurred additional or unnecessary expenses as a result of an abuse of the complaint process.

[34] Schedule 3 provides for the awarding of costs where the CARB determines that a hearing was required to determine a matter that did not have a reasonable chance of success, up to specified amounts, against the party that unreasonably caused the hearing to proceed.

[35] While the Complainant has the right to make such an application, the CARB cautions that making an application for costs must be carefully weighed. It is hindsight for a party to submit, once the decision is issued, that the other party made an application that had no reasonable chance of success. The CARB is not bound by its previous decisions, and notes the observations of the Land and Property Rights Tribunal (LPRT) in *Epcor Water Services Inc. v Edmonton River Valley Conservation Coalition Society*, 2021 ABLPRT 734:

> [47] In the courts, it is understood prior to filing an action that there will usually be costs to be paid by the unsuccessful party. The same understanding does not necessarily apply in the context of administrative tribunals ... While it is clear that the LPRT does have the ability to award costs, it is unreasonable for the LPRT to award costs generally against an unsuccessful appellant, it should be saved for cases of egregious, abusive or unreasonable conduct.

[36] It is not the intent of the costs provision in *MRAC* to provide for routine applications for costs in the assessment complaint process arising from a party making an application that did not have a reasonable chance of success. If it were, this reasoning could be extended to allow municipalities to apply for costs for an unsuccessful complaint by a taxpayer where the CARB determines there was no reasonable expectation of success. Cost applications pursuant to *MRAC* should only be made where there was a demonstrable abuse of process.

Dated at the Town of Okotoks in the Province of Alberta this 2nd day of February 2023.

For: H. Kim, Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

No.	Item
C1	Complainant's submission regarding late filed evidence
C2	Complainant's submission regarding application to dismiss
R1	Respondent's submission regarding application to dismiss

JUDICIAL REVIEW

Decisions of the CARB may be the subject of an application for judicial review to the Alberta Court of King's Bench under section 470 of the *Act*. The Application must be filed with the Court of King's Bench and served not more than 60 days after the date of the decision.

IN THE MATTER OF A COMPLAINT filed with the Town of Okotoks Composite Assessment Review Board (CARB) pursuant to the *Municipal Government Act (MGA)*, Revised Statutes of Alberta 2000, Chapter M-26, Section 460.

BETWEEN:

The Town of Okotoks - Complainant

- and -

Partners Development Group Ltd. - Respondent

BEFORE:

B. Hisey, Presiding Officer

This hearing was held by video conference on the 5th day of June 2025 to consider preliminary matters as outlined in sections 295(4) and 465 of the *Municipal Government Act*, for the property listed below:

Roll Number	Address
0126480	43 Avens Way

Appearing on behalf of the Complainant:

- C. Van Staden, Assessor
- R. Beckner, Assessment Technician (observer)

Appearing on behalf of the Respondent:

- A. Izard, Northern Property Tax Advisors Inc.
- L. Edwards, Northern Property Tax Advisors Inc. (observer)

Attending for the Assessment Review Board (ARB):

- O. Kanevskyi, ARB Clerk

COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/02/2025-J

PROCEDURAL MATTER

1. This matter was heard and decided by a one-member Composite Assessment Review Board pursuant to section 40 of the *Matters Relating to Assessment Complaints Regulation,* 2018, Alta Reg 201/2017 (MRAC).

BACKGROUND

2. The Applicant (Complainant) requested the Composite Assessment Review Board (CARB) schedule a preliminary hearing to determine if the 2025 assessment complaint for the subject property should be dismissed. The basis for this request was because the Respondent had not responded to a Request for Information (RFI) made pursuant to section 295(4) of the *Municipal Government Act*, R.S.A. 2000, C. M-26 (MGA):

> *"No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request."*

3. The subject property under appeal is a townhouse rental development, which was under construction during the 2024 assessment year.

ISSUES

4. Should the 2025 assessment complaint for the subject property be dismissed pursuant to section 295(4) of the MGA?

COMPLAINANT POSITION

5. The request to dismiss is based on no response from two separate notifications of a Request for Information (RFI), one on May 19, 2023 (two subsequent reminders were sent in June and July). The last formal request was made on October 17, 2023.

6. Legislation is simple and repeated assessor correspondence has been clear on requirements and purpose for the requested information. Additionally, the expectations set out in the requests were made clear by having made references to and quoting MGA sections 294(1), 295(1) and 295(4).

7. An ongoing decline in the production of RFI documents (from a 79% response to a 40% response in the current review period), will have a detrimental effect of the ability of the assessor to compile mass appraisal information.

8. The MGA is clear that this issue does not involve any discretion. The "must" references in the Act removes any discretion. The Act is clearly prescriptive and not discretionary on these matters.

9. Receipts from Canada Post were provided as evidence that the request for information had been sent to the taxpayer as part of a batch of letters on May 21, 2023, and June 18, 2023.

RESPONDENT POSITION

10. The subject property was under construction during the assessment year, and approximately 83% complete as of December 31, 2023.

11. The Respondent argued there was no rent roll information to provide, as there were no occupancy permits for the townhomes. Any rental information would have been speculative and meaningless as there was no income or expense information available.

12. The Complainant has falsely suggested that the taxpayer must provide information within 18 days of their request, and 49 days from their request, which was confusing and unintelligible given the ongoing development of the property.

13. The rental information was publicly available as of April 2024 to show unit type, unit count, area, and amenities. Additionally, the Town of Okotoks had permits for the subject, which contained all the information required by the assessor.

14. While a receipt for 310 pieces of mail has been provided by the Complainant, there are only 301 properties in the Town of Okotoks. Moreover, there is no way to confirm if the addresses were correct for the taxpayer.

15. The Complainant is asking to remove the right to appeal for a taxpayer; an extremely harsh penalty that is the largest possible penalty in a taxation statue.

DECISION

16. The Board denies the request to dismiss this complaint and orders the merit hearing proceed as scheduled on July 21, 2025, at 9:00 a.m. No changes were requested for disclosure deadlines.

17. The Presiding Officer provided a verbal notification of this decision at the preliminary hearing, recognizing the compressed timelines for the upcoming merit hearing.

REASONS FOR DECISION

18. The Board finds that the parties agree the subject was under construction during the assessment year. No evidence was provided to confirm the occupancy of the subject for the assessment year or prior to the July 1, 2024, valuation date. Requests regarding rent roll information could have been construed as irrelevant.

19. The Board finds the Complainant initially failed to notify the Respondent of the legislated timelines required for the collection of information. Therefore, the Board has determined it would be confusing to a ratepayer as to what date was suggested over what date had

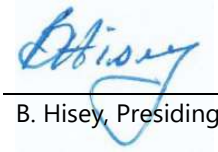
legislated consequences. The confusing nature of these moving dates was recognized by the Complainant in an email string to the Respondent.

20. The Board finds there was an effort made by the Respondent to have dialogue with the Complainant and produce information regarding the section 295 request. There was no evidence to suggest malicious intent to mislead or misrepresent the status of the property. Historical non-compliance for the section 295 obligation was not brought forward as part of this application.

21. The direction from the Alberta Court of Appeal in Boardwalk Reit LLP v. Edmonton (City), 2008 ABCA 220, in paragraph 155 that, "an automatic rigid bar to appeal from any gap in any answer would be an "absurd" interpretation of the Act". Essentially, there is a duty of fairness that must be recognized.

22. The Board finds that to deny a person a right to appeal is a very serious consequence, which should be reserved for serious breaches or deliberate attempts not to provide information necessary to prepare an assessment. The request for information contained an informal procedure, which the Respondent felt had been addressed.

Dated at the Town of Okotoks in the Province of Alberta this 20th day of June 2025.



B. Hisey, Presiding Officer

COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/02/2025-J

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

No.	Item
C-1	Complainant's Disclosure (46 pages)
R-1	Respondent's Disclosure (293 pages)

JUDICIAL REVIEW

Decisions of the CARB may be the subject of an application for judicial review to the Alberta Court of King's Bench under section 470 of the MGA. The Application must be filed with the Court of King's Bench and served not more than 60 days after the date of the decision.

Board Order #: PRCARB 002-2025

CITY OF AIRDRIE

COMPOSITE ASSESSMENT REVIEW BOARD ORDER *PRCARB 002-2025*

IN THE MATTER OF A COMPLAINT filed with the City of Airdrie Composite Assessment Review Board pursuant to Part 11 of the *Municipal Government Act,* c. M-26 RSA 2000 ("**MGA**").

BETWEEN:

CITY OF AIRDRIE — Complainant

AND:

TOWNHOMES OF CANALS GP LTD
AS REPRESENTED BY NORTHERN PROPERTY TAX ADVISORS INC — Respondent

BEFORE:

Jeffrey Dawson, Presiding Officer

Secretariat:
Nikki Parkinson, Assessment Review Board Clerk

This is the decision of the City of Airdrie Composite Assessment Review Board ["**Board**"] in respect of property assessments prepared by the Assessor of the City of Airdrie and entered in the 2024 assessment roll as follows:

Roll No.	Municipal Address	Assessed value	Owner
863776	GG; 1201 8 Street SW	$23,420,000	Townhomes of Canals GP LTD

The complaint was heard on the 8th day of May, 2025, through a Teams meeting facilitated by the City of Airdrie.

OVERVIEW

[1] This complaint brought forth by the Complainant is based on a request to dismiss an appeal because the Respondent failed to provide information requested by the Complainant. The Respondent focused on the timing of events, its responsibility to provide information, and its right to appeal, and that taking away their rights should not be automatic or taken lightly.

BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[2] The preliminary hearing is regarding a development that contains twelve buildings with six stacked townhouses in each. The Complainant originally had understood that the development was to be subdivided and sold as individually titled single family dwellings. It later learnt that the developer chose not to subdivide and instead was renting the properties as part of a multi-family development. The subject property is assessed using the income approach to value.

PRELIMINARY or PROCEDURAL MATTERS

[3] The parties each requested that all common evidence, questions, and answers as heard during the hearing for roll 859696 be carried forward to this hearing.

[4] The parties raised no specific procedural or jurisdictional issues, and the Board proceeded to hear the merits of the complaint, as outlined below.

MERIT ISSUES

[5] The Complainant provided the Board with a letter requesting a Section 295(4) preliminary hearing for the subject property. Section 295(4) of the MGA states: "*No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.*"

[6] The Complainant alleged that the Respondent and its representative refused to allow an assessor to complete an inspection, made under s.294(1) and also refused to provide rental information requested in accordance with s.295(1).

ISSUE 1: Did the Respondent fail to provide information requested in accordance with Section 295(4)? *and*
ISSUE 2: Did the Respondent fail to provide an inspection requested in accordance with Section 294(1)?

Summary of Party Positions – both issues

[7] The Complainant explained that it relies on property owners responding to Requests for Information (RFI's) to ensure the accuracy of assessed values. Responding to RFI's provides the Complainant with more data to analyze when determining market value. It is imperative that property owners respond.

[8] The Complainant presented that property under complaint is new construction. The townhomes in the area were previously individually titled and not held as rentals.

[9] The Complainant argued that it did not get information from the planning department that the subject property was going to be held by the owner as rental units until August 8, 2024.

[10] The Complainant explained that based on this new information, the Complainant determined the subject property would be valued using the income approach, making rental data from the owner crucial to determining market rental rates, property classification, and quality rankings.

[11] The Complainant reported that it sent an email to the property owner requesting an inspection and rental information on September 17, 2024. Receiving a response refusing to grant an inspection and/or to provide rental information.

[12] The Complainant alleged that the property owner owns an apartment building in this community and should be familiar with the annual RFI process, legislation, and the consequences of non-compliance with RFI requests.

[13] The Complainant explained that the property under complaint is a new inventory type, therefore doing an inspection and obtaining rental information was critical to preparing an accurate assessment.

[14] The Complainant indicated that previous CARB decisions have found the property owner has lost their right to make a complaint pursuant to section 295(4). Citing; 1) *CARB 002-2021* in the City of Airdrie, 2) *PRCARB 40-207* in the City of Leduc, and 3) *0238/01/2017-J* from the Town of Okotoks.

[15] The Complainant reviewed sections 294(1), (3), 295(1), and (4):

> **Right to enter on and inspect property**
> **294(1)** After giving reasonable notice to the owner or occupier of any property, an assessor may at any reasonable time, for the purpose of carrying out the duties and responsibilities of the assessor under Parts 9 to 12 and the regulations,
> (a) enter on and inspect the property,
> (b) request anything to be produced, and
> (c) make copies of anything necessary to the inspection.
>
> **(3)** An assessor must, in accordance with the regulations, inform the owner or occupier of any property of the purpose for which information is being collected under this section and section 295.
>
> **Duty to provide information**
> **295(1)** A person must provide, on request by an assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.
> **(4)** No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

[16] The Complainant argued that the Respondent refused access to the subject property and refused to provide information regarding rental rates and rent roll; therefore, should not be able to continue with their appeal.

[17] The Respondent argued that the property in question was under construction, as of June 2024, and it did not have a rent roll in place to share, as evidenced by photographs provided.

[18] The Respondent referenced the Complainant's acknowledgement in their own email that states knowledge of the property not being complete, and that it might be impossible to provide the rental information requested.

[19] The Respondent raised doubt that the owner owns additional revenue producing residential property, pointing out that while the business names are similar, they are not the same.

[20] The Respondent explained that the Complainant is asking this Board for irrevocable unilateral assessments with no recourse to any tribunal is the largest possible penalty in a taxation statute. Stating that even the Income Tax Act has no general penalty so draconian.

[21] The Respondent presented that it was unable to provide the information for the valuation timeframe as it did not exist at the time of the request, even as acknowledged by the Applicant in their materials.

[22] The Respondent presented that the Complainant's request is an unjust request based on the state of the property as of July 1, 2024, and the requirements outlined in the Regulations that the valuation date is July 1, with a data period end date of June 30th.

[23] The Respondent argued that the format of an informal email was not consistent with a formal request for information anticipated under sections 294 and 295. And did not adequately explain the reasons for the request and the consequences for non-compliance.

[24] The Respondent referenced legislation, regulations, and case law on the matter, specifically:

a. The Alberta Quality Ministers Guidelines (demonstrating the evaluation period for audit purposes of July 1 through June 30)
b. *MRAT* (demonstrating Mass Appraisal)
c. *Amoco Canada Petroleum Co. Ltd. v. Alberta, 2000 ABCA 252* (the elemental fairness of the taxpayer's treatment must be regarded as justiciable)
d. *Boardwalk Reit LLP v. Edmonton (City), 2008 ABCA 220* (many citations, including: *There is a parallel axiom of construction. Where an Act can be construed more than one way, courts must reject any alternative which is manifestly absurd, or extremely harsh, unjust, or capricious*)
e. *Anthem D'Arcy Commercial Holdings GP Ltd. v. Okotoks, 0238-02-2022-J* (information can only be available for space that exists)
f. *Vigilant Investments Inc. v. City of Red Deer [2022] 0262-1676* (disproportionately extreme penalty for the Complainant to lose the right of appeal)
g. *Trican Well Service Ltd. v. City of Red Deer [2022] 0262-1645 et. Al* (costs, not relevant)
h. *River City Developments Ltd. v. City of Red Deer [2022] 0262-1658* (costs, not relevant)
i. *DP Shopping Centre Holding Inc. v. City of Red Deer [2022] 0262 1585* (not present)
j. *Amann, Joseph and Amann, Vroni v. City of Red Deer* [2022] 0262 1568 et. Al (not relevant)
k. *Edmonton (City) v. Innvest Properties MacDonald Nominee Ltd., 2010 ABQB* (no requirement to produce an appraisal)

[25] The Respondent argued that the Complainant's request should be denied, and the merit hearing must proceed.

Findings – both issues

[26] The Board finds that the Respondent provided information to show that in June 2024 the subject property was under construction.

[27] The Board finds no evidence was provided to show that the subject property was occupied at all during the calendar year, let alone prior to July 1, 2024.

[28] The Board finds that the Complainant failed to notify the Respondent for what time period it was seeking information. Its request was made on September 17, 2024, and the Respondent could easily assume that the information being sought was for the following assessment period.

[29] The Board finds no evidence to support the claim from the Complainant that the Respondent was a sophisticated property owner with knowledge of the consequences of not providing information requested by the Complainant.

[30] The Board finds that an informal email is only sufficient if it provides all the information contained within a formal request; such as the purpose, deadlines, and the consequences for failing to respond.

[31] The Board finds that the Respondent did not fail to provide information requested in accordance with Section 295(4) for the current assessment year.

[32] The Board finds that the Respondent did not fail to provide an inspection requested in accordance with Section 294(1) for the current assessment year.

[33] The Board finds that the Complainant failed to provide evidence that the request for information, sent through various informal emails September 27-19, 2024, was for the current assessment year, even acknowledging that there may not be a rent roll as of September 17th because it was unclear if the property was completed and occupied.

[34] The Board finds that the requirements in the MGA at section 294(3) are required from the initial communication and not something to be added when requested; (3) An assessor must (emphasis added), in accordance with the regulations, inform the owner or occupier of any property of the purpose for which information is being collected under this section and section 295.

[35] Based on the email thread, the Board finds the Complainant's request was as of September 17th and not June 30th, and the compliance was merely convenient, not a requirement with consequences.

Reasons – both issues

[36] The Board understands the direction given by the Alberta Court of Appeal in *Boardwalk Reit LLP v. Edmonton (City), 2008 ABCA 220*, and not only agrees with that decision, but is bound by its findings. With one except at paragraph 155 that is very relevant to this hearing; "An automatic rigid bar to appeal from any gap in any answer would be an "absurd" interpretation of the Act."

[37] To deny a person a right to appeal is a very serious consequence, which ought to be reserved for serious breaches and/or deliberate attempts not to provide information necessary to prepare an assessment. The Board cannot grant a request based on an informal procedure with imprecise language with no clear indication of the date the Respondent was requesting the information, when it was due, and what the consequences are for a non-response.

DECISION

[38] The request for dismissal is denied, and the hearing will procced as previously communicated.

Roll No.	Municipal Address	Owner
863776	GG; 1201 8 Street SW	Townhomes of Canals GP LTD

Dated at the City of Airdrie, in the Province of Alberta, this 15th day of May, 2025.

dSign powered by Signority

Jeffrey Dawson
Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE *BOARD:*

NO.	ITEM
1.	C1 Complainant Disclosure 36 pages
2.	R1 Respondent Disclosure 133 pages

APPENDIX "B"

ORAL REPRESENTATIONS

PERSON APPEARING	CAPACITY
1.	K. Paul, Assessor (for Complainant)
2.	V. Cottreau, City Assessor (for Complainant)
3.	B. Henderson, observer (for Complainant)
4.	A. Izard, Agent (for Respondent)
5.	L. Edwards (for Respondent)

If you wish to appeal this decision, please refer to section 470 of the MGA, application for judicial review.

APPENDIX "C"

LEGISLATIVE AUTHORITIES CONSIDERED BY THE BOARD

Right to enter on and inspect property

294(1) After giving reasonable notice to the owner or occupier of any property, an assessor may at any reasonable time, for the purpose of carrying out the duties and responsibilities of the assessor under Parts 9 to 12 and the regulations,

(a) enter on and inspect the property,

(b) request anything to be produced, and

(c) make copies of anything necessary to the inspection.

(3) An assessor must, in accordance with the regulations, inform the owner or occupier of any property of the purpose for which information is being collected under this section and section 295.

RSA 2000 cM-26 s294;2002 c19 s4;2017 c13 s1(21)

Duty to provide information

295(1) A person must provide, on request by an assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

Argument & Jurisprudence:

secondary support

Board Order #: PRCARB 001-2025

CITY OF AIRDRIE

COMPOSITE ASSESSMENT REVIEW BOARD ORDER *PRCARB 001-2025*

IN THE MATTER OF A COMPLAINT filed with the City of Airdrie Composite Assessment Review Board pursuant to Part 11 of the *Municipal Government Act,* c. M-26 RSA 2000 ("**MGA**").

BETWEEN:

CITY OF AIRDRIE

Complainant

AND:

TOWNHOMES OF CANALS LP
AS REPRESENTED BY NORTHERN PROPERTY TAX ADVISORS INC

Respondent

BEFORE:

Jeffrey Dawson, Presiding Officer

Secretariat:
Nikki Parkinson, Assessment Review Board Clerk

This is the decision of the City of Airdrie Composite Assessment Review Board ["**Board**"] in respect of property assessments prepared by the Assessor of the City of Airdrie and entered in the 2024 assessment roll as follows:

Roll No.	Municipal Address	Assessed value	Owner
859696	327 Canals Crossing SW	$20,605,000	Townhomes of Canals LP

The complaint was heard on the 8th day of May, 2025, through a Teams meeting facilitated by the City of Airdrie.

OVERVIEW

[1] This complaint brought forth by the Complainant is based on a request to dismiss an appeal because the Respondent failed to provide information requested by the Complainant. The Respondent focused on the sufficiency of its response, its responsibility to provide information, and its right to appeal, and that taking away their rights should not be automatic or taken lightly.

BACKGROUND AND DESCRIPTION OF PROPERTY UNDER COMPLAINT

[2] The preliminary hearing is regarding a development that contains one hundred and four units in a multifamily residential development. The subject property is assessed using the income approach to value.

PRELIMINARY or PROCEDURAL MATTERS

[3] The parties raised no specific procedural or jurisdictional issues, and the Board proceeded to hear the merits of the complaint, as outlined below.

MERIT ISSUES

[4] The Complainant provided the Board with a letter requesting a Section 295(4) preliminary hearing for the subject property. Section 295(4) of the MGA states: "*No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.*"

[5] The Complainant alleged that the Respondent and its representative refused to provide information requested in accordance with s.295(1).

ISSUE: Did the Respondent fail to provide information requested in accordance with Section 295(4)?

Summary of Party Positions – Issue

[6] The Complainant argued it relies on property owners responding to Request for Information (RFI's) to ensure the accuracy of assessed values. Responding to RFI's provides the Complainant with relevant data to analyze when determining market value. The Complainant remarked that it is imperative that property owners respond.

[7] The Complainant explained that the Respondent did not provide a response to its 2024 RFI request. The following is a timeline of the Complainant's requests:

- Initial RFI Request was mailed July 2, 2024. The response deadline was September 9, 2024.
- Reminder letter requesting RFI information was mailed August 6, 2024.
- Failure to comply letter was mailed September 20, 2024.
- E-mail request was made to the Complainant on October 2, 2024.
- Verbal request for rent roll as of July 1, 2024, was made to the owner's representative on March 17, 2025.
- On March 18, 2024, the owner's representative sent a rent roll dated March 1, 2024.
- In response to the outdated rent roll provided, an additional email request for the rent roll as of July 1, 2024, was made to the owner's representative on March 18, 2025.

[8] The Complainant explained that it has not received the RFI or rent roll as of July 1, 2024. The subject property is assessed using the income approach as of the valuation date of July 1, 2024.

[9] The Complainant presented that the subject property has 104 units. The rent roll, dated March 1, 2024, provided is not sufficient to analyze market rents as of the valuation date of July 1, 2024, because it had 2 vacant units plus 46 leases ending before the valuation date.

[10] The Complainant argued that the outdated rent roll does not reflect market conditions on or near July 1, 2024. Stating that it is very important for property owners to return the RFI, especially if the property is income producing.

[11] The Complainant explained that it is difficult for it to determine market rental rates, property classification, and quality rankings without this information. The requested information impacts both the assessment valuation of the subject property and all other similar multifamily residential properties.

[12] The Complainant presented that the RFI process allows it to develop typical valuation parameters. RFIs must be returned annually, as the Complainant is required to determine market value each year.

[13] The Complainant indicated that previous CARB decisions have found the property owner has lost their right to make a complaint pursuant to section 295(4). Citing; 1) *CARB 002-2021* in the City of Airdrie, 2) *PRCARB 40-207* in the City of Leduc, and 3) *0238/01/2017-J* from the Town of Okotoks.

[14] The Complainant reviewed sections 295(1), and (4):

> **Duty to provide information**
> **295(1)** A person must provide, on request by an assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.
> **(4)** No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

[15] The Complainant argued that the Respondent refused to provide information regarding rental rates and rent roll; therefore, should not be able to continue with their appeal.

[16] The Respondent argued that the information requested by the Complainant was provided in sufficient form on March 25, 2024.

[17] The Respondent explained that it provided the information in good faith, and at the request of the Complainant, which it suggested was promised to be accepted for the purpose of a 2024 RFI.

[18] The Respondent presented that the current request to dismiss an appeal marginalizes a taxpayer's rights, is both unjust, capricious, and draconian according to *Boardwalk Reit LLP v. Edmonton (City), 2008 ABCA 220,* where the harsher the result of one interpretation, the stronger the presumption should be against it.

[19] The Respondent submitted that the Complainant frequently references that an update is necessary. The Respondent explained that, in English, the word "Necessary" means indispensable; not merely expedient, nor useful, nor convenient. Therefore, because the applicant had the rent roll as of March 25, 2024, having an updated rent roll may have been useful, or convenient, it was not "Necessary".

[20] The Respondent referenced legislation, regulations, and case law on the matter, specifically:

a. The Alberta Quality Ministers Guidelines (demonstrating the evaluation period for audit purposes of July 1 through June 30)
b. *MRAT* (demonstrating Mass Appraisal)
c. *Amoco Canada Petroleum Co. Ltd. v. Alberta, 2000 ABCA 252* (the elemental fairness of the taxpayer's treatment must be regarded as justiciable)
d. *Boardwalk Reit LLP v. Edmonton (City), 2008 ABCA 220* (many citations, including: *There is a parallel axiom of construction. Where an Act can be construed more than one way, courts must reject any alternative which is manifestly absurd, or extremely harsh, unjust, or capricious*)

e. *Anthem D'Arcy Commercial Holdings GP Ltd. v. Okotoks, 0238-02-2022-J* (information can only be available for space that exists)
f. *Vigilant Investments Inc. v. City of Red Deer [2022] 0262-1676* (disproportionately extreme penalty for the Complainant to lose the right of appeal)
g. *Trican Well Service Ltd. v. City of Red Deer [2022] 0262-1645 et. Al* (costs, not relevant)
h. *River City Developments Ltd. v. City of Red Deer [2022] 0262-1658* (costs, not relevant)
i. *DP Shopping Centre Holding Inc. v. City of Red Deer [2022] 0262 1585* (not present)
j. *Amann, Joseph and Amann, Vroni v. City of Red Deer [2022] 0262 1568 et. Al* (not relevant)
k. *Edmonton (City) v. Innvest Properties MacDonald Nominee Ltd., 2010 ABQB* (no requirement to produce an appraisal)

[21] The Respondent argued that the Complainant's request should be denied, and the merit hearing must proceed.

Findings – Issue

[22] The Board finds that the Respondent did not fail to provide information requested in accordance with Section 295(4) for the current assessment year.

[23] The Board finds that the Complainant failed to provide evidence that the request for information was necessary in order to complete an assessment.

[24] The Board finds that the Respondent's response in March of 2024 was sufficient to respond to the Complainant's request on July 2, and the additional updated information was merely convenient, not a requirement deserving of consequences.

Reasons – Issue

[25] The Board understands the direction given by the Alberta Court of Appeal in *Boardwalk Reit LLP v. Edmonton (City), 2008 ABCA 220*, and not only agrees with that decision, but is bound by its findings. With one except at paragraph 155 that is very relevant to this hearing; *"An automatic rigid bar to appeal from any gap in any answer would be an "absurd" interpretation of the Act."*

[26] To deny a person a right to appeal is a very serious consequence, which ought to be reserved for serious breaches and/or deliberate attempts not to provide information necessary to prepare an assessment. The Board cannot grant a request based on a desire the Complainant had for updated information.

DECISION

[27] The request for dismissal is denied, and the hearing will procced as previously communicated.

Roll No.	Municipal Address	Owner
859696	327 Canals Crossing SW	Townhomes of Canals LP

Dated at the City of Airdrie, in the Province of Alberta, this 15th day of May, 2025.

dSign powered by Signority

Jeffrey Dawson
Presiding Officer

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE *BOARD:*

NO.	ITEM
1.	C1 Complainant Disclosure 36 pages
2.	R1 Respondent Disclosure 133 pages

APPENDIX "B"

ORAL REPRESENTATIONS

PERSON APPEARING	CAPACITY
1.	K. Paul, Assessor (for Complainant)
2.	V. Cottreau, City Assessor (for Complainant)
3.	B. Henderson, observer (for Complainant)
4.	A. Izard, Agent (for Respondent)
5.	L. Edwards (for Respondent)

If you wish to appeal this decision, please refer to section 470 of the MGA, application for judicial review.

APPENDIX "C"

LEGISLATIVE AUTHORITIES CONSIDERED BY THE BOARD

Duty to provide information

295(1) A person must provide, on request by an assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.

(3) No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

Complaint ID: 0262 1676
Roll Number: 30008800580

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: May 25, 2022

PRESIDING OFFICER: H. Kim

BETWEEN:

Vigilant Investments Inc.
as represented by Altus Group Limited

Complainant

-and-

The City of Red Deer

Respondent

This decision pertains to a complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by an Assessor of The City of Red Deer as follows:

ROLL NUMBER: 30008800580

MUNICIPAL ADDRESS: 129 Queens Dr

This is an application by the Respondent City of Red Deer to dismiss the subject complaint. The matter was heard by a one-member panel of the Composite Assessment Review Board (CARB) on the 25th day of May 2022, via videoconference.

Appeared on behalf of the Applicant:	J. Miller, City of Red Deer T. Johnson, City of Red Deer G. Plester, Brownlee LLP, Counsel
Appeared on behalf of the Respondent (Complainant):	A. Izard, Altus Group B. Foden, Altus Group J. Buchanan, Lawson Lundell, Counsel

DECISION

The application is denied.

JURISDICTION

[1] The Central Alberta Regional Assessment Review Board (Board) has been established in accordance with section 455 of the *Municipal Government Act,* RSA 2000, c M-26 (*Act*).

[2] The *Matters Relating to Assessment Complaints Regulation* AR 201/2017 (*MRAC*), allows the matter to be set for a preliminary hearing to be considered by a one-member panel:

> 40 A one-member composite assessment review board panel may hear and decide one or more of the following matters but no other matter:
> ...
> (c) an administrative matter, including, without limitation, an invalid complaint;
> …

BACKGROUND

[3] A one-member panel of the Board was convened for a preliminary hearing to consider applications by the Respondent to dismiss a complaint due to non-compliance with s. 295 of the *Act*. Section 295 states:

> 295(1) A person must provide, on request by an assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.
> …
> (4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

[4] This hearing was one of a number of hearings with respect to this application, which was made with respect to a number of complaints. The first application was heard in detail, with extensive legal argument from both the Applicant and the Respondent (Complainant). With the agreement of the parties, only the differentiating facts were presented in detail, and the legal argument carried forward for all of the applications.

[5] The subject property is a single-tenant warehouse assessed on the income approach, with additions for excess land and craneways.

ISSUE

[6] The only issue in this preliminary hearing is whether the complaints should be dismissed pursuant to s. 295(4) of the Act, specifically, whether there was substantial compliance with the information request pursuant to s. 295(1) of the *Act*.

POSITION OF THE PARTIES

Position of the Applicant

[7] The City of Red Deer (City) sends an annual assessment request for information (ARFI) to all assessed persons of non-residential property as a key part of its assessment process. For the subject property, the ARFI consisted of a cover letter explaining the request, citing section 295, along with a standardized form to be completed and returned. The form was titled "Rental Information" with columns listing information such as Occupant names(s) and type, leased area, commencement date, renewal date, expiry date, lease type, base rent, parking and signage income, operating cost recovery, rent escalations and whether the owner or the tenant paid for expenses such as property taxes, structural maintenance, general maintenance/repair, utilities, and management. An initial ARFI was sent to the property owner on April 30, 2021 with a response deadline of July 15, 2021. Prior to the deadline, the ARFI was sent again as a reminder letter. No response was received, and after the deadline passed, the ARFI was sent a third time with a cover letter informing of non-compliance, but also indicating that the requested information could still be provided. No response was received.

[8] Each of the ARFI letters were mailed to the property owner's address as listed on the certificate of title. The ARFI stated that the information requested would be used "for the purpose of determining a fair and equitable assessed value of your property," and cited s. 295 of the *Act*. The third ARFI letter also included an explicit warning that failure to provide the information may result in the loss of your right to make a complaint against this property in the next taxation year. None of the information requested was received, and the City completed the assessments based on the information it had available to it, and issued its assessment notices. The taxpayer filed an assessment complaint.

[9] The Applicant argued that s. 295(4) of the *Act* provides that due to the non-response, the property owner could not file the subject complaint. The provisions of s. 295 strike a balance between a municipality's need to receive information necessary to prepare assessments, and an assessed person's right of complaint. On the one hand, the loss of a right of appeal is a serious consequence for non-compliance - s. 295(4) requires great deal of caution and specific examination of facts, and cannot be imposed in an automatic, mechanical, or rigid manner. On the other hand, the right to appeal a property assessment is not absolute and a property owner has responsibilities that must be met before a complaint can proceed, including the responsibility to provide information to the assessor when requested.

[10] Given the need to balance these competing concerns, the courts, Municipal Government Board (MGB) and CARBs have set out guidelines to ensure that s. 295(4) is applied in a fair and reasonable manner. The Alberta Court of Appeal, in *Boardwalk Reit LLP v. Edmonton (City)*, 2008 ABCA 220 (*Boardwalk*) established a list of eight factors that should be satisfied before invoking section 295(4):

1. Was there a request for information?
2. Was the request made by an assessor?
3. Was the request in the proper form?
4. Was the request in an intelligible form?

5. Was the request reasonable having regard to all of the circumstances, including past practice, information already available to the assessor, information available to the owner, etc.?
6. What information, if any, was provided, and what was done with that information?
7. Did the information provided comply with the request?
8. Was the information necessary?

[11] With respect to Items 1 through 4, the Applicant sent the ARFIs to the property owner, clearly presented as formal written requests made by City assessors with respect to the information required, the statutory authority for the request for information, how the information was to be provided, and the required timeline for providing this information. The property owner was also informed of the consequences of non-compliance. The *Act* does not require the Applicant to send multiple letters, but it did so to increase the likelihood of compliance. The *Interpretation Act* provides for presumption of service, and, in any event, the Complainant clearly received the assessment notice because it was mailed to the same address on title and a complaint was filed.

[12] Items 5 through 7 reflect that s. 295 authorizes only reasonable information requests, and penalizes only unreasonable failure to answer them. The Applicant did not request excessively detailed information that would fall outside the property owner's knowledge – it was information with respect to the characteristics, and the income and expenses associated with the subject properties. If not all of the requested information is available to the property owner, there is still a requirement to provide what is available.

[13] With respect to item 8, the Applicant agrees that some leasing information was provided, however there was no response to the ARFI and the compete form was not submitted. Information such as rent abatements and subsidies from benefits available during the pandemic are also necessary to prepare the assessment. To illustrate, the complaint forms for the subject properties listed the following reasons for complaint:

> The assessed area has been applied incorrectly based on s. 289 of the Act and should be revised accordingly.
>
> The Municipality has not correctly or adequately adjusted the decline in market value of the subject property for typical revenue/collection loss and/or economic obsolescence caused by the COVID 19 pandemic.
>
> The Complainant's estimate of value using the Income Approach suggests that the current assessed value is unfair, inequitable and incorrect based on market leases and equity.
>
> a) The Vacancy Allowance at the subject should be no lower than 18%
> b) The Operating Cost/Vacant Space Shortfall Allowance should be no less than $8psf
> c) The Non-Recoverable/Reserve for Replacement Allowance should be no less than a combined 5%
> d) The Capitalization Rate should be no lower than 8%
> e) The Industrial Warehouse / 4, at the subject should be no higher than $7psf
> f) The Industrial Warehouse / 6, at the subject should be no higher than $9psf
> g) The WHSE – Office Mezz / 3, at the subject should be no higher than $2psf
> h) The WHSE – Office Mezz / 6, at the subject should be no higher than $4.50psf

[14]This demonstrates that the information requested in the ARFI was necessary to accurately assess the subject property; however, this degree of necessity is no longer required by the *Act*. The wording of s. 295(1) in the cases cited required a person to provide information "necessary for the assessor to prepare an assessment." In 2018 the *Act* was amended and s. 295(1) now states information "necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations." This is broader wording, which expands the matters for which the requested information is necessary - for example, evaluating assessment methodology generally using statistical comparisons or preparing for assessment complaints.

[15]Information submitted during the Customer Review Period prior to the complaint deadline is not the same as the ARFI process: the review process looks at valuation in the prior year, while the ARFI requests current information. They are two separate processes and information provided during the review period is not the same as providing an ARFI response. The ARFI response is necessary to determine lease rates and characteristics such as building area.

[16]In conclusion, the criteria established by the Court of Appeal in *Boardwalk* are met. The City is not attempting to strictly apply the legislation to frustrate the taxpayer's right to file a complaint - the Complainant failed to make any effort to comply with the requirements of the legislation after having been given ample time, and multiple opportunities, to do so. The Complainant did not respond to the ARFI after multiple requests. Such cases routinely result in assessment complaints being dismissed. The City acknowledges that the Court of Appeal in *Boardwalk* set a high standard in order to show that an appeal should be barred by virtue of section 295(4); however, where there has been no communication, information or any other response at all from the assessed person in response to three written ARFI letters, *Boardwalk* and its extensive procedural burdens on the assessor ought not to be activated.

Position of the Respondent (Complainant)

[17]The Complainant had communications with the assessor for the property in March 2021 with respect to the assessment at that time. There was an email from the property owner to C. Green, the assessor for the property, on March 4, 2021 with information respecting a recent lease from June 2019 to May 2024, stating the size of the leased space, that it was a gross lease (with the landlord paying all utilities, property taxes and such), and that the annual rate averaged $9.50 per square foot over the term. The email further stated that in 2018 they had leased the majority of the building at $16.15 per square foot, and that if they were to renegotiate today, it would be significantly lower. The assessed value in 2018 was 11,442,100 while the assessment for 2021 was 10,848,500 - only a 5.2% reduction. Mr. Green replied on March 9, 2021 with an assessment change form reducing the assessment to 10,399,200, which was accepted.

[18]The Applicant sent the ARFI to the property owner the following month, and did not receive a response. The Complainant argued that the information requested had already been provided, and that it is not necessary to fill out the form. In any event, the leases are gross leases, which are not used in the income approach; therefore, the information would not have been useful to the Applicant.

[19]In *Boardwalk*, the Court of Appeal found that a complaint should not be dismissed outright as the Applicant requests, stating "allowing irrevocable unilateral assessments…is the largest possible penalty in a taxation statute." Section 295(4) does not operate automatically - unless an assessor

moves to dismiss a complaint under s. 295(4), the Assessment Review Board would simply hear the complaint on its merits. The penalty of dismissal can only apply if the complainant fails to provide information requested under s. 295(1), which allows an assessor to request only information that is necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations. The standard of necessity in s. 295(1) according to the Court in *Boardwalk* is that the information sought is "indispensable; not merely expedient, nor useful, nor convenient". When considering an application to dismiss a complaint pursuant to s. 295(4), the policy behind the provision must also be considered. The Court of Appeal in *Boardwalk* characterized section 295(4) as a penalty for failure to give information, and explained that "such penalties are not an end in themselves." Rather, such penalties are a means to an end: getting information.

[20]The assessor has a duty to be fair when invoking s. 295(4). As the Court of Appeal noted in *Boardwalk*, an assessor is a statutory officer with statutory powers and duties. As a result, assessors have a duty to be fair when exercising their statutory powers and making decisions that affect the rights, privileges or interests of taxpayers.

[21]The Complainant presented several decisions of the MGB and CARBs that found that outright dismissal of the complaint is not reasonable. The Complainant suggested that the Applicant is using s. 295 in order to reduce the number of complaints, rather than for its intended use as a tool for preparing the assessment.

[22]The City's application should be dismissed because the Complainant had already provided the assessor with the information sought; therefore, had already substantially complied with the assessor's request for information.

[23]The Applicant breached the duty of fairness. The assessor sent the requests for information and follow-up correspondence to the Complainants only via regular mail, despite the email communication that was taking place during that period of time. The March 4, 2021 email from the property owner had ended with "Please let me know if you require any further info".

[24]On November 10, 2021 the Complainant's agent sought to determine whether there were outstanding ARFIs. The assessor refused to provide this information, which would have facilitated the underlying purpose of section 295(4) to enable to the assessor to obtain the information it seeks. If the assessor viewed this information as indispensable to carrying out its duties and responsibilities, the assessor ought to have taken steps to obtain the information before moving to abrogate the Complainants' right to challenge the assessment of their property.

BOARD FINDINGS and DECISION

[25]The information provided in the March 4, 2021 email from the property owner to the assessor substantially satisfied the requirements of s. 295(1). There is no requirement in the legislation that a specific form must be filled out and returned. The application is denied and the complaint shall be set for a hearing on the merits.

REASONS

[26]The Complainant had provided the tenant information to the assessor, and they were gross leases with the rates and start dates specified. This was substantially the same information requested in

the ARFI and, being gross leases, were of limited use in determining the assessment. It is clear that the process during the Customer Review Period is not the same as providing information in response to an ARFI; however, it would be reasonable for a property owner to expect that the information would be passed on and to believe that it would be unnecessary to send the same information twice.

[27] Under the circumstances, while it is uncontested that there was no response to the ARFI, the Board finds that the information was provided, and the failure to specifically respond to the ARFI should not result in the taxpayer losing his statutory right to an assessment complaint.

[28] The Board finds that in this situation. it would be a disproportionately extreme penalty for the Complainant to lose the right of appeal, and the application is denied.

[29] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 30th day of June, 2022.

On Behalf of: H. Kim
Presiding Officer

If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for judicial review to be filed and served not more than 60 days after the date of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents presented at the Hearing and considered by the Board.

NO.		ITEM
1.	1	Hearing Materials provided by Clerk
2.	A.1	Applicant submission two parts
3.	A.2	Applicant legal brief
4.	A.3	Applicant Book of Authorities
5.	C.1	Respondent (Complainant) submission
6.	C.2	Respondent (Complainant) legal appendix

As per paragraph 7:

This hearing was one of a number of hearings with respect to this application, which was made with respect to a number of complaints. The first application was heard in detail, with extensive legal argument from both the Applicant and the Respondent (Complainant). With the agreement of the parties, only the differentiating facts were presented in detail, and the legal argument carried forward for all of the applications. The full list of complaints is:

1. Complaint 0262 1568 Roll 30000540180
2. Complaint 0262 1569 Roll 30000540185
3. Complaint 0262 1570 Roll 30000540195
4. Complaint 0262 1585 Roll 30001130708
5. Complaint 0262 1645 Roll 30003110455
6. Complaint 0262 1646 Roll 30003110525
7. Complaint 0262 1658 Roll 30003111240
8. Complaint 0262 1676 Roll 30008800580
9. Complaint 0262 1678 Roll 30008800811

Complaint ID: 0262 1585
Roll Number: 30001130708

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: May 25, 2022

PRESIDING OFFICER: H. Kim

BETWEEN:

DP Shopping Centre Holding Inc.
as represented by Altus Group Limited

Complainant

-and-

The City of Red Deer

Respondent

This decision pertains to a complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by an Assessor of The City of Red Deer as follows:

ROLL NUMBER: 30001130708

MUNICIPAL ADDRESS: 69 Dunlop St

This is an application by the Respondent City of Red Deer to dismiss the subject complaint. The matter was heard by a one-member panel of the Composite Assessment Review Board (CARB) on the 25th day of May 2022, via videoconference.

Appeared on behalf of the Applicant:	J. Miller, City of Red Deer T. Johnson, City of Red Deer G. Plester, Brownlee LLP, Counsel
Appeared on behalf of the Respondent (Complainant):	A. Izard, Altus Group B. Foden, Altus Group J. Buchanan, Lawson Lundell, Counsel

DECISION

The application is denied.

JURISDICTION

[1] The Central Alberta Regional Assessment Review Board (Board) has been established in accordance with section 455 of the *Municipal Government Act,* RSA 2000, c M-26 (*Act*).

[2] The *Matters Relating to Assessment Complaints Regulation* AR 201/2017 (*MRAC*), allows the matter to be set for a preliminary hearing to be considered by a one-member panel:

> 40 A one-member composite assessment review board panel may hear and decide one or more of the following matters but no other matter:
> ...
> (c) an administrative matter, including, without limitation, an invalid complaint;
> …

BACKGROUND

[3] A one-member panel of the Board was convened for a preliminary hearing to consider applications by the Respondent to dismiss a complaint due to non-compliance with s. 295 of the *Act*. Section 295 states:

> 295(1) A person must provide, on request by an assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.
> …
> (4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

[4] This hearing was one of a number of hearings with respect to this application, which was made with respect to a number of complaints. The first application was heard in detail, with extensive legal argument from both the Applicant and the Respondent (Complainant). With the agreement of the parties, only the differentiating facts were presented in detail, and the legal argument carried forward for all of the applications.

[5] The subject property is a neighbourhood shopping centre assessed on the income approach.

ISSUE

[6] The only issue in this preliminary hearing is whether the complaints should be dismissed pursuant to s. 295(4) of the Act. In the subject proceeding, the specific issues are whether the information requested was necessary, pursuant to s. 295(1) of the *Act*, and whether the Applicant acted in accordance with the duty of fairness with respect to receipt of the request for information.

POSITION OF THE PARTIES

Position of the Applicant

[7] The City of Red Deer (City) sends an annual assessment request for information (ARFI) to all assessed persons of non-residential property as a key part of its assessment process. The ARFI consists of a cover letter explaining the request, citing section 295, along with a standardized form to be completed and returned, requesting current information relating to leases, physical characteristics of the property, income, and expenses. An initial ARFI was sent to the property owner on April 30, 2021 with a response deadline of July 15, 2021. Prior to the deadline, the ARFI was sent again as a reminder letter. No response was received, and after the deadline passed, the ARFI was sent a third time with a cover letter informing of non-compliance, but also indicating that the requested information could still be provided. No response was received.

[8] Each of the ARFI letters were mailed to the property owner's address as listed on the certificate of title. The ARFI stated that the information requested would be used "for the purpose of determining a fair and equitable assessed value of your property," and cited s. 295 of the *Act*. The third ARFI letter also included an explicit warning that failure to provide the information may result in the loss of your right to make a complaint against this property in the next taxation year. None of the information requested was received, and the City completed the assessments based on the information it had available to it, and issued its assessment notices. The Complainant filed an assessment complaint.

[9] The Applicant argued that s. 295(4) of the *Act* provides that due to the non-response, the property owner could not file the subject complaint. The provisions of s. 295 strike a balance between a municipality's need to receive information necessary to prepare assessments, and an assessed person's right of complaint. On the one hand, the loss of a right of appeal is a serious consequence for non-compliance - s. 295(4) requires great deal of caution and specific examination of facts, and cannot be imposed in an automatic, mechanical, or rigid manner. On the other hand, the right to appeal a property assessment is not absolute and a property owner has responsibilities that must be met before a complaint can proceed, including the responsibility to provide information to the assessor when requested.

[10] Given the need to balance these competing concerns, the courts, Municipal Government Board (MGB) and CARBs have set out guidelines to ensure that s. 295(4) is applied in a fair and reasonable manner. The Alberta Court of Appeal, in *Boardwalk Reit LLP v. Edmonton (City)*, 2008 ABCA 220 (*Boardwalk*) established a list of eight factors that should be satisfied before invoking section 295(4):

1. Was there a request for information?
2. Was the request made by an assessor?
3. Was the request in the proper form?
4. Was the request in an intelligible form?
5. Was the request reasonable having regard to all of the circumstances, including past practice, information already available to the assessor, information available to the owner, etc.?
6. What information, if any, was provided, and what was done with that information?
7. Did the information provided comply with the request?
8. Was the information necessary?

[11]With respect to Items 1 through 4, the Applicant sent the ARFIs to the property owner at the address on title. It is the assessed person's responsibility to ensure that the address for service listed on the certificate of title for a property is kept up to date. The *Act* requires assessed persons in a municipality to provide their address for service of notices to that municipality. If they do not, there are provisions in the *Act* that allow for deemed delivery of assessment and taxation notices. More generally, legislation that mandates the sending of a notice does not require that the notice actually be received. To the extent that a failure to update the title or inform the City of an address change resulted in the ARFI letters not being received, the Applicant referred to CARB decision 90342J-2015, which stated the Board does not have the discretion to take into consideration mitigating factors such as clerical oversight or past compliance when applying section 295(4).

[12]The ARFI letters were clearly presented as formal written requests made by City assessors with respect to the information required, the statutory authority for the request for information, how the information was to be provided, and the required timeline for providing this information. The property owner was also informed of the consequences of non-compliance. The *Act* does not require the Applicant to send multiple letters, but it did so to increase the likelihood of compliance. The *Interpretation Act* provides for presumption of service, and, in any event, the Complainant clearly received the assessment notice because it was mailed to the same address on title and a complaint was filed.

[13]Items 5 through 7 reflect that s. 295 authorizes only reasonable information requests, and penalizes only unreasonable failure to answer them. The Applicant did not request excessively detailed information that would fall outside the property owner's knowledge – it was information with respect to the characteristics, and the income and expenses associated with the subject properties. If not all of the requested information is available to the property owner, there is still a requirement to provide what is available. The Complainant provided no information at all.

[14]With respect to item 8, the Applicant agrees that ARFIs submitted in previous years had listed the leases in place; however, in the 2021 post-COVID environment where the economy and society is in considerable flux, current income and expense information is necessary in order to ensure that the assessments are accurate. Property assessments must be prepared annually, and, for example, a change in operating costs has an impact when preparing the assessment using the income approach.

[15]Information such as rent abatements and subsidies from benefits available during the pandemic are also necessary to prepare the assessment. To illustrate, the complaint forms for the subject properties listed the following reasons for complaint:

> The assessed area has been applied incorrectly based on s. 289 of the ACT and should be revised accordingly.
>
> The Municipality has not correctly or adequately adjusted the decline in market value of the subject property for typical revenue/collection loss and/or economic obsolescence caused by the COVID 19 pandemic.
>
> The Complainant's estimate of value using the Income Approach suggests that the current assessed value is unfair, inequitable and incorrect based on market leases and equity.
>
> a) The Vacancy Allowance at the subject should be no lower than 15%

b) The Operating Cost/Vacant Space Shortfall Allowance should be no less than $15psf
c) The Non-Recoverable/Reserve for Replacement Allowance should be no less than a combined 6%
d) The Capitalization Rate should be no lower than 8%
e) The Grocery Store, at the subject should be no higher than $9psf
f) The Convenience Store, at the subject should be no higher than $24psf
g) The Financial Services, at the subject should be no higher than $19psf
h) The Fast Food CRU, at the subject should be no higher than $23psf
i) The Retail CRU 0-3,000sqft, at the subject should be no higher than $21psf
j) The Retail CRU 3,001-6,000sqft, at the subject should be no higher than $21psf

[16]This demonstrates that the information requested in the ARFI was necessary to accurately assess the subject property; however, this degree of necessity is no longer required by the *Act*. The wording of s. 295(1) in the cases cited required a person to provide information "necessary for the assessor to prepare an assessment." In 2018 the *Act* was amended and s. 295(1) now states information "necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations." This is broader wording, which expands the matters for which the requested information is necessary - for example, evaluating assessment methodology generally using statistical comparisons or preparing for assessment complaints.

[17]While the Complainant may argue that the City could have obtained the information requested from other sources, there is nothing in the legislation to require the municipality to take such steps before the provisions of s. 295(4) are operative. The Complainant may argue that the City already had some of the requested information in its possession from previous ARFIs but this does not take away the assessor's right to request nor the owner's obligation to supply information.

[18]The Applicant argued against hindsight bias. The test is not whether, had the Complainant responded to the ARFI, the information would have changed anything, it is whether it was necessary at the time when the information was not available and unknown.

[19]In conclusion, the criteria established by the Court of Appeal in *Boardwalk* are met. The City is not attempting to strictly apply the legislation to frustrate the taxpayer's right to file a complaint - the Complainant failed to make any effort to comply with the requirements of the legislation after having been given ample time, and multiple opportunities, to do so. This is not a case of partial or incomplete compliance - no response at all was provided. Such cases routinely result in assessment complaints being dismissed. The City acknowledges that the Court of Appeal in *Boardwalk* set a high standard in order to show that an appeal should be barred by virtue of section 295(4); however, where there has been no communication, information or any other response at all from the assessed person in response to three written ARFI letters, *Boardwalk* and its extensive procedural burdens on the assessor ought not to be activated.

Position of the Respondent (Complainant)

[20]The Complainant was unable to confirm whether or not it received the initial request for information or any of the follow-up letters purported to be sent by the assessor. The taxpayer has historically provided ARFI responses in a timely manner. From the information that the Applicant already has, there are minor changes to the property but not of a sufficient nature as to warrant a

dismissal of the appeal. Further, no assessment notice was received - the complaint was filed using information available online.

[21]The Complainant submitted the ARFI responses in 2017, 2018, 2019 and 2020 which were sent by email to the assessment department of the City by D. Carleton of Riverpark Properties Ltd. each year. The email and ARFI forms included his contact information. In 2020 there was an email exchange providing further information with respect to the nature of certain leases and rent abatements, as requested by J. Miller, the Deputy City Assessor.

[22]On May 13, 2022, in response to an email from the Complainant, Mr. Carleton replied:

> As we previously discussed, I am not sure if we received this or not. Our practice is to respond to all requests for information so I cannot imagine that we would not have provided the information. As I mentioned, I cannot locate anything in my sent items folder showing the response for 2021 (I did send you the information to the years prior to 2021).
>
> I would have provided a rent roll. Attached is the rent roll that I would have provided. In past years, if anyone from the assessment department has asked questions, I have answered. I had forwarded you examples of this from prior years.

[23]The rent roll attached to the email indicates small changes in the leases previously reported, and the space that was available for lease was listed by Salomon Commercial with the lease rate and operating costs clearly set out in the listing brochure. The Complainant argued that a substantial amount of the information requested was already in the possession of the Applicant, or readily available from other sources, and the ARFI response was not necessary to prepare the assessment.

[24]In *Boardwalk*, the Court of Appeal found that a complaint should not be dismissed outright as the Applicant requests, stating "allowing irrevocable unilateral assessments…is the largest possible penalty in a taxation statute." Section 295(4) does not operate automatically - unless an assessor moves to dismiss a complaint under s. 295(4), the Assessment Review Board would simply hear the complaint on its merits. The penalty of dismissal can only apply if the complainant fails to provide information requested under s. 295(1), which allows an assessor to request only information that is necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations. The standard of necessity in s. 295(1) according to the Court in *Boardwalk* is that the information sought is "indispensable; not merely expedient, nor useful, nor convenient". When considering an application to dismiss a complaint pursuant to s. 295(4), the policy behind the provision must also be considered. The Court of Appeal in *Boardwalk* characterized section 295(4) as a penalty for failure to give information, and explained that "such penalties are not an end in themselves." Rather, such penalties are a means to an end: getting information.

[25]The assessor has a duty to be fair when invoking s. 295(4). As the Court of Appeal noted in *Boardwalk*, an assessor is a statutory officer with statutory powers and duties. As a result, assessors have a duty to be fair when exercising their statutory powers and making decisions that affect the rights, privileges or interests of taxpayers.

[26]The Complainant presented several decisions of the MGB and CARBs that found that outright dismissal of the complaint is not reasonable. The Complainant suggested that the Applicant is using

s. 295 in order to reduce the number of complaints, rather than for its intended use as a tool for preparing the assessment.

[27] The City's application should be dismissed because the legal preconditions for dismissal set out in *Boardwalk* are not satisfied. The ARFI package stated the purpose for which the assessor was seeking information: the cover letter stated that the assessor was conducting market research and seeking the requested information to assist the assessor in monitoring the local real estate market. The assessor's duties and responsibilities under the *Act* Parts 9 to 12 and the regulations do not include carrying out market research and monitoring the local real estate market; therefore, the Complainant was not obligated to provide information to the assessor for this purpose. The assessor's request for information package also included an Annual Income & Expense Statement form. The bottom of these forms stated an additional purpose for which the assessor was requesting information: "Information will be used solely for the purpose of determining a fair and equitable assessed value of your property."

[28] While the Complainant agrees that preparing an assessment of their property is something the assessor has a duty and responsibility to do under Part 9 of the *Act*, the information requested was not indispensable to prepare an assessment of the subject properties. The Complainant had already provided the assessor with the information sought in prior years; therefore, had already substantially complied with the assessor's request for information.

[29] The Applicant breached the duty of fairness. The assessor sent the requests for information and follow-up correspondence to the Complainants only via regular mail, despite the ongoing COVID-19 pandemic during which many people were working from home. The prior years' ARFI responses were sent by email from the property manager, whose contact information had been included in each of the previous years' ARFI responses.

[30] The email signatures show that the property manager's office was not the address to which the assessment notice was sent.

[31] On November 10, 2021 the Complainant's agent sought to determine whether there were outstanding ARFIs. The assessor refused to provide this information, which would have facilitated the underlying purpose of section 295(4) to enable to the assessor to obtain the information it seeks. If the assessor viewed this information as indispensable to carrying out its duties and responsibilities, the assessor ought to have taken steps to obtain the information before moving to abrogate the Complainants' right to challenge the assessment of their property.

BOARD FINDINGS and DECISION

[32] The information requested was already in the possession of the Applicant or readily available through the listing for lease. The ARFI response was not necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations. Further, it is clear the ARFI and the Assessment notices were likely sent to an address that was not the current address, and the ARFI was not received. The application is denied and the complaint shall be set for a hearing on the merits.

REASONS

[33] The Applicant was already in possession of the information requested from the ARFI responses that had been provided for the four prior years, and they clearly showed that the majority of the leases did not expire until after the date of the ARFI in 2021. The Board does not agree that it would be hindsight bias to find that the information would not have been of use to the assessor – it was information that he already had in his possession. The listing brochure clearly shows the lease rate and operating costs of the space that did change, and this information would have been available to the Applicant. Under the circumstances, while it is uncontested that there was no ARFI response at all, the Board finds that the information was not necessary and the failure to respond should not result in the taxpayer losing his statutory right to an assessment complaint.

[34] Further, in this case, the Board finds that the taxpayer likely did not receive the ARFI request. The same person responded to the 2017, 2018, 2019 and 2020 ARFI requests, and the signature line shows the mailing address changed in 2019, and again in 2020. The ARFI letters were sent to the 2019 address. While the Board agrees that a property owner has an obligation to keep their address updated, the provisions of s. 304(3) of the Act refers to tax notices under Part 10, not to the address for ARFIs in Part 9. While the *Act* does not require that the Applicant demonstrate that the ARFI was actually received, it would be unfair to remove the Complainant's statutory right to file a complaint due to a failure to update the address on title, particularly when the Applicant had been in contact the previous year by email.

[35] The Board agrees that under the circumstances, it would be a disproportionately extreme penalty for the Complainant to lose his right of appeal and the application is denied.

[36] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 30th day of June, 2022.

On Behalf of: H. Kim
Presiding Officer

If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for judicial review to be filed and served not more than 60 days after the date of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents presented at the Hearing and considered by the Board.

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3. A.2	Applicant legal brief
4. A.3	Applicant Book of Authorities
5. C.1	Respondent (Complainant) submission
6. C.2	Respondent (Complainant) legal appendix

As per paragraph 7:

This hearing was one of a number of hearings with respect to this application, which was made with respect to a number of complaints. The first application was heard in detail, with extensive legal argument from both the Applicant and the Respondent (Complainant). With the agreement of the parties, only the differentiating facts were presented in detail, and the legal argument carried forward for all of the applications. The full list of complaints is:

1. Complaint 0262 1568 Roll 30000540180
2. Complaint 0262 1569 Roll 30000540185
3. Complaint 0262 1570 Roll 30000540195
4. Complaint 0262 1585 Roll 30001130708
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6. Complaint 0262 1646 Roll 30003110525
7. Complaint 0262 1658 Roll 30003111240
8. Complaint 0262 1676 Roll 30008800580
9. Complaint 0262 1678 Roll 30008800811

Complaint IDs: 0262 1568, 0262 1569, 0262 1570
Roll Numbers: 30000540180, 30000540185, 30000540195

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: May 24 - 25, 2022

PRESIDING OFFICER: H. Kim

BETWEEN:

Amann, Joseph and Amann, Vroni
as represented by Altus Group Limited

Complainant

-and-

The City of Red Deer

Respondent

This decision pertains to three complaints submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by an Assessor of The City of Red Deer as follows:

ROLL NUMBERS: 30000540180, 30000540185, 30000540195

MUNICIPAL ADDRESS: Units 2, 3 and 5 - 5111 22 St respectively

This is an application by the Respondent City of Red Deer to dismiss the subject complaints. The matter was heard by a one-member panel of the Composite Assessment Review Board (CARB) on the 24th and 25th days of May 2022, via videoconference.

Appeared on behalf of the Applicant:	J. Miller, City of Red Deer T. Johnson, City of Red Deer G. Plester, Brownlee LLP, Counsel
Appeared on behalf of the Respondent (Complainant):	A. Izard, Altus Group B. Foden, Altus Group J. Buchanan, Lawson Lundell, Counsel

DECISION

The application is denied.

JURISDICTION

[1] The Central Alberta Regional Assessment Review Board (Board) has been established in accordance with section 455 of the *Municipal Government Act,* RSA 2000, c M-26 (*Act)*.

[2] The *Matters Relating to Assessment Complaints Regulation* AR 201/2017 (*MRAC*), allows the matter to be set for a preliminary hearing to be considered by a one-member panel:

> 40 A one-member composite assessment review board panel may hear and decide one or more of the following matters but no other matter:
> ...
> (c) an administrative matter, including, without limitation, an invalid complaint;
> …

BACKGROUND

[3] A one-member panel of the Board was convened for a preliminary hearing to consider applications by the Respondent to dismiss a number of complaints due to non-compliance with s. 295 of the *Act*. Section 295 states:

> 295(1) A person must provide, on request by an assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.
> …
> (4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

[4] This hearing was the first of a number of hearings with respect to this application, which was made with respect to a number of complaints. The subject three roll numbers are located within one commercial centre with one property owner, and the facts are identical. With the agreement of the parties, the three roll numbers were considered together and a single decision issued.

[5] The properties under complaint are three of five units within a commercial centre: a liquor store, a fast food restaurant and a grocery store, all assessed on the income approach.

ISSUE

[6] The only issue in this preliminary hearing is whether the complaints should be dismissed pursuant to s. 295(4) of the *Act*. In the subject proceeding, the specific issue is whether the information requested was necessary, pursuant to s. 295(1) of the *Act*.

POSITION OF THE PARTIES

Position of the Applicant

[7] The City of Red Deer (City) sends an annual assessment request for information (ARFI) to all assessed persons of non-residential property as a key part of its assessment process. The ARFI consists of a cover letter explaining the request, citing section 295, along with a standardized form to be completed and returned, requesting current information relating to leases, physical characteristics of the property, income, and expenses. An initial ARFI was sent to the property owner on April 30, 2021 for each roll number, with a response deadline of July 15, 2021. Prior to the deadline, the ARFI was sent again as a reminder letter. No response was received, and after the deadline passed, the ARFI was sent a third time with a cover letter informing of non-compliance, but also indicating that the requested information could still be provided. No response was received.

[8] Each of the three ARFI letters were mailed to the property owner's address as listed on the certificate of title. The ARFIs stated that the information requested would be used "for the purpose of determining a fair and equitable assessed value of your property," and cited s. 295 of the *Act*. The third ARFI letter also included an explicit warning that failure to provide the information may result in the loss of your right to make a complaint against this property in the next taxation year. None of the information requested was received, and the City completed the assessments based on the information it had available to it, and issued its assessment notices. The Complainant filed the three assessment complaints.

[9] The Applicant argued that s. 295(4) of the *Act* provides that due to the non-response, the property owner could not file the subject complaint. The provisions of s. 295 strike a balance between a municipality's need to receive information necessary to prepare assessments, and an assessed person's right of complaint. On the one hand, the loss of a right of appeal is a serious consequence for non-compliance - s. 295(4) requires great deal of caution and specific examination of facts, and cannot be imposed in an automatic, mechanical, or rigid manner. On the other hand, the right to appeal a property assessment is not absolute and a property owner has responsibilities that must be met before a complaint can proceed, including the responsibility to provide information to the assessor when requested.

[10] Given the need to balance these competing concerns, the courts, Municipal Government Board (MGB) and CARBs have set out guidelines to ensure that s. 295(4) is applied in a fair and reasonable manner. The Alberta Court of Appeal, in *Boardwalk Reit LLP v. Edmonton (City)*, 2008 ABCA 220 (*Boardwalk*) established a list of eight factors that should be satisfied before invoking section 295(4):

1. Was there a request for information?
2. Was the request made by an assessor?
3. Was the request in the proper form?
4. Was the request in an intelligible form?
5. Was the request reasonable having regard to all of the circumstances, including past practice, information already available to the assessor, information available to the owner, etc.?
6. What information, if any, was provided, and what was done with that information?
7. Did the information provided comply with the request?
8. Was the information necessary?

[11]With respect to Items 1 through 4, the Applicant sent the ARFIs to the property owner at the address on title, and they were clearly presented as formal written requests made by City assessors with respect to the information required, the statutory authority for the request for information, how the information was to be provided, and the required timeline for providing this information. The property owner was also informed of the consequences of non-compliance. The *Act* does not require the Applicant to send multiple letters, but it did so to increase the likelihood of compliance. The *Interpretation Act* provides for presumption of service, and, in any event, the Complainant clearly received the assessment notice because it was mailed to the same address on title and a complaint was filed. The Applicant noted that the provisions in the *Act* with respect to sending of a notice does not require that the notice actually be received.

[12]Items 5 through 7 reflect that s. 295 authorizes only reasonable information requests, and penalizes only unreasonable failure to answer them. The Applicant did not request excessively detailed information that would fall outside the property owner's knowledge – it was information with respect to the characteristics, and the income and expenses associated with the subject properties. If not all of the requested information is available to the property owner, there is still a requirement to provide what is available. The Complainant provided no information at all.

[13]With respect to item 8, the Applicant agrees that ARFIs submitted in previous years had listed the leases in place and they had not ended; however, in the 2021 post-COVID environment where the economy and society is in considerable flux, current income and expense information is necessary in order to ensure that the assessments are accurate. Property assessments must be prepared annually, and, for example, a change in operating costs has an impact when preparing the assessment using the income approach.

[14]Information such as rent abatements and subsidies from benefits available during the pandemic are also necessary to prepare the assessment. To illustrate, the complaint forms for the subject properties listed the following reasons for complaint:

> The assessed area has been applied incorrectly based on s. 289 of the ACT and should be revised accordingly.
>
> The Municipality has not correctly or adequately adjusted the decline in market value of the subject property for typical revenue/collection loss and/or economic obsolescence caused by the COVID 19 pandemic.
>
> The Complainant's estimate of value using the Income Approach suggests that the current assessed value is unfair, inequitable and incorrect based on market leases and equity.
>
> a) The Vacancy Allowance at the subject should be no lower than 12%
> b) The Operating Cost/Vacant Space Shortfall Allowance should be no less than $15psf
> c) The Non-Recoverable/Reserve for Replacement Allowance should be no less than a combined 6%
> d) The Capitalization Rate should be no lower than 8.5%
> e) The Grocery Store, at the subject should be no higher than $12psf

[15]This demonstrates that the information requested in the ARFI was necessary to accurately assess the subject property; however, this degree of necessity is no longer required by the *Act*. The

wording of s. 295(1) in the cases cited required a person to provide information "necessary for the assessor to prepare an assessment." In 2018 the *Act* was amended and s. 295(1) now states information "necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations." This is broader wording, which expands the matters for which the requested information is necessary - for example, evaluating assessment methodology generally using statistical comparisons or preparing for assessment complaints.

[16]While the Complainant may argue that the City could have obtained the information requested from other sources, there is nothing in the legislation to require the municipality to take such steps before the provisions of s. 295(4) are operative. The Complainant may argue that the City already had some of the requested information in its possession from previous ARFIs but this does not take away the assessor's right to request nor the owner's obligation to supply information.

[17]The Applicant argued against hindsight bias. The test is not whether, had the Complainant responded to the ARFI, the information would have changed anything, it is whether it was necessary at the time when the information was not available and unknown.

[18]In conclusion, the criteria established by the Court of Appeal in *Boardwalk* are met. The City is not attempting to strictly apply the legislation to frustrate the taxpayer's right to file a complaint - the Complainant failed to make any effort to comply with the requirements of the legislation after having been given ample time, and multiple opportunities, to do so. This is not a case of partial or incomplete compliance - no response at all was provided. Such cases routinely result in assessment complaints being dismissed. The City acknowledges that the Court of Appeal in *Boardwalk* set a high standard in order to show that an appeal should be barred by virtue of section 295(4); however, where there has been no communication, information or any other response at all from the assessed person in response to three written ARFI letters, *Boardwalk* and its extensive procedural burdens on the assessor ought not to be activated.

Position of the Respondent (Complainant)

[19]The Complainant was unable to confirm whether or not it received the initial request for information or any of the follow-up letters purported to be sent by the assessor, but noted that the taxpayer has historically provided ARFI responses in a timely manner. The Applicant already has the relevant information; therefore, dismissal of the complaint is unreasonable.

[20]For the subject properties, there are no changes to the rental rates or leases which have been in place for between 5 and 18 years. The Applicant is well aware of the leases and is even in possession of the lease document for one of the tenants. The Complainant submitted the ARFI responses in 2017, 2018, 2019 and 2020 which were sent by email to the assessment department of the City by the asset manager, D. Brock of Ulmer & Brock Management Inc. in Ontario within the time frame requested for each year. The email and ARFI forms included his contact information.

[21]On May 16, 2022, in response to a question from the Complainant, Mr. Brock emailed:

> If we had received the 2021 RFI we would have responded with the attached rent roll. Any changes in operating costs were tied to property tax changes - see attached 2019 and 2020 T776 Forms.

[22]The rent roll and income tax forms attached to the email indicate that the leases previously reported were still in place and the income and expense statements were relatively unchanged. The rental rates for the properties under complaint are the same, the leases and leased areas remain unchanged, and there were no deferrals or abatements to these tenants (Supermarket, Liquor Store, and Fast Food). The Complainant argued that the information requested was already in the possession of the Applicant.

[23]In *Boardwalk*, the Court of Appeal found that a complaint should not be dismissed outright as the Applicant requested, stating "allowing irrevocable unilateral assessments…is the largest possible penalty in a taxation statute." Section 295(4) does not operate automatically - unless an assessor moves to dismiss a complaint under s. 295(4), the Assessment Review Board would simply hear the complaint on its merits. The penalty of dismissal can only apply if the complainant fails to provide information requested under s. 295(1), which allows an assessor to request only information that is necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations. The standard of necessity in s. 295(1) according to the Court in *Boardwalk* is that the information sought is "indispensable; not merely expedient, nor useful, nor convenient". When considering an application to dismiss a complaint pursuant to s. 295(4), the policy behind the provision must also be considered. The Court of Appeal in *Boardwalk* characterized section 295(4) as a penalty for failure to give information, and explained that "such penalties are not an end in themselves." Rather, such penalties are a means to an end: getting information.

[24]The assessor has a duty to be fair when invoking s. 295(4). As the Court of Appeal noted in *Boardwalk*, an assessor is a statutory officer with statutory powers and duties. As a result, assessors have a duty to be fair when exercising their statutory powers and making decisions that affect the rights, privileges or interests of taxpayers.

[25]The Complainant presented several decisions of the MGB and CARBs that found that outright dismissal of the complaint is not reasonable. The Complainant suggested that the Applicant is using s. 295 in order to reduce the number of complaints, rather than for its intended use as a tool for preparing the assessment.

[26]The City's application should be dismissed because the legal preconditions for dismissal set out in *Boardwalk* are not satisfied. The ARFI package stated the purpose for which the assessor was seeking information: the cover letter stated that the assessor was conducting market research and seeking the requested information to assist the assessor in monitoring the local real estate market. The assessor's duties and responsibilities under the *Act* Parts 9 to 12 and the regulations do not include carrying out market research and monitoring the local real estate market; therefore, the Complainant was not obligated to provide information to the assessor for this purpose. The assessor's request for information package also included an Annual Income & Expense Statement form. The bottom of these forms stated an additional purpose for which the assessor was requesting information: "Information will be used solely for the purpose of determining a fair and equitable assessed value of your property."

[27]While the Complainant agrees that preparing an assessment of their property is something the assessor has a duty and responsibility to do under Part 9 of the *Act*, the information requested was not indispensable to prepare an assessment of the subject properties. The Complainant had already provided the assessor with the information sought in prior years; therefore, had already substantially complied with the assessor's request for information.

[28]The Applicant breached the duty of fairness. The assessor sent the requests for information and follow-up correspondence to the Complainants only via regular mail, despite the ongoing COVID-19 pandemic during which many people were working from home. The prior years' ARFI responses were sent by email from the asset manager, whose contact information had been included in each of the previous years' ARFI responses, along with a note stating "Should you have any questions or require any additional information, please do not hesitate in contacting our office."

[29]The Complainant also noted that the address on the assessment notice was not exactly the same as the ARFI notices: the assessment notice was addressed to the owners c/o a professional entity, whereas the ARFI notices were only addressed to the owners at the same address. It is possible that the owners did not receive the letters.

[30]On November 10, 2021 the Complainant's agent sought to determine whether there were outstanding ARFIs. The assessor refused to provide this information, which would have facilitated the underlying purpose of section 295(4) to enable to the assessor to obtain the information it seeks. If the assessor viewed this information as indispensable to carrying out its duties and responsibilities, the assessor ought to have taken steps to obtain the information before moving to abrogate the Complainants' right to challenge the assessment of their property.

BOARD FINDINGS and DECISION

[31]The information requested was already in the possession of the Applicant, and it was not necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations. The application is denied and the three complaints shall be set for a hearing on the merits.

REASONS

[32]The Applicant was already in possession of the information requested from the ARFI responses that had been provided for the four prior years, and they clearly showed that the leases were in place and the earliest expiry was November 2022 which would have been after the date of the ARFI in 2021. The asset manager provided the rent roll that would have been submitted had he received the ARFI and it had the same information that had been provided in the previous year. The Board does not agree that it would be hindsight bias to find that the information would not have been of use to the assessor – it was information that he already had in his possession. Similarly, the only change in operating costs were property taxes, which, again, the assessor would already have had in his possession. Under the circumstances, while it is uncontested that there was no ARFI response at all, the Board finds that the information was not necessary and the failure to respond should not result in the taxpayer losing his statutory right to an assessment complaint.

[33]Further, in this case, the Board finds on the balance of probabilities, that the taxpayer did not receive the ARFI request.

- The email from the asset manager indicates that it was not received, and it is unlikely that if he had, in fact, received it, he would not have submitted a response given that he had done so in each of the four consecutive years prior to the subject year.

- The formatting of the addresses on the ARFI letters were sufficiently different from the assessment notice that receipt of the assessment notice does not necessarily indicate the ARFI letters must also have been received. The address on the assessment notices were formatted normally whereas the address on the 2021 ARFI had no c/o and the street address, postal code and municipality were on the same line. This address was at the top of the page titled "Definitions and completion guide – annual property tenant report." The Applicant confirmed that the 2021 ARFI was sent in a window envelope with this address information.

- The differences create an element of uncertainty whether the formatting of the address in the 2021 ARFI letters impacted their delivery and receipt. The Applicant stated that their procedures had not changed from prior years and expected that the previous ARFIs, which were received and responded to, had been addressed in the same format. The Board notes that the corresponding pages on the 2020 and 2019 ARFIs did not have the property owner's address information at the top of the page, nor did any of the other pages; therefore, the prior years' ARFIs could not have been mailed in a window envelope and it is not certain that the address was formatted in the same way.

[34] The presumption of service in the *Interpretation Act* does not apply to addresses outside of Canada. While the Board agrees that the *Act* does not require that the Applicant demonstrate that the ARFI was actually received, the Board is of the opinion that service must occur before failure to response results in a penalty. In this case, there is some doubt as to whether the notice was, in fact, received, and the Board considers it reasonable to resolve potential doubt in favour of preserving the Complainant's statutory right to file a complaint.

[35] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 30TH day of June, 2022.

On Behalf of: H. Kim
Presiding Officer

If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for judicial review to be filed and served not more than 60 days after the date of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents presented at the Hearing and considered by the Board.

NO.	ITEM
1. 1	Hearing Materials provided by Clerk
2. A.1	Applicant submission Roll #30000540180 in two parts
3. A.2	Applicant legal brief Roll #30000540180
4. A.3	Applicant Book of Authorities Roll #30000540180
5. A.4	Applicant submission Roll #30000540185 in two parts
6. A.5	Applicant legal brief Roll #30000540185
7. A.6	Applicant Book of Authorities Roll #30000540185
8. A.7	Applicant submission Roll #30000540195 in two parts
9. A.8	Applicant legal brief Roll #30000540195
10. A.9	Applicant Book of Authorities Roll #30000540195
11. C.1	Respondent (Complainant) submission common for all three roll numbers
12. C.2	Respondent (Complainant) legal appendix common for all three roll numbers

As per paragraph 7:

This hearing was one of a number of hearings with respect to this application, which was made with respect to a number of complaints. The first application was heard in detail, with extensive legal argument from both the Applicant and the Respondent (Complainant). With the agreement of the parties, only the differentiating facts were presented in detail, and the legal argument carried forward for all of the applications. The full list of complaints is:

1. Complaint 0262 1568 Roll 30000540180
2. Complaint 0262 1569 Roll 30000540185
3. Complaint 0262 1570 Roll 30000540195
4. Complaint 0262 1585 Roll 30001130708
5. Complaint 0262 1645 Roll 30003110455
6. Complaint 0262 1646 Roll 30003110525
7. Complaint 0262 1658 Roll 30003111240
8. Complaint 0262 1676 Roll 30008800580
9. Complaint 0262 1678 Roll 30008800811

BOARD ORDER: MGB 122/09

IN THE MATTER OF THE *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

AND IN THE MATTER OF AN APPEAL from a decision of the 2009 Assessment Review Board (ARB) of the City of Edmonton.

BETWEEN:

Edmonton House Realty Ltd. represented by Canadian Valuation Group - Appellant

- a n d -

City of Edmonton (City) - Respondent

BEFORE:

Members:

T. Robert, Presiding Officer

Case Manager:

P. Kemp

Upon notice being given to the affected parties, a hearing was held in the City of Edmonton, in the Province of Alberta on November 3, 2009.

This is an appeal to the Municipal Government Board (MGB) from a decision of the 2009 ARB of the City of Edmonton with respect to a property assessment entered in the assessment roll of the Respondent municipality as follows.

Roll No. 3003829 **10205 100 Avenue**

Assessment: $36,798,500

OVERVIEW

The subject property is a hotel located in downtown Edmonton. Section 295 of the Act permits an assessor to request information necessary to prepare an assessment from property owners:

295(1) 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.

In this case, the assessor sent a request for information (RFI) on February 8, 2008 and a reminder letter on March 20, 2008. The final date for responding to the RFI was April 17, 2008 and was printed on both the RFI and the reminder letter. No response was received.

If the information requested under section 295(1) is not provided within 60 days from the date of the request, then a complaint against the assessment is barred by virtue of section 295(4).

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of 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.

The ARB barred the complaint pursuant to section 295(4). On appeal to the MGB, the Appellant argued that the complaint should be allowed to proceed to a merit hearing in accordance with the principles of procedural fairness articulated in Boardwalk REIT LLP v. Edmonton (City), [2008] A.J. No. 635 (Boardwalk), because the requested information was not necessary to prepare the assessment, because the assessor requested the information under the wrong section of the Act and because the Appellant had substantially complied with the request.

ISSUES

1. Was the requested information necessary to prepare the assessment of the subject property?

2. Is section 295 the appropriate section under which to request this type of information?

2. Did the assessed person substantially comply with the request?

3. Would it be unfair to deny the Appellant the right to complain against the assessment?

Summary of Appellant's Position on Issue 1 – Necessity of Information

The Appellant referred to Boardwalk, in which the Court of Appeal stated at paragraph 121 that "In English, the word "necessary" means indispensable; not merely expedient, nor useful, nor convenient". The Court also stated at paragraph 122 that "The modern mandatory rule is to interpret statutes by using their ordinary grammatical meaning, where it is in keeping with the statutory scheme and produces a workable result."

The Appellant also referred to paragraph 110, wherein Coté J.A. observes that "no taxpayer should prevent his assessment by withholding information which is vital or indispensable to assessing". The Appellant pointed out that the 2009 assessment had been prepared for the subject property, and argued that the requested information must not, therefore, have been "vital or indispensable".

Summary of Respondent's Position on Issue 1 – Necessity of Information

The Respondent testified that the City assessed hotels using the income approach to value. The assessor requires the last three years (in this case 2005, 2006 and 2007) of actual financial information to determine the market value of a hotel property and to prepare the property's 2009 assessment. The 2007 information is weighted most heavily when preparing the assessment.

The Respondent referred to section 285 of the Act, which states:

285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298.

Section 285 is a mandatory provision. Regardless of whether or not the requested information is provided, an assessment must be prepared. As there was no response to the RFI and no financial statements for 2007 were submitted, the assessor was obliged to estimate the revenues and expenses of the subject property to prepare the annual assessment. Using estimated revenues and expenses negatively impacts the accuracy of the assessment. Therefore, in order to develop an accurate assessment for the subject property, the 2007 financial information is indispensable.

Finding on Issue 1 – Necessity of Information

The requested information was necessary to prepare the assessment of the subject property.

Summary of Appellant's Position on Issue 2 – Proper Section of the Act

The Appellant argued that the Boardwalk decision supports the conclusion that an assessor should request information under sections 294 and 296, rather than under section 295. In particular, the Appellant referred to paragraph 106 where Coté J.A. states the following:

> The point is that the Act gives an assessor two independent and different methods to get information, with different tests of relevance. One method combines ss. 294 and 296. The other is s. 295. Section 296 was first enacted in 1994 (c. M-26.1).

Section 294 allows the assessor to request information:

294(1) After giving reasonable notice to the owner or occupier of any property, an assessor may at any reasonable time, for the purpose of preparing an assessment of the property or determining if the property is to be assessed,

- *(a) enter on and inspect the property,*
- *(b) request anything to be produced to assist the assessor in preparing the assessment or determining if the property is to be assessed, and*
- *(c) make copies of anything necessary to the inspection.*

Section 296 provides the mechanism for enforcement of section 294:

296(1) An assessor described in section 284(d)(i) or a municipality may apply by originating notice to the Court of Queen's Bench for an order under subsection (2) if any person

(a) refuses to allow or interferes with an entry or inspection by an assessor, or

(b) refuses to produce anything requested by an assessor to assist the assessor in preparing an assessment or determining if property is to be assessed.

(2) The Court may make an order

(a) restraining a person from preventing or interfering with an assessor's entry or inspection, or

(b) requiring a person to produce anything requested by an assessor to assist the assessor in preparing an assessment or determining if property is to be assessed.

The Appellant also referred to paragraph 109 where the following statement is made with respect to the different methods available to the assessor for obtaining information:

> The operative provisions differ dramatically. Having a judge order compliance is very fair. But allowing irrevocable unilateral assessments with no recourse to any tribunal is the largest possible penalty in a taxation statute. Even the Income Tax Act has no general penalty so draconian.

In the Appellant's opinion, Boardwalk supports the proposition that section 295 should not be used to request information because the penalty for non-compliance is too harsh. The Appellant remarked that Coté J.A. disapproves of section 295.

Summary of Respondent's Position on Issue 2 – Proper Section of the Act

The Respondent also referred to Boardwalk in support of its contention that the information was properly requested pursuant to section 295. In particular, the Respondent referred to paragraph 110, in which Coté J.A. states:

> So the different occasions for use (preconditions) for the two methods must be very significant. Using Method One whenever the purpose is assessment presumably allows requests which are merely useful or convenient. The present harsh penalty, however, is confined to "information necessary for the assessor to prepare an assessment" (Method Two).

The Respondent also took note of paragraph 119, where Coté J.A. finds that the phrase "necessary to prepare an assessment" essentially means "necessary to prepare an assessment for the subject property":

> So the Board based all its conclusions on two purposes: statistical cross-checking, and evaluation of general methods. Laudable as they may be, they do not fit

> within the words "to prepare an assessment" (s. 295(1); emphasis added). Alberta's Interpretation Act s. 26(3) does presume that the singular will include the plural, and so someone might suggest that "an assessment" is merely the singular. However, s. 26 operates only where a contrary intention does not appear. And the plural is not the same as "everyone". The assessor's suggested interpretation would remove all meaning from the word "an". There is more going on in s. 295 than singular vs. plural. The phrase "to prepare an assessment" shows that specific property is being assessed. General statistical or preliminary method studies do not do that.

The Respondent argued that in the present case, the information requested was "information necessary for the assessor to prepare an assessment *for the subject property*", not information that was "merely useful or convenient" or used solely for statistical cross-checking or evaluation of general methods. Accordingly, requesting the information pursuant to section 295 (Method Two) was the proper procedure.

Finding on Issue 2 – Proper Section of the Act

The information was properly requested pursuant to section 295 of the Act.

Summary of Appellant's Position on Issue 3 – Substantial Compliance

The Appellant argued that the assessor had income and expense information for both 2005 and 2006. As the only information that was missing was the 2007 information, the Appellant argued that the request had been substantially complied with.

Summary of Respondent's Position on Issue 3 – Substantial Compliance

The Respondent pointed out that the information in the assessor's possession had been supplied in response to previous years' RFIs, and had been noted on the February 8, 2008 RFI as having already been provided. The February 8, 2008 RFI was sent because the assessor needed to obtain the 2007 financial information, which had not been available at the time the earlier RFIs went out. There was no response at all to the February 8, 2008 RFI. No response at all is not substantial compliance.

Finding on Issue 3 – Substantial Compliance

The Appellant did not comply substantially, or at all, with the February 8, 2008 request for financial information.

Summary of Appellant's Position on Issue 4 – Fairness

The Appellant noted that the property managers had complied with the RFIs in all previous years. The lack of response to the February 8, 2008 RFI was due to an unfortunate combination of circumstances and was not intentional.

The Appellant explained that the controller employed by the hotel's management firm was the individual charged with providing the financial information pursuant to the RFI. The Appellant testified that CVG (the Appellant's agents) had called to remind the controller of the approaching due date. However, the controller left the employ of the management company a few days prior to the due date for complying, without having sent in the requested information. The problem was exacerbated by the fact that the hotel's management had recently changed so that the non-compliance went unnoticed by the new management company.

In the Appellant's view, it was impossible for the Appellant to provide the information in response to the RFI because after the controller quit, there was nobody there to do it. In the Boardwalk decision at paragraph 181, Coté J.A. remarks that "Practically speaking, fairness overlaps with reasonableness." Since it was impossible for the Appellant to provide the information by the due date, the request should be regarded as unreasonable and therefore unfair.

The Appellant testified that another property managed by the same management company, Campus Tower, was also the subject of an RFI in 2008. The requested information was not provided for Campus Tower by the deadline for compliance due to the same circumstances. However, in the case of Campus Tower, the assessor visited the property after the date for compliance had passed (sometime in June) and obtained the information. There was no application to bar a complaint pursuant to section 295(4) with respect to Campus Tower.

In Boardwalk, Coté J.A. found that the assessor has a duty to be fair (at paragraph 163). The Appellant argued that the subject property should have been treated the same as Campus Tower and should have been offered a second chance to provide the information in June. The Appellant argued that the assessor's actions in the present case were similar to those in Boardwalk and referred to paragraph 179:

> The appellant taxpayer lost all because the assessor made two decisions here. First, not to tell the appellant the perceived flaws in its answers, and instead to wait until after assessment. Second, to move to quash all the appeals. Those two decisions let the assessor pick virtually any assessment figure he wished.

In Boardwalk, the assessor's actions were found to be unfair at paragraph 169:

> Therefore, the assessor violated natural justice, and had no right to move to quash all 90 appeals to the Assessment Review Board summarily, without any kind of notice of default to the appellant.

The Appellant contended that the assessor's duty of fairness was not met and referred to paragraph 178 of Boardwalk, where Coté J.A. makes the statement:

> Simple fairness entitles a citizen to speak to a government decision maker before that entity abrogates all of his or her rights.

The Appellant reiterated that all previous years' RFIs have been complied with and argued that the assessor ought to have called to find out why this year's information had not been provided. This was not a case of refusal to comply with the request, but a mere oversight due to the untimely departure of a key employee at a time of upheaval due to a change in management. As such, the imposition of what Coté J.A. called "*the largest possible penalty in a taxation statute*" is inappropriate and unfair.

Summary of Respondent's Position on Issue 4 – Fairness

The Respondent testified that it had no knowledge of an assessor having visited Campus Tower in June to obtain financial information not provided in response to an RFI and argued that the conduct of the assessor was not in issue in this appeal.

The Respondent argued that the circumstances in this appeal were not similar to those in Boardwalk. In Boardwalk, the appellant's accountant personally delivered the responses to the RFIs prior to the due date. The assessor and the appellant's accountant actually met and had coffee, and the appellant's accountant asked the assessor to contact him if he perceived any deficiencies in the information provided. Having done so, the appellant believed that the RFIs had been complied with. In this case, there was no response at all to the RFI.

The Respondent argued that, having sent RFIs to all the hotel properties and having sent reminder notices to all that had not complied by March 20, 2009, the assessor had fulfilled his duty of fairness. There is no obligation for the assessor to personally contact every property that doesn't comply prior to the deadline.

Finding on Issue 4 – Fairness

The Appellant's failure to reply was inadvertent, and the Respondent could have taken further steps to alert the Appellant to its failure without difficulty. Having regard for the circumstances, it would be unfair to deprive the Appellant of its right to complain against the assessment.

DECISION

The appeal is allowed and the right to complain against the assessment is restored on the following terms and conditions:

1. The matter is remitted to the ARB to hear and decide the quantum of the assessment on the subject property.

2. If the ARB fails to hear and decide this matter within 90 days of the date of this Decision, any party may apply to the MGB, pursuant to section 504 of the Act, to review its decision not to deal with the quantum of the assessment.

3. The MGB may then deem that no action by the ARB is a decision to deny the complaint, and proceed to deal with the quantum of the assessment.

Alternatively, considering the amount of time that has passed, the parties may wish to apply to the ARB for a direction that the MGB deal with the merits of this complaint at first instance, pursuant to section 11 of the *Assessment Complaints and Appeals Regulation AR 238/2000* (ACAR).

It is so ordered.

REASONS

Issue 1 – Necessity of Information

The MGB agrees with the Respondent that the information requested was necessary. The assessor uses the most recent three years of actual financial information to determine the market value of hotel properties. In the absence of that information, the assessor estimated the income and expenses of the subject based on the income and expenses of other hotels, which was likely to impact accuracy.

The MGB does not accept the Appellant's argument that, since an assessment was prepared for the subject, the requested information cannot have been essential. While it speaks of a taxpayer 'preventing' assessment by withholding vital information, Boardwalk does not accurately reflect the circumstances imposed by the legislation in this regard. Assessment cannot be prevented. A municipality must prepare an assessment for every property in accordance with section 285 of the Act, regardless of whether vital information is withheld. For that reason, the MGB agrees with the Respondent that the phrase "*necessary for the assessor to prepare an assessment*" in section 295(1) should be interpreted to mean "necessary for the assessor to prepare an *accurate* assessment".

Issue 2 – Proper Section of the Act

In paragraph 110 of Boardwalk, Coté J.A. remarks that section 295 should be used to request information "necessary for the assessor to prepare an assessment", which he interprets in paragraph 119 to mean 'information necessary for the assessor to prepare an assessment *for the subject property*'. For general information that is "merely useful or convenient", such as

statistical cross-checking or evaluation of general methods, Coté J.A. concludes that the proper section under which to request the information is section 294.

This is because the enforcement mechanism for requests made under section 295 is provided by section 295(4) and the enforcement mechanism for requests made under section 294 is found in section 296. In paragraph 112, Coté J.A. characterizes section 295(4) as "*the harsh penalty*", which he says is appropriate for "*vital particular individual failures*" and section 296 as "*the mild remedy*" which is appropriate for "*mass routine canvassing*".

The MGB agrees with the Respondent that as the information requested was "information necessary for the assessor to prepare an assessment for the subject property", not information that was "merely useful or convenient" nor information used solely for purposes other than preparing the subject property's assessment, such as statistical cross-checking or evaluation of general methods. Accordingly, requesting the information pursuant to section 295 was the proper procedure.

Issue 3 – Substantial Compliance

The MGB agrees with the Respondent that no response at all cannot be considered substantial compliance with an RFI. The RFI itself noted that the Respondent was already in possession of the 2005 and 2006 financial information. The RFI was clear that the financial information sought was 2007 financial information, none of which was provided.

Issue 4 – Fairness

In considering the parties arguments with respect to fairness, the MGB is guided by the decision of the Court of Appeal of Alberta in Boardwalk, where it was clearly established that the penalty provided by section 295(4) should not be used as a case management tool. The Court found that the penalty is not automatic, nor an end in itself (see paras. 148-153). Thus, in deciding whether or not application of the penalty is appropriate the MGB must consider its purpose, which is to provide a means to obtain the information necessary to prepare the assessment. If the purpose of obtaining the information can reasonably be fulfilled without having to invoke the penalty, then the penalty should not be invoked.

At paragraph 178 of Boardwalk the Court states that "*fairness entitles a citizen to speak to a government decision maker before that entity abrogates all of his or her rights*". Accordingly, the MGB is concerned that the Respondent, upon discovering that there had been no reply to the RFI, made no attempt to contact the Appellant to find out why. To do so would not have been onerous on the Respondent. In fact, considering the effort required to estimate the income and expenditures of the subject hotel as well as the resulting impact upon the accuracy of the assessment, a telephone call would seem to be an obvious first step in resolving the problem. In the MGB's view, it is highly likely that if the Respondent had made this small effort, the purpose

of obtaining the financial information essential to an accurate assessment would have been fulfilled.

Further, the MGB must consider the harshness of the penalty in proportion to the gravity of the Appellant's fault in failing to respond to the RFI. This Appellant has complied with RFIs in previous years and it is clear that the failure to reply to this year's RFI was inadvertent. No mischievous behaviour on the part of the Appellant was alleged or demonstrated. As such, the fault of the Appellant in inadvertently failing to respond to the RFI ought not to attract what the Court of Appeal has referred to as "*the largest possible penalty in a taxation statute*". Accordingly, the MGB finds that the penalty provided by section 295(4) is "*disproportionate to the gravity of the fault of the defaulter and to the degree of harm to the opposing party*" (Boardwalk, para 147). Under the circumstances it would be unfair to invoke this penalty and deprive the Appellant of its right to complaint against the assessment.

No costs to either party.

Dated at the City of Edmonton, in the Province of Alberta, this 11th day of December 2009.

MUNICIPAL GOVERNMENT BOARD

(SGD.) T. Robert, Member

BOARD ORDER: MGB 122/09

APPENDIX "A"

APPEARANCES

NAME	CAPACITY
Tom Janzen	Agent for the Appellant
Peter Smith	Agent for the Appellant
Allan Carr	Appellant observer
Rebecca Ratti	Counsel for the Respondent
Chris Hodgson	Witness for the Respondent
Pam Woodward	Respondent observer
Ingrid Johnson	Respondent observer
Veronika Ferenc-Berry	Respondent observer

APPENDIX "B"

DOCUMENTS RECEIVED AT THE HEARING AND CONSIDERED BY THE MGB:

NO.	ITEM
1A	Assessment Review Board record
2R	City of Edmonton Evidence Package
3R	Brief of the City of Edmonton
4R	City of Edmonton Law & Legislation Package

WEST YELLOWHEAD REGIONAL ASSESSMENT REVIEW BOARD

2nd Floor, 131 Civic Centre Road, Hinton, AB T7V 2E5
Phone: 780-740-8059 / Fax: 780-865-5706
Email: srendle@hinton.ca / Web: www.hinton.ca

WEST YELLOWHEAD REGIONAL ASSESSMENT REVIEW BOARD DECISION – 151 CARB 002 - 2021

IN THE MATTER OF COMPLAINT filed with the Assessment Review Board pursuant to Part 9 of the Municipal Government Act being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

BETWEEN: **Athabasca Valley Hotel Enterprises Inc.** (108 Athabasca Avenue)

-and-

Town of Hinton

BEFORE:

Member: D. Woolsey, Presiding Officer

ARB Clerk: S. Rendle

This is the decision of the Town of Hinton Composite Assessment Review Board (CARB) from a preliminary hearing held on *September 15, 2021* on the assessment complaint for the following property.

Roll No. 1000400 Property address: 108 Athabasca Avenue

PRELIMINARY, ADMINISTRATIVE, PROCEDURAL OR JUDISDICTIONAL MATTERS

[1] The first Preliminary Matter raised by the Applicant (municipal assessor) was that the complaint should be dismissed due to the Agent Authorization form not being signed by the property owner.

[2] The second Preliminary matter also raised by the Applicant was that the complaint is invalid due to the property owner not returning its completed Request for Information (RFI) on time.

[3] Both parties requested that the November 1, 2021 merit hearing date be postponed until November 8, 2021 and the disclosure dates be adjusted accordingly.

PROCEDURAL MATTER

[4] There were no objections to the one-member panel member hearing and deciding the matters.

POSTPONEMENT REQUEST DECISION

[5] The postponement is granted due to the Board's decision as stated below that 295(4) does not apply and the complaint is to proceed to a merit hearing. Since both parties agree that a postponement is required the Board grants the postponement.

[6] The hearing is postponed to Monday, November 8, 2021 at 12:00 p.m. The disclosure dates are also adjusted to meet the new hearing date. The Complainant's disclosure date is Monday, September 27, 2021 the Respondent's disclosure date is Monday, October 25, 2021 and the Complainant's rebuttal disclosure date is Monday, November 1, 2021.

PRELIMINARY MATTER – Agent Authorization Form

Applicant's Position:

[7] The Applicant made it known at the introduction of this matter that if the Board determined the agent authorization form was not properly signed by the property owner's agent the second matter would not be properly before the Board to decide.

[8] The complaint is invalid because the agent who filed the complaint was not properly authorized to file the complaint by the owner of the property. In filling out section 3 of the Complaint Form the Complainant checked off that it was not the assessed person or taxpayer for the subject property.

[9] The complaint form was signed by Altus Group Ltd (Altus) representative Kyle Fletcher. While Altus is "an" agent it is not "the" agent of the assessed person or owner of the subject property. The complaint is invalid because "the" agent who filed the complaint was not authorized to file the complaint by the owner. Altamart Investments (1993) Ltd. is a tenant (business owner) of the subject property and not the property owner. This is not a business complaint but a property complaint. The municipality does not have business assessments to allow businesses to file complaints. As a result, only the owner and not the tenant has a right to file a complaint and authority to sign an agent authorization form. Therefore, the agent authorization form was not signed by the agent of the owner as required by section 55 of the Matters Relating to Assessment Complaints Regulation, 2018 (MRAC).

Respondent's Position:

[10] The agent authorization form was properly signed as the agent for the Complainant. Section 460(1) and (3) of the Municipal Government Act (the Act) clearly states that a complaint may be made only by an assessed person or taxpayer. The Complainant is not disputed to be a taxpayer of the Town of Hinton, as an assessment notice for a property owned by the Complainant was presented as evidence. The argument of being "an" or "the" property owner is central to both preliminary issues. In both issues the Complainant is a property owner under the Act.

[11] The Respondent property owner's agent is allowed under section 460(3) to submit a complaint on the subject property as the Respondent is an assessed person and the agent is its representative on the complaint. There is no requirement in legislation that an agent can only represent the property owner. Section 55 of MRAC sets out the requirement that the assessed person or taxpayer has prepared and filed an assessment complaint agent's authorization form which it has done.

[12] The Respondent raised a number of previous CARB and court decisions in support of its position that to interpret the legislation in a way that would not allow a complaint to be submitted on a property other than by an owner and an agent representing a complainant that was not the owner, would be absurd and unfair. Specifically, Boardwalk Reit LLP v. Edmonton (City), 2008 ABCA 220 paragraph 78 where it states, "the courts must reject any alternative which is manifestly absurd, or extremely harsh, unjust, or capricious." Further, legislation allows for complaints to be submitted by assessed persons and for evidence to be disclosed by assessed persons and not solely by property owners or agents of owner's properties.

AGENT AUTHORIATION FORM DECISION:

[13] The Agent Authorization form is properly signed by the Complainant and meets the requirements of the legislation.

Findings and Reasons:

[14] Legislation does not state that only the owner of property can sign an Agent Authorization form. The Board finds that the legislation clearly intends for assessed person's to be able to retain an agent and it is only reasonable that in doing so it has a requirement to have its agent sign the required form. In this instance it had done so to enable the complaint to be filed by its agent.

[15] The Board also agrees with the ruling of the Boardwalk decision that to view the requirement that only an agent of the owner is allowed to file on its behalf and not for an assessed person would be absurd. In making its decision the Board looked at Legislation as a whole including Sections 299 and 300 and numerous sections of MRAT which clearly allow for assessed persons to submit complaints and disclosures, and to have representations to support them on their complaints.

[16] The Board viewed the claim of the Applicant that Section 3 of the Complaint form as giving authority to restrict the rights of an assessed person to have an agent file a complaint on its behalf was contrary to the concept of a right to be represented or to give it less rights than those afforded to a property owner. The Board views the purpose of this section is to stop an agent from filing and arguing a complaint that it is not authorized to file and argue. In this case the form was properly signed and filed by the assessed person as required by legislation.

PRELIMINARY MATTER – Section 295(4)

Applicant's Position:

[17] The Applicant stated that the owner of the property did not file its RFI by the required deadline of December 20, 2020 and therefore loses its right to submit a complaint according to Section 295(4) of the Act. RFI returns have not been filed by the owner from 2015 to 2020.

[18] The decisions presented by the Respondent such as 2008 ABCA 187 pre-date the current legislation or are much different fact scenarios than the subject property under complaint and are therefore irrelevant. In the LARB 92646B-2016 decision it is related to a business tax case which is completely different as the tax notice is sent to the business owner who is liable to pay the business tax. Conversely numerous previous decisions support the requirement to respond to RFI requests within the legislated time frame. CARB-0217-014/2013 supports that the RFI was mailed to the same address for three years, CARB 0269-2/2012 supports where assessment/tax notices are sent to same address as RFI, CARB 108980J-2017 where the RFI is necessary to determine market value.

[19] The Boardwalk decision was much different than this fact scenario, as in this case, unlike the Boardwalk case, the property owner provided no information as it did not return the RFI, so its information was entirely incomplete. To prepare income producing property assessments, income, expenses and vacancy information is essential and indispensable in preparing accurate assessments. Even if the subject property was owner occupied it would have expense information to assist with generating typical expense rates.

[20] In the covering letter it was clearly set out to the property owner the purpose of the forms, under what authority the information was being requested and the consequences if the information was not provided.

[21] Legislation clearly states the following requirements: Persons liable to pay property taxes, to pay business tax, and who is the assessed person. In this instance according to Section 295(1) a person must provide information requested by the assessor and according to 295(4) no person may make a complaint if a person has failed to provide the information.

Respondent's Position:

[22] The Respondent is **not** in non-compliance with the Section 295 request as claimed by the Applicant, as the RFI request was never made of the Respondent. The complaint was submitted by the Respondent who is an assessed person and who clearly has the right to do so under Section 460 of the MGA.

[23] Section 295(1) reads that a person must (provide information) on request by an assessor. In this case the Respondent who is not the owner was not requested to provide the information. It would be unreasonable and a contradiction of Section 460 and Section 295(1) to remove a right to complain as it would be unfair, against the rules of justice as well as a contradiction to the Act. Decisions made in 2008, ABCA 187 (the Bay case) and LARB 92646B (Rona case) support that it would be unfair to penalize the taxpayer to make an assessment complaint in such matters and to require the tenant to be responsible for responding to a RFI request.

[24] In further support of its position that the application of loss of the right to complain would be draconian the Respondent presented 18 court and CARB decisions. In its argument the Respondent stated the Applicant is using Section 295(4) to reduce the number of appeals instead of as a true tool for preparing the assessment. By trying to invoke section 295(4) it is barring the complaint and imposing a disproportionate penalty for actions that are not required of an assessed person that is not the property owner.

[25] Section 460(3) states a complaint may be made only by an assessed person or a taxpayer. The Respondent submitted a copy of an assessment notice that it received as a taxpayer. The complainant is the tenant of the property. Further, it stated that it had submitted tenant information to the assessor for the subject property. In response to its question on whether or not this information had been received it was told that the assessor may have received it but could not be expected to review such information in addition to the volume of RFI information it receives on thousands of assessed properties.

[26] The assessor did not make a RFI request of the Complainant for the subject property, therefore the Complainant did not fail to provide the information sought by the Applicant. Further, the assessor did not send out second or reminder notices that the RFI responses were required.

[27] In the Boardwalk decision (2008 ABC 220) the court's reasons in Par. 78 should apply. "There is a parallel axion of construction. Where an Act can be construed more than one way, courts must reject any alternative which is manifestly absurd, or extremely harsh, unjust or capricious. The harsher the result of one interpretation, the stronger the presumption against it." In this instance, where assessed persons who are not the property owner are allowed to submit assessment complaints on a property and where numerous clauses within the Act and MRAC regulation allow

for actions by assessed persons on assessment complaints, it would be absurd, harsh and unjust to take away the rights for complaint for not submitting an RFI response when an RFI was never requested of the assessed person submitting a complaint.

295(4) DECISION:

[28] The assessment complaint is to be heard. 295(4) is not to be applied.

Findings and Reasons:

[29] The Board finds that fairness and a broad interpretation of the legislation is to be applied in these matters. Legislation clearly allows for all property owners and assessed persons assessed in a municipality to submit a complaint on any properties. It would be a bizarre conclusion to not allow assessed persons to submit a complaint when Section 460(3) clearly provides for that right. It is also clear that the intent of legislation is to have all property owners return RFI information so that assessors can prepare fair and accurate assessments on all properties and not just on the properties under complaint. What is not clear from legislation is what assessed persons who are not the owners of property in which they wish to submit a complaint are required to do regarding requests for RFI information. The assessed person is not in control of this information and they are not informed of the deadline for submitting the information, even if they had access to it. Further, they are not aware of the owner's actions or lack of action in submitting RFI information. If the requirement to have access to this information on another owner's property were critical to preparing assessments legislation presumably would have addressed this situation; since it is clear legislation allows for assessed persons who are not owners of a property to submit complaints against that property. In the absence of such direction the Board agrees it would be an absurd, unjust and capricious result to remove an assessed person's right to make an assessment complaint.

[30] The Board relied on its interpretation of the legislation in making its decision on the importance of recognizing that the assessed person and the property owner are not necessarily the same and that they have different rights and responsibilities in the complaint process. It is the assessed person in legislation that is allowed to make a complaint and be included in all matters related to the complaint process. The property owner is only one of the person(s) that would meet the definition of assessed person. It is only in regards to the RFI process that the property owner is identified specifically. All the other instances the powers, authorities and responsibilities are stated under the assessed person description. The Board finds that to apply the property ownership definition to all instances where assessed person is set out in legislation, without direct legislative direction to do so, would be legislatively wrong and unjustified. The sections of legislation that the Board reviewed in this conclusion are as follows:

MGA: 460(1) "A person ...", 460(3) "A complaint may be made by only an assessed person or a taxpayer", 295(1) "A person must provide ...", 299(1) "An assessed person may ...", 300(1) "An assessed person ... of any property ..."

MRAT: Section 1(1)(b) "... acts for an assessed person or taxpayer ...", 8(d) "... assessed person and any assessed person affected ..."; 9(1) "... "complainant" includes an assessed person ..."

[31] In essence the Board finds that the Applicant's position that the assessed person has to meet the conditions of the property owner set out in 295(1) is contrary to what is stated in the rest of the Act and its regulations. The Board agrees with the Respondent's position that a complaint cannot be stopped by an assessed person, that is not the owner of a property, for not having completed an RFI on a property. When all other clauses within legislation set out the rights and responsibilities of the assessed person and that these responsibilities have been substantially met,

especially when it was not disputed that the Complainant had submitted RFI type of information even when it was not asked to do so, the rights to a hearing of its complaint must not be compromised.

[32] The Board found it unnecessary to decide the question of the Assessment authority not sending out reminder notices for RFI's. It noted that the Boardwalk decision identified this as a requirement but since the other issues drove the decision to not have 295(4) apply the Board did not find it necessary to address this matter.

[33] As a result of its decision that 295(4) does not apply the Board directs the CARB to schedule a merit hearing on the assessment matters under complaint.

Dated at Town of Hinton, in the Province of Alberta, this 23rd day of September 2021.

Sandra Priddle

for: D. Woolsey, Presiding Officer

APPENDIX A

DOCUMENTS RECEIVED AND CONSIDERED BY THE CARB

Exhibit Number	Description
A1	Applicant's Submission (57 pages)
R1	Respondent's Submission (218 pages)

APPENDIX B

REPRESENTATIONS

Person Appearing	Capacity
A. Izard	Altus Group Limited
B. Foden	Altus Group Limited
W. Powers	Assessor, Town of Hinton

MUNICIPAL GOVERNMENT ACT

Duty to provide information

295(1) A person must provide, on request by an assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.

(2) The Alberta Safety Codes Authority or an agency accredited under the *Safety Codes Act* must release, on request by an assessor, information or documents respecting a permit issued under the *Safety Codes Act*.

(3) An assessor may request information or documents under subsection (2) only in respect of a property within the municipality for which the assessor is preparing an assessment.

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

Access to municipal assessment record

299(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive information prescribed by the regulations that is in the municipal assessor's possession at the time of the request, showing how the municipal assessor prepared the assessment of that person's property.

(2) Subject to subsection (3) and the regulations, the municipality must comply with a request under subsection (1).

(3) Where a complaint is filed under section 461 by the person assessed in respect of property, a municipality is not obligated to respond to a request by that person for information under this section in respect of an assessment of that property until the complaint has been heard and decided by an assessment review board.

Access to summary of municipal assessment

300(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive a summary of the most recent assessment of any assessed property in the municipality of which the assessed person is not the owner.

Recording assessed persons

304(1) The name of the person described in column 2 must be recorded on the assessment roll as the assessed person in respect of the assessed property described in column 1.

	Column 1 Assessed property		Column 2 Assessed person
(a)	a parcel of land, unless otherwise dealt with in this subsection;	(a)	the owner of the parcel of land;

Complaints

460(1) A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.

(2) A complaint must be in the form prescribed in the regulations and must be accompanied with the fee set by the council under section 481(1), if any.

(3) A complaint may be made only by an assessed person or a taxpayer.

(4) A complaint may relate to any assessed property or business.

ALBERTA REGULATION 201/2017

Municipal Government Act

MATTERS RELATING TO ASSESSMENT COMPLAINTS REGULATION, 2018

Definitions

1(1) In this Regulation,

(a) "Act" means the *Municipal Government Act*;

(b) "agent" means 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 a panel of an assessment review board or the Municipal Government Board;

Division 2
Hearing before Composite Assessment Review Board Panel

Disclosure of evidence

9(1) In this section, "complainant" includes an assessed person who is affected by a complaint who wishes to be heard at the hearing.

Division 2
One-member Composite Assessment Review Board Panel

One-member composite assessment review board panel

40 A one-member composite assessment review board panel may hear and decide one or more of the following matters but no other matter:

(a) a complaint about a matter shown on an assessment notice, other than an assessment;

(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;

(c) an administrative matter, including, without limitation, an invalid complaint;

(d) any matter, other than an assessment, where all of the parties consent to a hearing before a one-member composite assessment review board panel.

Court of Queen's Bench of Alberta

Citation: Edmonton (City) v. Innvest Properties MacDonald Nominee Ltd., 2010 ABQB 459

Date: 20100707
Docket: 0903 03572
Registry: Edmonton

Between:

The City of Edmonton

Applicant

and

Innvest Properties MacDonald Nominee Ltd.

Respondent

Reasons for Judgment
of the
Honourable Madam Justice A.B. Moen

I. Introduction

[1] Each year, the Edmonton City Assessor must assess properties in the City of Edmonton to determine the market valuation of those properties and consequently determine the share of annual property taxes payable by each taxpayer. In the case before the Court, the property at issue is the Fairmont MacDonald Hotel ("the Hotel"). The Respondent is Innvest Properties, agent for the owner of the Hotel. In these reasons I shall refer to "the Hotel" rather than Innvest.

[2] In April 2008, on a request from the City of Edmonton Assessor ("City Assessor") for information, the Hotel revealed that an independent appraisal performed by a third party had been done on the property within the two years prior to the request. The City Assessor requested a copy of that appraisal and the Hotel refused to provide it.

[3] The City therefore applies under s. 296 of the *Municipal Government Act,* c. M-26 (the *MGA*) for an order requiring the Respondent to produce that independent appraisal.

[4] This case has implications for all properties in Alberta.

[5] This application raises the following issues:

a. What is the correct approach to interpreting s. 294?

b. Must the appraisal be produced as "anything to assist" pursuant to s. 294 of the *MGA*?

c. Should the Court exercise its discretion to order the Hotel to produce a copy of the appraisal to the City Assessor under s. 296 of the *MGA*?

d. Is the appraisal privileged and therefore not producible?

II. Discussion

[6] Section 285 of the *MGA* provides that municipalities must assess properties annually (with some exceptions not relevant here).[1] A municipal assessor determines market value and that determination is then used to calculate annual taxes.

[7] The Edmonton City Assessor relies on s. 294(1)(b) of the *MGA*, as authority for its request. Section 294 of the *MGA* provides that an assessor may enter and inspect property, request production of anything that assists the assessor in preparing the assessment, and make copies of anything necessary to the inspection (s. 294(1)(a), (b) and (c)). The Hotel refused to provide the appraisal. The City argues that any information that assists its assessor in preparing the assessment must be produced; the Respondent replies that the appraisal is not necessary nor of assistance in preparing the assessment. Further, it says that the appraisal was done for a different purpose, financing, and therefore did not value the fee simple of assessable interest in the property. The City replies that the information is necessary for mass appraisals which is one of the things its legislation requires it to do.

A. Background facts

[8] In April 2008, on a request from the City Assessor for information, the Hotel revealed that an independent appraisal performed by a third party had been done on the property within the previous two years. The City Assessor requested a copy of that appraisal and the Hotel refused to provide it. It is not necessary for me in these reasons to discuss in any detail what is in the appraisal and how it could be used by the City Assessor.

---

[1]Please note that Appendix 1 to these reasons sets out the whole of the relevant *MGA* sections; and the relevant sections of the Regulations, *Matters Relating to Assessment and Taxation Regulation*, A.R. 220/2004.

[9] In a letter dated August 26, 2008[2], the City Assessor refers to the Hotel's response to the Assessor's 2008 request for information. That letter says:

> Pursuant to Section 294 of the *Municipal Government Act*, R.S.A. 2000, c. M-26, we are formally demanding that you provide a copy of the appraisal. The appraisal will be of assistance in the preparation of the assessment of the 2009 taxation year. ...
>
> Please note that if you fail to respond to this request, the City may apply, under Section 296 of the *Municipal Government Act*, for an order requiring this information to be given to the City.

[10] In January, 2009, the Hotel advised the City Assessor that it would not provide the report, noting that the appraisal:

a. did not value the fee simple or assessable interest in the property;
b. was subject to a variety of assumptions that were either immaterial for, or inconsistent with valuation for assessment purposes;
c. was prepared in 2007, well before the July 1, 2008 reference date; and
d. was subject to restrictions established by the appraiser limiting the use of the opinion, and
e. was neither necessary nor relevant for the assessor to prepare an assessment of the Hotel.

[11] After the Hotel refused to provide the appraisal, the City Assessor then requested specific information from the appraisal, but the Hotel did not reply. Ultimately the City filed the Originating Notice of Motion in this matter on March 10, 2009, applying under s. 296 of the *Municipal Government Act,* for an order requiring the Respondent, Innvest Properties, to produce that independent appraisal. On April 6, 2009, the Hotel provided some information from the appraisal, but did not provide the appraisal itself.

B. What is the correct approach to interpreting s. 294?

[12] There are three sections of the *MGA* which impact on this question: ss. 294, 295 and 296. It is clear that the City Assessor made its demand for the appraisal under s. 294 of the *MGA* and when the Hotel refused to provide it, the City made this application under s. 296 for an order for the production of the appraisal.

[13] It appears that s. 294 and s. 295 provide different routes for the assessor to obtain information from a property owner. How, then, do we distinguish those two different routes?

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[2] I note that this letter is written a few months after the Court of Appeal decision in ***Boardwalk Reit LLP v. Edmonton (City)***, 2008 ABCA 220, 437 A.R. 347 which I discuss later in these reasons.

[14] The applicable principles of statutory interpretation have been set out in a number of cases. Recent Supreme Court jurisprudence provides that a statutory provision must be interpreted within the overall context of the statute to determine the legislature's intention: ***Quebec (Revenue) v. Caisse populaire Desjardins de Montmagny***, 2009 SCC 49 at para. 19. The Court has summarized this approach in many cases, including ***Ludco Enterprises Ltd. v. Canada***, 2001 SCC 62**,** [2001] 2 S.C.R. 1082**,** saying at para.36:

> Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.

[15] The Alberta Court of Appeal in ***A.D. v. Alberta (Child, Youth and Family Enhancement Act, Director)***, 2010 ABCA 83 (at para. 22) has noted the importance of a further principle of statutory interpretation – the presumption of coherence, relying on Ruth Sullivan, *Sullivan and Driedger on the Construction of Statutes*, 4th ed. (Markham: Butterworths, 2002).

> That text also sets forth the governing principle of the presumption of coherence, which presumes that the parts of a statute fit together. This principle is explained at 168:
>
> > It is presumed that the provisions of legislation are meant to work together, both logically and teleologically, as parts of a functioning whole. The parts are presumed to fit together logically to form a rational, internally consistent framework; and because the framework has a purpose the parts are also presumed to work together dynamically, each contributing something toward accomplishing the intended goal. This presumption is the basis for analyzing legislative schemes, which is often the most persuasive from [sic] of analysis. The presumption of coherence is also expressed as a presumption against internal conflict. It is presumed that the body of legislation enacted by a legislature does not contain contradictions or inconsistencies, that each provision is capable of operating without coming into conflict with any other.

[16] The Court of Appeal has thoroughly considered s. 295 of the *MGA* and has incidently commented on ss. 294 and 296: ***Boardwalk Reit LLP v. Edmonton (City)***, 2008 ABCA 220, 437 A.R. 347. The analysis in ***Boardwalk*** explains that the legislature has given assessors "two independent and different methods to get information, with different tests of relevance" (at para. 106). Those two methods are found in ss. 294 and 295. Under s. 295 an assessor may ask a property owner for information necessary to prepare "an assessment". The Court of Appeal in ***Boardwalk*** established that under s. 295 an assessor may only demand information that is necessary for the preparation of a particular assessment; in particular the information must be relevant to the assessment in question.

[17] The City Assessor here proceeded under s. 294 of the *MGA*, raising the question of what the difference is between ss. 294 and 295? Justice Cote in ***Boardwalk*** discussed in a general way some differences between the two. He clearly was of the opinion that the two routes were

different, but he did not do an in-depth analysis of s. 294. I have, however, the benefit of his analysis with respect to s. 295, and that analysis informs my analysis of s. 294.

[18] In my view, using both contextual analysis and the presumption of coherence, s. 294 is not just simply another means to obtain similar information to that obtained under s. 295. To assist in my understanding of the purpose of s. 294, and in particular s. 294(1)(b), I looked at the heading to that section, "Right to Enter on and Inspect Property", the context of the subsection within s. 294 as a whole, and the context of s. 294 within the legislative scheme, in particular ss. 294-296.

1. Headings

[19] The City of Edmonton suggests that given the language of the *Interpretation Act*, R.S.A. 2000, c. I-8 s. 12(2) which states that "section headers ... are not part of the enactment, but are inserted for convenience of reference only", the Court should not give much, if any, consideration to the words "right to enter on and inspect property". However, the Supreme Court of Canada in recent jurisprudence has suggested that headings are a useful tool in ascertaining legislative intention.

[20] The Supreme Court of Canada has indicated that headings in legislation may be referred to as an aid to interpretation. In interpreting a statute, one must examine the heading in the context of the section and the legislation as a whole. Where there is ambiguity in the construction of the section and the heading will assist in construing the section, one may reconcile the heading with the section. In any event, if the section is clear, the heading may not be used to change the clear meaning of the section: ***Law Society of Upper Canada v. Skapinker***, [1984] 1 S.C.R. 357 (at pp.376-77).

[21] In ***R. v. Davis***, [1999] 3 S.C.R. 759, the Supreme Court affirmed that this was the correct approach, noting at para. 53:

> In my view, Estey J.'s approach to the role of headings in statutory interpretation is the correct one. Headings "should be considered part of the legislation and should be read and relied on like any other contextual feature": *Driedger on the Construction of Statutes* (3rd ed. 1994), by R. Sullivan, at p. 269. The weight to be given to the heading will depend on the circumstances. Headings will never be determinative of legislative intention, but are merely one factor to be taken into account: see ***Lohnes***, supra, at p. 179.

[22] Thus, the heading in s. 294 suggests that the provisions in that section are related to property inspection and that s. 294(1)(b) does not provide the City Assessor with a broad and all encompassing access to information.

2. Context within s. 294

[23] Moreover, the language of s. 294 read as a whole gives an assessor the right to enter on and inspect property with concomitant and subsidiary authority to obtain information and to make copies of anything necessary to the inspection:

> 294(1) After giving reasonable notice to the owner or occupier of any property, an assessor may at any reasonable time, for the purpose of preparing an assessment of the property or determining if the property is to be assessed,
>
> (a) enter on and inspect the property,
>
> (b) request anything to be produced to assist the assessor in preparing the assessment or determining if the property is to be assessed, and
>
> (c) make copies of **anything necessary to the inspection**.
>
> [Emphasis added]

[24] Further support for this construction is found within the context of the section itself. The *ejusdem generis* rule of construction holds that in a list of items, a more general term should be read within the limited context of the other items in the list: ***R. v. Kapp***, 2008 SCC 41, [2008] 2 S.C.R. 483 (at para. 102); ***Ermineskin Indian Band and Nation v. Canada***, 2009 SCC 9, [2009] 1 S.C.R. 222 (at para. 106).

[25] In this case, s. 294(1)(a) and (c) deal with property inspection[3]. Under the *ejusdem generis* rule, the intervening provision " request **anything** to be produced to **assist the assessor**" takes on meaning from the other enumerated clauses of what an assessor may do, suggesting that "anything" means anything related to the property inspection that assists the assessor in conducting the property inspection.

[26] Further, the conjunction "and" is used to link subsections, (a), (b) and (c): "**and** the assessor may make copies of "anything necessary to the inspection". This conjunction usually signifies that the concepts in the paragraphs are to be read together and not disjunctively as they would if the word "or" was used. This is further support for the conclusion that the request for "anything" is made in the context of an inspection of property and for the purpose of the inspection. I find that the request for "anything" in s. 294(1)(b) must be made in the context of an inspection.

[27] Does s. 294(1)(b) permit the assessor to request "anything" outside the context of an inspection of the property? I say not. Given the statutory context of the assessor's request, it must be in the context of an inspection. If the assessor requires other information unrelated to an inspection, he or she can make a request in writing to the property owner under s. 295 as discussed by Justice Cote in ***Boardwalk***.

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[3] I note that there are two purposes for entering the property, the one is for the purpose of preparing an assessment and the other is to determine if the property is to be taxed. The former purpose is the issue in this case.

3. Context within the legislative scheme

[28] The assessor, then, has two routes to get information from a property owner. First, he may ask for an inspection and in the course of the inspection ask for "**anything**" to be produced by the property owner "for the purpose of preparing an assessment of **the** property" (s. 294) or, he may write to the property owner to ask for **information necessary** for the assessor to prepare an assessment (s. 295)(which according to ***Boardwalk*** must be the specific assessment).

[29] My interpretation rationalizes these two sections and makes sense of the process for determining a property's market value and gives the assessor the tools necessary to find out underlying information about a particular property that directly relates to and will assist him/her in coming to an opinion about the market value of that property.

[30] The City argues that if s. 295 provides only for **necessary** information, then s. 294 must provide for access to more general information that may not be necessary, but would be "of assistance" to the assessor, on the assumption that the Legislature intended that an assessor have access to a wide range of helpful information. However, that assumption is not a necessary assumption. The Legislature's intention, on proper interpretation of these sections, is to provide the assessor with all the information he or she needs to prepare the particular assessment at issue, not to provide all information that would or could assist the City Assessor to assess all property in more general terms.

[31] Here I note that s. 295 **requires** a taxpayer to provide "necessary information" to the assessor on reasonable notice, failing which the taxpayer is not entitled to appeal the property assessment under s. 295.

[32] The City suggests that the distinction between ss. 294 and 295 lies in the remedies. Under s. 294 a failure to produce the "anything" requested would lead to an application to Court under s. 296, while a failure to produce necessary information would lead to the inability to appeal an assessment, rendering the assessment conclusive even if wrong (***Boardwalk***), a far more draconian result. However, in my view, this distinction would lead to a lack of coherence in the scheme and internal conflict. If the City could choose to seek necessary information under either section (or both sections), the taxpayer would not know what remedy he or she was facing for failure to comply – either an application under s. 296 or a prohibition against appeal.

[33] Section 296 provides for a remedy in a case where a property owner fails to permit an inspection and fails to provide "anything to assist":

> 296(1) An assessor ... or a municipality may apply ... to the Court of Queen's Bench for an order ... if any person
>
> (a) refuses to allow or interferes with an entry or inspection by an assessor, or ...

(b) refuses to produce anything requested by an assessor to assist the assessor in preparing an assessment or determining if property is to be assessed.

[34] It is noticeable that the language in s. 296 tracks the language in s. 294 and includes the entry or inspection by an assessor. Therefore, it seems logical that s. 296 is a remedy for a failure by a property owner to comply with a request under s. 294. In this case the section uses the disjunctive "or", not surprising because a property owner may let the assessor inspect but may not give the assessor the "anything" requested by the assessor.

[35] Although Justice Cote discusses whether s. 296 could be used by the assessor or the municipality to obtain an order that the property owner provide the information requested pursuant to s. 295, he comes to no conclusion. I find that s. 296 does not pertain to s. 295. The remedy available under s. 295(4) provides a route by which the assessor and the property owner can have a matter heard by a tribunal (the Assessment Review Board) which has expertise in the technical areas of property assessment and taxation. This court does not have that technical expertise.

[36] Where an assessor is performing a routine inspection under s. 294 to obtain information about a particular property, it seems reasonable that the legislature would provide that a court could order the property owner to permit the inspection. Further, if the assessor in the context of an inspection required "anything" to assist in the inspection (with the purpose of preparing an assessment) and the property owner refused to provide it, then the remedy under s. 296 is quick and efficient.

[37] Under this interpretation, the issues coming to the court under s. 296 do not require a technical analysis. If a person refuses to let an assessor onto property to inspect for the purpose of a property assessment, the issue is straightforward and a court can make an order permitting access to the property with the consequence of civil contempt if the property owner does not comply with the court order. The result permits the assessor to get on with his job, and the property owner is protected by the court process if the assessor is acting outside his mandate. Therefore, if a property owner refuses to permit an inspection or to provide "anything" to an assessor relating to the inspection of a property, a quick application to the Court of Queen's Bench requiring compliance makes sense.

[38] If s. 296 were available for a refusal under either s. 294 or s. 295, then a property owner would not know what they were facing for a refusal to provide "information". S/he may face an application in court or loss of a right of appeal. If both s. 294 and s. 295 provide for access to the same information – that is if the assessor can choose to seek necessary information under either or both sections – then the assessor could simply ask for the information and, if the property owner does not produce the information requested, then later choose whether to go to the Court of Queen's Bench for an order directing the production of the information requested (ss. 294 and 296), or can choose to block the property owner's appeal to the Assessment Review Board by arguing that the owner failed to provide necessary information. This would be disproportionate.

Surely the legislature must have intended a difference between ss. 294 and 295 and the remedies imposed for each of those sections.

[39] If I am right in this interpretation, then the assessor cannot ask for information from the Hotel pursuant to s. 294 unless it is done in the context of an inspection, which was not the case here.

[40] I conclude that the City has asked for information that does not come within s. 294, as an appraisal is unrelated to an inspection of the property, and I deny the application under s. 296.

C. Must the appraisal be produced as "anything to assist" pursuant to s. 294 of the *MGA*?

[41] If I am wrong and s. 294(1)(b) applies to matters unrelated to an inspection, then this court must decide whether the request for an appraisal would fall under "anything to assist" in s. 296(1)(b).

[42] The application before me, the City suggests, is concerned with whether "anything" in ss. 294 and 296 should be interpreted broadly to include anything conceivable that might, in the opinion of an assessor, be of some assistance to a municipality in preparing assessments generally, that is, in this case, anything including opinions prepared by a third party for other purposes.

[43] The Hotel suggests that the language in s. 294 must be interpreted in a similar fashion to the interpretation of s. 295 in ***Boardwalk***, that is, that the request must be for necessary information. Further, the Hotel argues that since s. 296 is discretionary, the Court should not order production because the appraisal's probative value is very low, but the prejudicial effect could be high. If a third party appraiser used certain methods that overly inflated certain values, it could be tempting to the assessor to use those values to the taxpayer's detriment, while abdicating his or her own judgment to the appraiser.

1. Interpretation of broad language

[44] The City suggests that the information it seeks falls within general information requests under Method One (as set out in ***Boardwalk***) and that the Court of Appeal held that such requests fall within s. 294. In my view, that is not what Cote J.A. held. He did not, even in *obiter*, hold that s. 294 applied to general information requests; he held only that he found nothing in the Act to support the Municipal Government Board's (MGB's) conclusion that Method One (ss. 294/296) applied to requests for specific documentation for a particular assessed person, while Method Two applied to general information requests to a whole class of property owners. That is not the same thing as saying that Method One applies to general information requests to a whole class of tax payers.

[45] In ***Boardwalk*** a property owner applied for judicial review of a decision of the MGB. The issue before the MGB was the interpretation of s. 295 of the *MGA.* The facts were somewhat different in ***Boardwalk*** than they are in this case. There the assessor had asked Boardwalk to provide a wide range of information regarding assessment of its many properties. Boardwalk provided a response consisting of three three-inch binders of information, and its representative told the assessor that if there were any problems, to contact him. The assessor did not seek any further information. Boardwalk, upon receipt of the assessment, appealed it, and the assessor brought a preliminary motion before the Assessment Review Board, asking it to refuse to hear any appeals because there were four gaps in the information provided.

[46] The Court of Appeal indicated that "the most fundamental rule is to interpret an Act as a whole, looking at its scheme, trying to reconcile all its parts" (at para. 101), and it granted Boardwalk's appeal, holding that the Assessment Review Board and the MGB decisions were unreasonable, in part because there was no evidence that the "missing" evidence was necessary for the preparation of an assessment, nor, that the municipality had been specific in its request for information. The Court of Appeal implied that requests for information must be reasonable in the context of the legislation and the strict time lines that apply.

[47] Similarly, in my view, the words "anything to assist" must be interpreted within the context of s. 294 of the *MGA* and the legislation as a whole, particularly Part 9, Assessment of Property, and the legislature's intention. It is notable that the legislature used broader language in s. 294(1)(b) (and 296) than it did in s. 295. Section 295(1) of the *MGA* provides that where the assessor has requested information, the person must provide information necessary for the assessor to prepare an assessment. The duty of the Hotel, then, if the request were made under s. 295 would be to provide **information necessary** for an assessor to prepare an assessment of the Hotel: see ***Boardwalk***.

[48] The City Assessor expressly relied on s. 294, rather than s. 295, for its request, and did so just after the Court of Appeal's decision in ***Boardwalk*** which curtailed the ability of an assessor to make sweeping claims of taxpayers for information. From the arguments before me, I take it the City thinks that s. 294 provides a much broader ability to demand information from taxpayers than is now provided in s. 295. The City suggests that the two sections together (ss. 294 and 295) provide a means by which the assessor can obtain a very broad range of material from property owners to assist the assessor in determining the market value of the property in question and in assisting the City to obtain information to assist it in determining the value of other similar properties.

[49] The City argues that it need not prove that the appraisal which the City Assessor had requested for the Hotel is necessary for preparation of the assessment, only that it would be of assistance generally in the preparation of assessments, noting the distinctions in ss. 294 and 295. These sections, it argues, provide two independent and different methods for a municipality to obtain information, each with its own test of relevance. This is, of course, what Justice Cote said in ***Boardwalk*** (at para. 106), but he did not address what that test of relevance was for the

purposes of s. 294. There the Court of Appeal held that the word "necessary" in s. 295 must be given its ordinary meaning - "indispensable; not merely expedient, nor useful, nor convenient."

[50] The City suggests that following this direction, the word "assist" must also be given its ordinary meaning, relying on *Black's Law Dictionary*, 6th ed.:

> To help; aid, succor, lend countenance or encouragement to; **participate in as an auxiliary**. To contribute effort in the complete accomplishment of an ultimate purpose intended to be effected by those engaged.
>
> [Emphasis added]

[51] How then can the language in each of the sections be reconciled?

[52] Although there is no jurisprudence interpreting ss. 294 and 296 of the *MGA*, there is jurisprudence interpreting a similarly worded provision in the *Income Tax Act*, S.C. 1970-71-72, c. 63 (as amended) in ***James Richardson & Sons Ltd. v. Minister of National Revenue***, [1984] 1 S.C.R. 614. That section reads:

> 231. ...
> (3) The Minister may, for **any purposes** related to the administration or enforcement of this act, by registered letter or by a demand served personally, require from any person
> (a) **any information or additional information**, including a return of income or a supplementary return, or
> (b) production, or production on oath, of **any books, letters, accounts, invoices, statements (financial or otherwise) or other documents**.
> within such reasonable time as may be stipulated therein.
>
> (Emphasis added)

[53] The Supreme Court held that the subsection limited the Minister's authority to obtaining information "relevant to the tax liability of some specific person or persons if the tax liability of such person or persons is the subject of a genuine and serious inquiry", but not to obtaining a general survey of compliance by a class of taxpayers.

[54] The Court of Appeal in ***Boardwalk*** referred to the Supreme Court's reasoning in ***James Richardson & Sons Ltd***. in its examination of whether the assessor's demand for the information must meet some criteria or whether any and all demands by the assessor required response. While acknowledging that municipal tax assessment is much more a comparative exercise than is income assessment under the *Income Tax Act*, Cote J.A. concluded that the Supreme Court's comments on interpreting broadly worded provisions requiring production of information were a

valuable guide to statutory interpretation (at para. 54). In ***James Richardson & Sons Ltd.*** , the Supreme Court held:

> The language of s. 231(3) of the *Income Tax Act* is unquestionably very broad and on its face would cover any demand for information made to anyone having knowledge of someone else's affairs relevant to that other person's tax liability... Provided the information sought had a bearing (or perhaps even could conceivably have a bearing) on a property owner's tax liability it could be called for under the subsection.
>
> The ***Canadian Bank of Commerce*** case, however, makes it clear that the subsection is not to be construed that broadly. It establishes ... that:
>
> (a) the test of whether the Minister is acting for a purpose specified in the Act is an objective one and has to be decided on the proper interpretation of the sub-section and its application to the circumstances disclosed;
> (b) the obtaining of information relevant to the tax liability of some specific person or persons whose liability to tax is under investigation is a purpose related to the administration or enforcement of the Act;

[55] In my view, these principles are also applicable to the interpretation of s. 294. The language respecting a request by the assessor under s. 294(1)(b)[4] is very broad - "anything". Further, it is anything that "may assist" the assessor in preparing an assessment. Again, the language is very broad. In this case, the City says that the "anything" the assessor requested, the appraisal, would assist him in preparing the assessment of the Hotel and other assessments.

[56] However, the City Assessor is not seeking factual information related to a specific property owner regarding specific tax liability, but is seeking information that it could use in relation to other tax payers or could use for other assessments, information that relates to the methods a third party used to prepare its appraisal, and information it could use for educational purposes. In my view, this is inconsistent with the interpretive principles outlined in ***James Richardson*** and adopted by the Court of Appeal in ***Boardwalk.***

2. What does "anything" encompass?

a) "The assessment"

[4]And in s. 296

[57] In ***Boardwalk***, the MGB had concluded that the information sought was for statistical cross-checking and evaluation of general methods. Cote J.A. noted that "Laudable as they [these purposes] may be, they do not fit within the words "to prepare **an** assessment" (s.295(1); emphasis added)". He concluded that the section was referring to a particular assessment (at para. 119):

> The phrase "to prepare an assessment" shows that specific property is being assessed. General statistical or preliminary method studies do not do that.

[58] Similarly, here the City says the purpose of the appraisal is for cross-checking values and evaluating methodology. The City Assessor indicated that the appraisal would be helpful to it first, by showing how the appraiser calculated a variety of factors, secondly, as a benchmark, and thirdly by indicating which Edmonton properties the appraiser considered to be comparable. The Hotel further notes that the City Assessor's January 20, 2009 letter implies that the appraiser's opinion regarding these comparable properties may be of use in assessing these comparable properties, not just the Hotel.

[59] As in ***Boardwalk***, in my view these purposes do not fit within the words of s. 294(1)(b) either – "to assist the assessor in preparing **the** assessment". The Legislature's use of the word "the" is an even clearer indication that the reference is to a particular assessment, since grammatically "the" is the definite particle, in contrast to "an", the indefinite article. None of the purposes set out by the City Assessor are of assistance in preparing the assessment of the Hotel; rather they are helpful in cross-checking how the assessor's assessment accords with the appraisers, providing information about the methodology used by appraisers, and in providing information about other properties for future assessments.

[60] I find that s. 294 and the use of the word "anything" does not permit a request by an assessor for general information. The information requested must be site specific and related to the assessment of the property.

b) Opinion

[61] The Hotel further argues that the request for a copy of the appraisal is outside the scope of ss. 294, asserting that the sections provide for compelling production of factual information, not opinion, arguing that the appraisal is an appraiser's opinion. In particular, the Hotel notes that the City Assessor specifically sought the appraisal for its opinion on such topics as Furniture, Fixtures and Equipment (FFE), capitalization rates, expense ratios and comparable properties, as set out in the City Assessor's January 20, 2009 letter to the Hotel.

[62] Chris Hodgson, an assessor with the City, swore an affidavit in support of the application, attaching the relevant correspondence between the City Assessor and the Hotel. In the City Assessor's January 20, 2009 letter to the Hotel, its solicitor noted the following:

a. the appraisal could assist the City by providing information on **how** Furniture, Fixtures and Equipment **(FFE) was calculated by the appraiser**, as well as information on **how the appraiser calculated** capitalization rates, expense ratios and revenue amounts.
b. the appraisal **could provide a benchmark** for the Hotel's value as of the date of the appraisal, adjustable for assumptions and conditions used in the appraisal; and
c. the appraisal could provide "**a significant amount of information in relation to what properties within the Edmonton market the appraiser considers comparable properties**" to the Hotel, which would be helpful in preparation of future assessments.

[63] Hodgson was cross-examined on his affidavit, and he indicated that:

a. the appraisal would be **helpful** in assessing future property taxes of both the Hotel **and other unknown properties** that might be referred to in the appraisal as comparable properties;

b. **without first seeing the appraisal, he could not determine whether it would be of assistance to his assessment of the Hotel**;

c. the appraisal may be helpful in determining what methodologies were used by the appraiser and **could serve an educational purpose** for the City's assessment department;

d. the Hotel has generally been cooperative and has provided the City with all of the information it has requested with the exception of the appraisal.

[64] The Hotel further submits that s. 294(1)(b) limits production to factual information which assists the assessor in preparing the assessment of the particular property, and asks me to conclude that "anything to assist" must be information, as distinct from opinion.

[65] The City's argument, that the appraisal document would, among other things, lend site specific supportive approval to the City Assessor's assessment, reveals that the purpose of this information is not to assist in preparing the assessment, but to "support" its own opinion with someone else's. In my view, that cannot have been the Legislature's purpose in enacting s. 294. The Hotel has, in my opinion, correctly identified the scope of ss. 294; it is limited to the production of factual information.

[66] An appraisal report is the opinion of the appraiser as to the value of a particular property and its improvements for the given purpose of the appraisal report. There is also no doubt that an

appraiser is a trained expert. The appraiser also expresses many other opinions as to the underlying assumptions for the opinion given. Here, the Hotel says that the appraisal was prepared for the purpose of financing.

[67] My view on this is supported by a decision of the Manitoba Municipal Board cited by the Hotel which found that appraisals are opinions, and are therefore not producible, and that if further factual information is required, the assessor should seek that information through proper channels: ***Assessor for The City of Winnipeg v. Great-West Life Assurance Co.,*** [2002] M.M.B.O. No. 70 at paras. 33-35 and 37.

[68] The Hotel argues further that to interpret "anything" as including opinion would fly the face of administrative jurisprudence regarding sub-delegation. Since the legislature has empowered the assessor to make the assessments, the assessor cannot sub-delegate his or her decision to a third party (***Moreau-Bérubé v. New Brunswick (Judicial Council)*****,** 2002 SCC 11, [2002] 1 S.C.R. 249 at para. 65).

[69] The City acknowledges that the appraisal may make assumptions or have limiting conditions that could affect the applicability of the methodology used in the appraisal, but even so, the appraisal would **assist** the City Assessor "by supporting and approving the specific values applied in calculating the assessment and in supporting the ultimate assessed value." Further the City submits that the Court should order production of the report because it is clear that the report would **assist** the City Assessor to assess fairly and equitably the Hotel property and would lend supportive approval to the specific values and methods it uses to calculate the assessment and therefore it would be reasonable. Again, this reason implies that the City Assessor is looking for opinion that will support its assessment. This does not "assist", but rather supplements one opinion with another, or potentially substitutes one opinion with another.

[70] The Hotel argues that even if the purpose of the appraisal is to assist the City Assessor (rather than be necessary) there is nothing in the evidence which establishes that the information will assist in preparing the assessment, only speculation that the appraisal *may* include information that could possibly be of assistance.

[71] An assessment of property is an assessor's opinion of the market value of that property. Similarly, an appraisal is an expert appraiser's opinion of the value of a particular property for a particular purpose. If the City is correct, then the easiest thing for municipal assessors to do would be to demand that all property owners in Alberta produce appraisals, thereby saving the assessors a lot of work in analysing property values. This cannot have been the Legislature's intention; if it were, it would have said so much more clearly. The very fundamental role of an assessor is to provide his/her opinion about the value of properties in a particular municipality. Using appraisal reports could usurp that role.

[72] I find that "anything" does not include an opinion of an expert appraiser. Certainly, there is much information that underlies an opinion and the opinion must be founded on reliable information. In fact, the very nature of preparing an assessment implies that the assessor must

review relevant information for the determination of his opinion about the market value of the property in question. The assessor has a duty to come to an opinion him/herself and not to rely on some third party's opinion.

[73] Although the appraisal may contain a great deal of information on which the appraiser relied to come to his opinion about the value of the Hotel for the purpose of obtaining financing, the opinion of the market value may be quite different for the purpose of taxation. The danger in providing someone else's opinion is that an assessor may rely on that opinion rather than coming to his own.

[74] I find that the appraisal is an opinion and does not fall under the kind of information contemplated in s. 294.

E. Does the legislation in question here, provide for the gathering of information for mass appraisals?

[75] The City of Edmonton argues that it, like all municipalities, is required to assess each property within the municipality by applying the standards and procedures set out in the regulations (*MGA* s. 293). Further, the quality standards are found in the regulation, *Matters Relating to Assessment and Taxation Regulation* A.R. 220/2004, which provides that "an assessment of property based on market value must be prepared using mass appraisal, ..." (s. 2). Mass appraisals are "the process of preparing assessments for a group of properties using standard methods and common data and allowing for statistical testing." (s. 1(k)).

[76] The City argues that the legislature must surely have provided a tool kit for municipalities to accomplish the task of obtaining enough information to comply with the requirements of mass appraisal.

[77] The City further suggests that an interpretation that would restrict the information obtainable under s. 294, as suggested above, would lead to an absurdity because the purpose of the legislation would be defeated.

[78] Unfortunately, the City provided no evidence to suggest that it would be impossible to perform mass appraisals if it did not obtain appraisals prepared by the private sector for purposes other than tax assessment. In effect, the City suggests that it would be inconvenient to obtain independent information about properties in order to perform the mass appraisal function required under the legislation. In the absence of such expert evidence, I fail to see how the production of an appraisal could lead to a complete frustration of the City's statutory duty to perform mass appraisals.

[79] Indeed, the City's extensive materials, which set out the regulations and describe how the mass appraisal process works, show that this process unfolds without obtaining specific appraisals on specific properties obtained by a taxpayer for private purposes. It is clear that the mass appraisal process starts from the particular property and generalizes from there. Clearly, ss.

294 and 295 permit the City Assessor to obtain information which is particular to the assessment of a specific property. From there, the City Assessor uses the mechanisms set out in detail in its materials to prepare a mass appraisal pertaining to certain classes of property; this does not depend upon receiving privately obtained appraisals.

[80] In my view, this interpretation of s. 294 does not obstruct the City from performing mass appraisals, although it may be more difficult or cumbersome to perform them without obtaining private appraisals.

[81] Finally, if the Legislature had intended that a municipality could require the production of an opinion by an appraiser, then it would have been easy for the Legislature to have provided a section in the statute permitting a municipality to ask for information that goes beyond the information required for a particular assessment for a specific property.

[82] I find that ss. 294 and 295 permit the City Assessor to obtain information to assess particular properties and subsequently use that specific information to prepare mass appraisals. However, I may have, in the absence of expert evidence, misunderstood from the volume of material put before me just how mass appraisals are performed.

[83] In any event, the language of ss. 294 and 295 do not permit the gathering of information by a municipal assessor which goes beyond information required for a particular assessment.

E. Should the Court exercise its discretion and require production of the appraisal?

[84] If I am wrong and s. 294 is broad enough to encompass the City Assessor's request for the appraisal, I would not exercise my discretion and order its production. While the information would be helpful, its probative value is small. The City Assessor cannot even say for sure whether it would be helpful, and its relevance is tangential.

[85] Further, from a policy perspective, it could lead to a precedent in which the City Assessor demanded automatic production of all appraisals, no matter the purpose for which they were prepared. In my view, this would distort the appraisal process.

F. Is the appraisal report privileged and therefore not producible?

[86] The Hotel also asserts that the report is privileged and therefore not producible under the Wigmore test as applied in ***Slavutych v. Baker***, [1976] 1 S.C.R. 254.

[87] The City argues, correctly in my view, that the Hotel has not provided any evidence regarding the confidentiality of the report. The Hotel asserts, without benefit of any sworn evidence, that the appraisal was performed in confidence. In the absence of such evidence, the Wigmore test cannot be met.

III Conclusion

[88] The interpretation of "anything... to assist the assessor" is circumscribed by three things. The first is that it must be incidental to an inspection. If I am wrong on that point, the second limitation on "anything" is that the thing requested must relate only to the assessment of **the** property being assessed. Thirdly, it must assist the assessor in coming to his or her own opinion, but not itself be an opinion that could substitute or support the assessor's opinion.

[89] The City is not entitled to the appraisal and the application is dismissed. The parties may speak to costs within 30 days of the decision.

Heard on the 14th day of October, 2009.
Dated at the City of Edmonton, Alberta this 6th day of July, 2010.

A.B. Moen
J.C.Q.B.A.

Appearances:

Cameron J. Ashmore
City of Edmonton, Law Branch
for the Applicant

Robert M. Curtis & Terrence N. Lysak
McCuaig Desrochers LLP
for the Respondent

APPENDIX A

Relevant Legislative Provisions:

***Municipal Government Act*, c. M-26**

Definitions

1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

284 (1) (r) "property" means

(i) a parcel of land,
(ii) an improvement, or
(iii) a parcel of land and the improvements to it;

Preparing Annual Assessments

285 Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298.

RSA 2000 cM-26 s285;2002 c19 s2

Assessments for property other than linear property

289 (1) Assessments for all property in a municipality, other than linear property, must be prepared by the assessor appointed by the municipality.

(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) the valuation and other standards set out in the regulations for that property.

Duties of assessors

293 (1) In preparing an assessment, the assessor must, in a fair and equitable manner,

(a) apply the valuation and other standards set out in the regulations, and

(b) follow the procedures set out in the regulations.

(2) If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.

(3) An assessor appointed by a municipality must, in accordance with the regulations, provide the Minister with information that the Minister requires about property in that municipality.

Right to enter on and inspect property

294(1) After giving reasonable notice to the owner or occupier of any property, an assessor may at any reasonable time, for the purpose of preparing an assessment of the property or determining if the property is to be assessed,

(a) enter on and inspect the property,

(b) request anything to be produced to assist the assessor in preparing the assessment or determining if the property is to be assessed, and

(c) make copies of anything necessary to the inspection.

(2) When carrying out duties under subsection (1), an assessor must produce identification on request.

(3) An assessor must, in accordance with the regulations, inform the owner or occupier of any property of the purpose for which information is being collected under this section and section 295.

Duty to provide information

295(1) 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.

(2) An agency accredited under the Safety Codes Act must release, on request by the assessor, information or documents respecting a permit issued under the Safety Codes Act .

(3) An assessor may request information or documents under subsection (2) only in respect of a property within the municipality for which the assessor is preparing an assessment. ...

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of 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.

Court authorized inspection and enforcement

296(1) An assessor described in section 284(d)(i) or a municipality may apply by originating notice to the Court of Queen's Bench for an order under subsection (2) if any person

(a) refuses to allow or interferes with an entry or inspection by an assessor, or ...

(b) refuses to produce anything requested by an assessor to assist the assessor in preparing an assessment or determining if property is to be assessed.

(2) The Court may make an order

(a) restraining a person from preventing or interfering with an assessor's entry or inspection, or...

(b) requiring a person to produce anything requested by an assessor to assist the assessor in preparing an assessment or determining if property is to be assessed.

(3) A copy of the originating notice and each affidavit in support must be served at least 3 days before the day named in the notice for hearing the application.

Matters Relating to Assessment And Taxation Regulation **A.R. 220/2004**

Mass appraisal

2 An assessment of property based on market value

(a) must be prepared using mass appraisal,

(b) must be an estimate of the value of the fee simple estate in the property, and

(c) must reflect typical market conditions for properties similar to that property.

Valuation standard for a parcel of land

4(1) The valuation standard for a parcel of land is

(a) market value, or ...

Valuation standard for improvements

5(1) The valuation standard for improvements is

(b) for other improvements, market value.

Valuation standard for a parcel and improvements

6(1) When an assessor is preparing an assessment for a parcel of land and the improvements to it, the valuation standard for the land and improvements is market value unless subsection (2) or (3) applies.

Argument & Jurisprudence:

Costs / failed s. 295 applications

Bearspaw Petroleum Ltd

v.

Alberta (Municipal Affairs, Linear Assessor)

[2020] AMGBO (Calgary) 016-20

AND IN THE MATTER OF COMPLAINTS filed with the Municipal Government Board respecting Designated Linear Property Assessments for the 2019 tax year filed on behalf of Bearspaw Petroleum Ltd. under Part 17 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (*Act*).

CITATION: Bearspaw Petroleum Ltd. v. Designated Linear Assessor for the Province of Alberta, 2020 ABMGB 16

Date: May 25, 2020
File Number: L19/Bearspaw
Board Order Number: MGB 016/20

BETWEEN:

Bearspaw Petroleum Ltd.
Complainant

-and-

Designated Linear Assessor for the Province of Alberta
Respondent

BEFORE:

Members:
S. Boyer, Presiding Officer

Case Manager
P. Gill

INTRODUCTION

[1] The Complainant filed an application seeking costs against the Respondent pursuant to section 501 of the *Municipal Government Act* for filing and then withdrawing an application to dismiss the Complainant's assessment appeals under section 295 of the *Act*.

BACKGROUND

[2] In 2019, the Complainant filed 26 separate Complaints in relation to its 2019 Designated Industrial Property Assessment. The parties participated in case management meetings.

[3] A Request For Information (RFI) was sent to the Complainant in August, 2018 with a deadline of October 31, 2018. On September 11, 2019, the Respondent asked the Board for a

preliminary hearing to dismiss the 26 Complaints for failing to comply with section 295 of the *Act*, which bars complaints by assessed persons who have failed to respond to an RFI by providing information necessary to carry out the assessor's duties.

[4] The section 295 matter was originally set for a hearing on October 4, 2019, and then rescheduled to December 11, 2019 in Calgary. The Respondent filed its pre-hearing disclosure on October 4, 2019. The Complainant filed a reply to the application to dismiss on November 13, 2019.

[5] In an email dated November 21, 2019 addressed to Board Administration and copied to the Complainant, the Respondent informed the Board that it wished to withdraw its application and requested the Board to cancel the December 11, 2019 hearing. The Board permitted the Respondent to withdraw the application and cancelled the hearing.

[6] As a result of the withdrawal of the application, the Complainant filed an application on November 29, 2019 requesting costs against the Respondent in the amount of $1,500.00 for causing unreasonable delay and expense and acting unreasonably or engaging in conduct worthy of an order to reimburse the Complainant for costs and expenses in relation to the application to dismiss the 26 Complainants.

Issues

[7] The issues before the Board are:

1. Should the Complainant's application proceed now or at the end of the merit hearing?
2. If the costs application proceeds, should the parties appear before the Board to make submissions?
3. Should the Respondent be liable to pay costs to the Complainant, and in what amount?

Decision

1. The Complainant's application should proceed.
2. It is not necessary for the parties to appear before the Board to make submissions.
3. The Respondent shall pay costs to the Complainant in the amount of $1,500.00.

BOARD ORDER: **MGB 016/20**

FILE: **L19/Bearspaw**

Submissions reviewed

C1	Complainant's 501 Application and brief
R2	Respondent's 501 Reply
C3	Complainant's 501 Rebuttal
R4	Respondent's 295 Application
C5	Complainant's 295 Reply
R6	Respondent's request to withdraw its 295 application
MGB7	Email exchange dated November 21, 2019, Respondent asking to withdraw application and case manager confirming cancellation.

Legislation

Municipal Government Act (the "*Act*") sections 295 and 501
Matters Relating to Assessment Complainants Regulation ("*MRAC*") sections 26, 27 and 56 and Schedule 3 Parts 1 and 2
MGB Designated Industrial Property and Equalized Assessment Complaint Procedures Rules (DIP Rules) sections 12 and 27
MGB Residual Procedural Rules (MGB Rules) section 8, 12, 13 and 24

Issue 1: Should the Complainant's application proceed or be made at the end of the merit hearing?

Complainant's Position:

[8] Section 501 of the *Act* grants authority to the Board to award costs.

[9] Section 56 of *MRAC* regulates the Board's authority to award costs and *MRAC* Schedule 3 Table of Costs ("Schedule 3") headnote states:

> *Where the conduct of the offending party warrants it, a composite assessment review board panel or the Municipal Government Board may award costs up to the amounts specified in the appropriate column in Part 1.*
>
> *Where a composite assessment review board panel or the Municipal Government Board determines that a hearing was required to determine a matter that did not have a reasonable chance of success, it may award costs, up to the amounts specified in the appropriate column in Part 2 or 3, against the party that unreasonably caused the hearing to proceed.*

[10] Section 24 of the MGB Rules outlines how a request for costs shall be made under section 501.

[11] The DIP Rules outline how a request for costs shall be made under section 27, essentially parroting section 24 of the MGB Rules:

> *Section 27.1 A request for costs under MRAC must*
> *a) Specify the total sum…*
> *b) Specify the reasons…*
>
> *Section 27.2 When determining whether a person has abused the complaint process so as to justify an award of costs under MRAC, the Board may consider whether that person has…*
> *b) Caused unreasonable delays, postponements or expense.*
> *c) Acted unreasonably or engaged in conduct worthy of an order to reimburse another person for costs and expenses incurred as a result of that conduct.*

[12] The Complainant submits that nothing in the legislation prohibits the Municipal Government Board (Board) from awarding costs where there is no merit hearing. A costs application is separate from the merit hearing, and requires the Board's full attention. As such, it should not be tacked on to the end of the merit hearing. The costs application may be of interest to other taxpayers and the inappropriate use of regulatory power is a significant concern that should be important enough for the Board to grant a separate and timely hearing.

[13] The Complainant raised concerns with the section 295 dismissal application process, including having the Respondent attempt to dismiss its 26 Complaints with one application, seemingly joining the 26 Complaints without its consent.

[14] The Complainant is also concerned it was not consulted before the Board allowed the Respondent to withdraw its application.

Respondent's Position

[15] The Respondent argued the Complainant's application is premature. Although the Board may award costs at any time, typically costs orders are made in the cause after the merit hearing. This procedure has an exception when a party unduly wastes the other party's time and effort; however, these circumstances are not applicable here.

[16] The Respondent also argued *MRAC* does not contemplate costs for a preliminary hearing that was scheduled but not held, and only allows costs for preliminary applications that actually proceed. Unlike Schedule 3 Part 2, which covers merit hearings, Part 3 has no specific row about costs for preparation for a hearing. Also, the headnote refers to circumstances where a hearing is required. Since the Respondent withdrew its application to dismiss, no hearing was required.

Complainant's Rebuttal

[17] In Rebuttal, the Complainant argued combining the cost and merit hearings would unduly minimize the impact of the Provincial Assessor's inappropriate conduct – that is, it would allow the Provincial Assessor and MGB

> to lessen the potential negative impact of any finding of inappropriate conduct by burying the issues Bearspaw has raised in amongst the tax appeal ruling. Basically, it's another really good way of sweeping an uncomfortable matter under the table; or railroading it to a place and time when the situation can be best mitigated to the benefit of the Provincial Assessor to the detriment of Bearspaw.

Decision

[18] It is appropriate to consider the Complainant's application for costs at this time.

Reasons

[19] Section 501 of the *Act* gives the Board discretion to issue "costs of and incidental to any hearing". Nothing in this wording suggests the Board must defer consideration of costs related to an application to dismiss until after the merit hearing.

[20] Section 56(1) of the *MRAC Regulation* states the Board may assess costs "at any time" for awards set out in Schedule 3, and the DIP and MGB Rules governing procedures for costs are silent about the timing of an application. Accordingly, there is nothing in the legislated provisions to prevent the Board from proceeding with the cost application now.

[21] Under present circumstances, the Board finds it appropriate to proceed with the application now. The Respondent's application, had it been successful, would have terminated the Complainant's challenge to the 2019 Assessment of 26 of its properties, which is a significant impact on its rights. The application to dismiss the complaints also caused significant delay in the proceedings, since the parties could have prepared for and attended the merit hearing instead of focusing on the section 295 application. Finally, dealing with the costs application now will speed the overall process, since the Board will not need to revisit the matter again following the merit

hearing. The Board observes the issues to be dealt with at the merit hearing are conceptually distinct, and its outcome would not affect potential costs from the current application.

[22] In summary, no compelling reason was raised to wait until the end of the merit hearing, and the Panel will proceed to hear the costs application.

Issue 2: If the costs application proceeds, should the parties appear before the Board to make oral submissions?

Complainant's Position

[23] The Complainant requested an oral hearing, as well as written submissions, to ensure the Board has a proper understanding of the facts and proposes at minimum, a one day hearing. It argued its right to an oral hearing was removed with the Respondent's withdrawal of the section 295 application and the Board's decision to cancel the hearing. The Complainant did not wish to cancel the hearing, because it wanted to argue for costs in person. Oral presentation would allow the Complainant to enhance its argument, emphasize key arguments, allow parties to question each other, and give the parties an appropriate opportunity to sort out the pieces of this complicated case.

[24] The Complainant argued in its Rebuttal that transparency through oral argument is important, because the Board is being asked to review and judge its own conduct and policies. An in person hearing would allow the Board to "demonstrate to the Government of Alberta and citizens of Alberta the organizations empowered under the *Public Agencies Act* (refer to sections 10 and 11) do indeed act fairly and transparently to review and govern themselves".

[25] If the Board denies the Complainant the right to present its application orally, "it would be contrary to the "Law of Natural Justice". Also "denying the section 501 hearing request could also damage the Board's credibility with regards to transparency. The Board would leave the impression of bias that the matter was being "swept under the table," which could "harm public confidence in the legal system".

Respondent's Position

[26] The Respondent did not specifically address the Complainant's request for oral argument.

Decision

[27] An oral hearing is not necessary to determine this application.

Reasons

[28] The main purpose of a hearing is to give parties a fair opportunity to make their case to the decision maker, and to respond to evidence arguments made by other parties. In some cases, an oral hearing may be required to serve natural justice and improve the quality of information before the Board – for example, where the evidence or credibility of a witness needs clarification through questioning.

[29] These circumstances do not apply here. The parties have filed comprehensive briefs on the costs application. The issues and arguments are clear, and little would be added by oral submissions; rather, an oral hearing would serve mainly to add expense for the parties and use limited Board resources.

[30] The Complainant suggested an oral hearing would add transparency and legitimacy to the Board's process. However, filed briefs are part of the public record as is this decision. The Board is satisfied there is no deficiency in the transparency of its process.

[31] In conclusion, the Panel is prepared to make a determination at this time based on written submissions, and in person appearances by the parties are not necessary.

Issue 3: Should the Respondent be liable to pay costs to the Complainant, and in what amount?

Complainant's Position

[32] The Respondent's application to dismiss and subsequent withdrawal prolonged the scheduling of the merit hearing and caused the Complainant to incur significant time and expense to defend itself against the application.

[33] The Respondent's application to dismiss was also frivolous and incomplete. To summarize, the Respondent alleges that the Complainant did not answer the RFI, but it is the Respondent's RFI process that obstructed the collection and communication of RFI information. Specifically, the Respondent did not provide the Complainant with a proper form of RFI nor proper notice to file the RFI. The Respondent's local delegate instructed the Complainant to submit information in a form different from the proper filing procedure dictated by the assessor's policies. The Respondent's local delegate recently inspected the properties under appeal, and the Complainant was in contact with the Respondent's delegate about the properties under complaint. The Complainant provided information sought by the RFI in relation to 19 of 26 properties under appeal on the following dates: June 29, 2018 and August 13, 2018 relating to 2018 assessments. With only one exception, the data for the 26 properties under complaint had no significant changes

in the tax year under appeal. So while the information may not have been in the form currently demanded by the Respondent, the Complainant did provide answers to the RFI.

[34] Further, unbeknownst to the Complainant, there was an apparent breakdown of communication between the Respondent and its local delegate, wherein the Complainant's response to the RFIs was not passed to the Respondent. This is not the Complainant's responsibility.

[35] The Complainant also argued that in bringing the application, in the circumstances, the Respondent engaged in "grinding" the Complainant, which is not in keeping with the principles of natural justice.

[36] The Complainant seeks relief under Schedule 3, Parts 1 and 2, column 1 (assessment value up to $5,000,000.00) of the DIP Rules:

a) Part 1 "A party causes unreasonable delays" $500.00
b) Part 2 "Preparation for hearing" $1,000.00
c) Alternatively, Part 3 "Contested hearings (for first ½ day") $1,000.00

Respondent's Position

[37] The Respondent explained it took over responsibility for issuing assessments of designated industrial property in the 2018 calendar year. In keeping with section 284 of the *Act*, much of the preparation of designated industrial assessments was carried out under the Respondent's supervision. The Respondent contracted with the assessor for Stettler County to be its delegate (the "Delegate") and to prepare assessments for property in the County, where the Complainant's 26 properties under complaint are located. The agreement provided that the Delegate would request information about assessable properties and maintain business records for its work, to be produced at the Respondent's request. The Provincial Assessor was responsible for maintaining the assessment roll and sending out property assessment notices.

[38] The Delegate advised the Respondent that the Complainant provided no response to the RFI and the Respondent filed an application to strike the complaints. However, a comment in the Complainant's reply to the application to dismiss prompted the Respondent to make further enquiries of the Delegate, who then advised there was a December 20, 2018 email from the Complainant asking for changes to six assessments. This email was not recorded on the assessment detail sheets. In light of the Complainant's December 10th email, the Respondent realized it would have to change its case significantly, which would in turn oblige the Complainant to meet a new case. Therefore, the Respondent decided to withdraw the application to dismiss.

[39] The Respondent argued the Board should not award costs. It pointed to several reasons why the application to strike was not an abuse of the Board's process, and did not cause the Complainant to incur unnecessary expenses, which are the relevant criteria under section 56(2) of *MRAC*.

[40] First, the Respondent's conduct was reasonable because the Respondent did not know of the December 20, 2018 email until it appeared in the Reply to the application to strike. Also, the Complainant did not provide a response to the RFI within the response period, October 31, 2018. The Complainant says it provided information prior to the issuance of the RFI, but the Complainant could not have been responding to the RFI before the RFI was issued. The early communications largely related to concerns about the 2017 assessments for the 2018 tax year, not the year in question. Also, conversations and emails should not be considered a valid replacement for an RFI response.

[41] The Respondent's conduct was not out of the ordinary in light of the Complainant's response to its RFI in 2018 and 2019, particularly given that recent changes to the *MGA* have increased the scope of section 295(1). On a policy level, if the Board considered the Respondent's withdrawal of its application to strike as fair, then costs are not warranted.

[42] Second, the Complainant did not incur any costs allowable under the regulations. As argued earlier in relation to appropriate timing of this application, *MRAC* does not allow costs for preliminary hearings that do not proceed. In addition, *MRAC* typically only allows for legal costs, as illustrated by the reference to "second counsel fee" in Schedule 3 Part 2. The Complainant did not hire a lawyer and there is no evidence of legal expense. Although it prepared a brief, no time was incurred in a hearing.

[43] Essentially, this application is a request for compensation for preparing an argument; however, it is normal and expected for litigants to spend time and effort on litigation, which is not usually compensable. The general rule is that parties participate in MGB proceedings at their own expense (Section 17.1 MGB Rules), and the general principle in court actions is that self-represented litigants are not entitled to costs for anything other than their necessary out of pocket expenses, which does not cover time spent on litigation.

[44] Third, the Complainant's costs are due to its own choices in its unconventional approach to working with assessors. It did not follow the reporting process laid out by the *Act* and was late in reporting changes. It knew its actions were inconsistent with the *Act* and its regulations, and accepted the risks. There is no right to opt out of the section 295 request process, and the Complainant's choices led directly to the application to dismiss.

[45] Finally, the Complainant's application for costs does not appear to comply with section 27 of the DIP Rules: there is no description of how the amount has been calculated and it seeks only the maximum amount allowed under Schedule 3, without explaining why a lesser amount would be inappropriate.

Complainant's Rebuttal

[46] Costs under Schedule 3 are not solely for legal costs. The Complainant's brief is detailed and well researched under time constraints, warranting costs. It was a significant amount of work to prepare for the dismissal application. Not to consider these costs would show bias, because the Board's decision to adjourn was made without consulting the Complainant who would have had an opportunity to argue for costs.

[47] In answer to the allegation that the Complainant did not follow the RFI process the Complainant argued that the RFI process is confusing and blocks the ability to provide helpful information. The RFI request was "non-intelligible". It was sent in a new format - a disc, attached to an email without explanation; therefore, the Complainant did not initially appreciate it had been served with an RFI. The Complainant was also asked to make changes on a computer file, but there were no instructions and it could not change columns in the program. The Complainant was "actively discouraged from presenting information in the way Municipal Affairs" own brochure requests.

[48] With respect to the allegation that its conduct contributed to the confusion, the Complainant chose to report early, before the RFI is issued, as the RFI requests from the previous years have irregular timing.

Decision

[49] Costs are awarded in the amount of $1,500.00 payable by the Respondent to the Complainant.

Reasons

DIP Rules section 27.1

[50] The Board finds the Complainant complied with section 27.1 of the DIP Rules: the Complainant states the total sought of $1,500.00 and describes how it is calculated. The Complainant submitted it incurred expenses in researching and writing its defence to the section 295 application. The Complainant also itemized its expenses as printing, digital copying and courier fees in excess of $1,500.00, and specified the amount was based on Schedule 3 of *MRAC*,

Parts 1 and 2, column 1. It referred specifically to delay and expense for preparation for a hearing, and identified the Respondent's conduct it considered supportive of a request for costs.

DIP Rules section 27.2

[51] DIP Rules section 27.2 state that to determine whether a person has "abused the complaint process" so as to justify an award of costs under *MRAC* section 56, it may consider whether that person *"acted unreasonably or engaged in conduct worthy of an order to reimburse another person for costs and expenses incurred as a result of that conduct."*

[52] In this case, the Complainant alleges it was unreasonable for the Respondent to file its section 295 applications and then withdraw them shortly before the preliminary hearing, and that this conduct caused unnecessary delay and expense. Some of the Complainant's submissions also allege a degree of bad faith on the part of the Respondent – for example, the allegation that the Respondent's conduct amounted to "grinding".

[53] There is no evidence that any of the Respondent's actions were taken in bad faith. Rather, the evidence suggests the Respondent was adjusting to a new assessment regime and operating under tight time constraints. These circumstances contributed to confusion on both sides over the RFI reporting requirements, and whether they had been properly communicated and fulfilled. The Respondent's decisions to file and then withdraw its section 295 applications were made in that context.

[54] Having said this, taxpayers can reasonably expect the Respondent to use an appropriate level of diligence before pursuing a section 295 application. Section 295 applications have the potential to end complaints – an effect the Alberta Court of Appeal has described as "draconian" (*Boardwalk Reit LLP v Edmonton (City)*, 2008 ABCA 220 at para 109). It is likely the taxpayer will expend resources and incur disbursements to prepare a defence, since their right to appeal is at stake. For these reasons, an application to dismiss should not be filed lightly or pursued without an appropriate level of diligence to establish the facts alleged in support.

[55] In this case, the Respondent's conduct fell short of that standard. Ultimately, the system the Respondent put in place to accommodate recent changes for regulated DIP assessments led to a failure to communicate with its Delegate and a failure to review available relevant information before filing the application. As a result of this failure, the merit hearing was delayed and the Complainant forced to make lengthy and ultimately unnecessary submissions in its defence. To its credit, the Respondent sought to withdraw the application once additional information came to its attention in the form of the December 20th email, thus avoiding additional waste from attendance at the preliminary hearing. However, by that point, the original merit hearing dates were lost and

the Complainant had already expended considerable effort to prepare and file its section 295 submissions.

[56] The Respondent noted the general practice is not to award costs to the self-represented, but only those incurring legal expense. The Panel disagrees. Costs are discretionary and the Board's practices are tailored to the unique circumstances it faces in performing its duties. Costs awarded by the Board - including those set out in the Schedule – typically represent a small fraction of any legal fees involved. They are largely symbolic, focussing on the conduct of parties. Further *MRAC* section 5.1 entitles persons to represent themselves or be represented by another person, including an agent, and nowhere in the legislation is the Panel restricted to awarding costs only for itemized legal fees. The focus of the legislation is whether the conduct of a party is worthy of a cost award against it and the Panel has the discretion to make this determination.

MRAC and Schedule 3

[57] The maximum amounts for costs under *MRAC* section 52 are listed in *MRAC* Schedule 3. Part 1 of Schedule 3 allows up to $500.00 for causing unreasonable delays or postponements in matters concerning assessments up to and including $5,000,000.00. The Panel awards $500.00 because the Respondent caused unreasonable delay regarding the twenty-six applications.

[58] With respect to the Complainant's request for $1,000.00 for hearing preparation, the Respondent argued amounts for that purpose do not appear in the part of Schedule 3 pertaining to procedural applications (Part 3), but only in the Part applicable to merit hearings (Part 2). Further, it stated a section 295 application is a procedural application, for which no hearing preparation costs can be awarded.

[59] The MGB disagrees with this argument. *MRAC* does not define "merit hearing", leaving scope for interpretation. In the Board's view, a section 295 request should be considered a "merit hearing" for the purposes of a cost application. Unlike purely procedural matters, a section 295 request has the potential to terminate the proceedings. In addition, when section 295 applications are scheduled separately from the balance of the merits, they typically involve substantial written submissions filed ahead of time. Accordingly, there is nothing to distinguish a section 295 hearing and an ordinary merit hearing for the purposes of reimbursing a party for wasted effort resulting from conduct of another party – which is the goal of the *MRAC* cost provisions.

[60] The Respondent also emphasized the headnote to Schedule 3 states the amounts in Parts 2 and 3 may be awarded when the Board determines "… a hearing was required to determine a matter that did not have a reasonable chance of success". It argued a hearing that never took place cannot be said to have been required, so no costs for hearing preparation should be awarded in this case.

[61] Again, the MGB disagrees. In this case, a hearing *was* required to determine a section 295 application in the sense that it was scheduled for that purpose. Accordingly, the Complainant was required to prepare for the hearing, since its disclosure date occurred before the Respondent withdrew its application. The MGB interprets the Schedule 3 headnote cited by the Respondent to imply that an amount for hearing preparation may be awarded for a hearing that is required to be scheduled with no chance of success, whether or not it ultimately takes place; obviously, the listed amounts for a half day and subsequent half days of actual hearing time will not apply in cases where the hearing is ultimately abandoned.

[62] Based on the evidence presented, the MGB is also satisfied the section 295 application had no prospect of success. A successful section 295 application requires the applicant to demonstrate a high degree of fairness and clarity in RFI process, so taxpayers understand what information is required and the consequences of failure to comply (see *Boardwalk,* at paras 57 ff). In this case, the evidence demonstrates the assessor did not communicate expectations clearly about what or how the Complainant should report to comply with the section 295 RFI, so it would be unfair and out of keeping with the intent of section 295 to strike the complaint on that basis. Another factor decreasing the likelihood of success in this case is that there were no changes from the prior year to report for most of the properties under complaint, meaning the Assessor in fact had substantially all the requested information it needed to carry out its duties.

[63] Under these circumstances, the MGB is satisfied the circumstances warrant costs of $1,000.00 for hearing preparation, which is the maximum listed for that purpose under Part 2.

[64] In determining an award of $1,000.00 the Panel observes an award above $1,000.00 to prepare for a hearing that did not occur would be incongruous with the fact that Schedule 3 Part 2 sets a maximum of $1,000.00 for the same activity when a hearing is required.

[65] In choosing the maximum amount, the MGB also gave significant weight to the fact that the Respondent launched an application to strike twenty-six complaints which did not have a reasonable chance of success. A section 295 application to dismiss carries significant jeopardy for the Complainant. Significant weight was also placed on the Complainant's description of its expenses in excess of $1,500.00.

[66] In total, the Panel awards the Complainant costs in the amount of $1,500.00.

DATED at the City of Edmonton, in the Province of Alberta, this 25th day of May 2020.

MUNICIPAL GOVERNMENT BOARD

_____

(SGD) S. Boyer, Presiding Officer

Complaint ID's 0262-1645 and 0262-1646
Roll Nos. 30003110455 and 30003110525

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: August 16, 2022

PRESIDING OFFICER: D. Roberts

BETWEEN:

Trican Well Service Ltd.
(as represented by Altus Group Ltd.)

Complainant

-and-

City of Red Deer
(as represented by Brownlee LLP)

Respondent

This decision pertains to an application for costs submitted to the Central Alberta Regional Assessment Review Board in respect of a preliminary hearing declining to strike complaints about property assessment prepared by an Assessor of The City of Red Deer as follows:

ROLL NUMBERS: 30003110455 and 30003110525

MUNICIPAL ADDRESSES: 8037 Edgar Industrial Cres and 8020 Edgar Industrial Green

ASSESSMENT AMOUNT: $3,883,800 and $1,152,800

The application was heard by a one-member panel of the Composite Assessment Review Board (CARB) on the 16th day of August 2022, via video conference.

Appeared on behalf of the Complainant:	A. Izard, Agent, Altus Group Ltd.
Appeared on behalf of the Respondent:	M. Cleary, City Assessor, City of Red Deer G. Plester, Brownlee LLP, Counsel

DECISION: The Board awards costs in favour of the Complainant in the amount of $4,000.

JURISDICTION

1. The Central Alberta Regional Assessment Review Board ["the Board"] has been established in accordance with section 455 of the *Municipal Government Act,* RSA 2000, c M-26 ["*MGA*"].

2. The *Matters Relating to Assessment Complaints Regulation* AR 201/2017 ("MRAC"), allows the matter to be set for a preliminary hearing to be considered by a one-member panel:

> *40 A one-member composite assessment review board panel may hear and decide on one or more of the following matters:*
>
> *…*
>
> *(d) any matter, other than an assessment, where all of the parties consent to a hearing before a one-member composite assessment review board panel.*

BACKGROUND

3. A preliminary hearing was held on May 25, May 26, and June 8, 2022, where the only issue to be determined was whether the complaints concerning the property assessments for 8037 Edgar Industrial Cres. and 8020 Edgar Industrial Green should be dismissed pursuant to s. 295(4) of the *Act*. The specific issue was whether the information requested by the Respondent was necessary, pursuant to s. 295(1) of the *Act*.

4. The application was denied, and the Complainant subsequently requested costs against the Respondent of $2,000 for each property. This panel was convened to consider the question of costs.

5. This hearing for two (2) properties, was one of four (4) hearings against the Respondent with respect to a cost award application. The Complainant and Respondent (the "Parties") agreed to consolidate the two applications in this hearing to one decision, in that the property owner was the same for each property.

6. The Parties agreed that for Hearings 0262-1658 and 0262-1678, the testimonies, questions, arguments, and summaries from Hearing 0262-1645/0262-1646 be applied. The Board agreed.

PRELIMINARY MATTERS

7. Neither party raised any objection to the panel hearing the complaint.

8. The Parties agree that the only issue to be decided is whether costs are payable by the Respondent. Both parties indicated that they were prepared to proceed with the preliminary matter. No additional preliminary or procedural matters were raised by any party.

ISSUE TO BE DETERMINED

9. Should costs be awarded to the Complainant, by the Respondent, because of a failed s.295(4) application by the Respondent?

POSITION OF THE PARTIES

Position of the Complainant

10. The Complainant provided a 151-page disclosure document that entered as Complainant Exhibit C-1.

11. The Complainant testified that the application for costs was from the property owner, and not Altus Group Ltd. ("Altus") who were merely acting as an agent for the property owner.

12. The preliminary hearing for the subject properties was one of 10 applications by the Respondent, which were originally scheduled to be heard on May 25 and 26, 2022. It became evident on the hearing dates that all the files would not be heard, and as a result a third hearing date was scheduled for June 8, 2022. The subject properties applications were heard on June 8, 2022.

13. The Complainant stated that the s. 295(4) applications were dismissed by the Board. It was the Complainant's testimony that the Board found that the Assessment Request for Information ("ARFI") forms requested information including details of the lease and monthly operating costs charged to the tenant. The properties were owner-occupied properties and as a result the information did not exist or would not be helpful in determining rates for mass appraisal purposes. The information was therefore not useful to the assessor to carry out its duties and responsibilities under Parts 9 to 12 of the *Act*.

14. The Complainant also argued that it responded to an e-mail from the Respondent dated April 12, 2022, which provided a list of properties represented by Altus, where the Respondent submitted that ARFI requests were made; however, were not responded to. The Complainant advised the Respondent by return e-mail on April 12, 2022 that:

> *We also note since you submitted us the list that there are several number of properties that likely should not be on this list as:*
>
> - *Owner occupied, as well in one instance not only is the property owner occupied, it is also assessed on a cost approach where presumably the request sought was for income information, which would not have been relevant having regard for the decisions Amoco, and Boardwalk, and Grande Prairie City.*

15. The Complainant submits the Respondent acknowledged that it was a preliminary list and that the Respondent had not conducted a full review of each file to matching names and owner information.

16. The Complainant opined that the Respondent either knew, or ought to have known, that the subject property was owner occupied. Further, the Complainant argued that Respondent should use due diligence in determining whether the information it sought was necessary to complete its duties. The Complainant argued that the Respondent did not complete its due diligence.

17. As a result of the lack of reasonable due diligence, the Respondent further caused the Complainant additional expense by requesting a preliminary hearing. The hearing was to determine whether the failure to submit the ARFI caused the Respondent to pursue an application under s.295(4) of the *Act*. The Complainant was obliged to argue that the requests were unnecessary. If the Complainant failed to defend its position it may have resulted in an inability to appeal the assessment.

18. The Complainant referred to the subject CARB preliminary decision *(City of Red Deer v. Trican Well Service Ltd. Complaint IDs: 0262 1645 and 0262 1646)* ("***Trican Decision***")) which decided:

> *[28] The information requested was not necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations….*

19. This Complainant highlighted several reasons provided by the panel and noted specifically paragraphs [28], [30], and [31] of the ***Trican Decision***. The Board Order stated that the information was unnecessary and should not result in the taxpayer losing its statutory right to an assessment complaint, as that would be a disproportionally extreme penalty.

20. The Complainant submits that significant expense was incurred in defending the Complainant's position. In that the Complainant's argument was applied to several properties (10 in total) there was a shared cost. The Complainant submitted that the following hourly expenses were incurred and excluded any disbursements:

J. Buchanan (legal counsel)	59.5 hours	$455/hr	$27,072.50
A. Izard (Altus)	39.0 hours	$350/hr	$13,650.00
B. Foden (Altus)	22 hours	$275/hr	$ 6,050.00
			$47,772.50

21. The Complainant submitted that even if the costs were split over the 10 applications heard, the costs would be more than the amount being requested in the cost award application. Its position was that the purpose of the cost of awards is to reimburse parties for wasted effort resulting from the conduct of the offending party.

22. The Complainant further submitted that its legal counsel had proposed a streamlined process for the hearings, and that the Respondent refused to adopt the streamline process and as a result extended the time needed to hear the applications.

23. The Complainant argued that the Board could award costs. The salient sections of the legislation are found at s. 468.1 of the *Act*, *MRAC* s.56(2) and the preamble to *MRAC* Schedule 3 of MRAC.

> *s.468.1 A composite assessment review board may, or in the circumstances must, order that costs of and incidental to any hearing before it be paid by one or more of the parties in the amount specified in the regulations.*
>
> *s.56(2) In deciding whether to grant an application for the award of costs, in whole or in part, the composite assessment review board panel or the Municipal Government Board may consider the following:*
>
> > *(a) whether there was an abuse of the complaint process;*
> >
> > *(b) whether the party applying for costs incurred additional or unnecessary expenses as a result of an abuse of the complaint process.*

Schedule 3

Where the conduct of the offending party warrants it, a composite assessment review board panel or the Municipal Government Board may award costs up to the amounts specified in the appropriate column in Part 1.

When a composite assessment review board panel or the Municipal Government Board determines that a hearing was required to determine a matter that did not have a reasonable chance of success, it may award costs, up to the amounts specified in the appropriate column in Part 2 or 3, against the party that unreasonably caused the hearing to proceed.

(Underlining by the Complainant)

24. The Complainant submitted that the Respondent's actions created a hearing that did not have a reasonable chance of success and should not have proceeded. The request for award of costs is not simply because the application was dismissed.

25. The Complainant argued that the appropriate award of costs in the subject application is based on Part 2 of Schedule 3 and column 1 which refers to assessed value up to and including $5,000,000, and that each application should receive $1,000 for the preparation for the hearing and $1,000 for the fist ½ day of the hearing or portion thereof.

26. The Complainant testified that while Part 2 refers to Merit Hearings and Part 3 refers to Procedural Applications. The Complainant relied on *Bearspaw Petroleum Ltd. v. Designated Linear Assessor for the Province of Alberta, 2020 ABMGB16*, ("***Bearspaw***") (para. 58 and 59) where those decisions considered an application under s. 295(4) to be a merit hearing.

27. The Complainant relied on certain Court decisions as well as previous CARB decisions. These included *Boardwalk Reit LLP v. Edmonton (City), 2008 ABCA 220* ("***Boardwalk***"), ***Bearspaw*** and *Altamart Investments (1993) Ltd. v. The Town of Hinton, [2021] CARB (Hinton) 151 CARB 005*, ("***Altamart***").

Position of the Respondent

28. The Respondent provided a 15-page disclosure document that was entered as Respondent Exhibit R-1. A 27-page legal brief was also provided and was entered as Respondent Exhibit R-2.

29. The Respondent's position is that the test for an award of costs is not whether an application is successful or not, the question that must be answered is whether the application had an unreasonable chance of success. In this application, the Respondent submitted the s.295(4) application was submitted based on an arguable position and rejects the Complainant's argument that the applications were filed as a form of case management.

30. The Respondent also submits that the cost award being requested is disproportionate to the matters raised. Overall, the position of the Complainant is overstated, and their application should be refused.

31. The Respondent noted that for the subject properties, they issued three separate ARFI requests on April 30, 2021, June 25, 2021, and August 13, 2021. There were no responses to the ARFI requests. It was the Respondent's position that the requested information was necessary and beneficial to the preparation of the assessments.

32. The Respondent also submits that it undertook reasonable due diligence to determine whether the information they had on file was sufficient, or whether additional information was required. Based on its review, the Respondent noted that the original group of properties where Altus represented the taxpayer, and additional information was requested, totalled 14 files. The Respondent testified that it withdrew one (1) application, and Altus withdrew four (4) complaints, leaving nine (9) files to be heard.

33. The Respondent submitted that the Complainant's disclosure included an e-mail from Altus' counsel requesting a streamline process for hearings. The Respondent submits that there were telephone discussions which occurred on the same date as the e-mail, and prior to the hearing of the applications. The Respondent submitted that a streamlined process was adopted, with the first application heard in detail, and the remainder of the hearings followed with only differentiating facts and some additional questions being raised. The Respondent's position is that it took steps to minimize the time required for the hearings and that if the Complainant took issue with the process, why was it not objected to at the hearings?

34. The Respondent's position is that it acted in accordance with the Act by requesting information from property owners and to hold property owners accountable where the information requested is not provided. The s.295(4) applications were not vexatious and were necessary in preparing its assessments.

35. The Respondent provided its legal argument.

36. The Respondent submits that the test for whether costs should be awarded is within *1272272 Ontario Limited as represented by Altus Group v The City of Edmonton*, 2014 ECARB 00753, at p.11:

> *[11] …a cost sanction should rarely be applied and the threshold should be higher than inconvenience. The Board does not see the Respondent's course of conduct any attempt to thwart or frustrate the workings of the Board or abuse of the complaint process.*

37. The Respondent also stated that conduct deserving a cost award must demonstrate negative intent. In this instance the application was a complex issue, and in good faith the Respondent submitted its s. 295(4) application, which they considered was winnable.

38. In the ***Trican Decision***, (at p. 30 and 31) the Board found that the information was not necessary; however, the Respondent opined it was not the basis for refusing the application.

39. The Respondent also submitted that MRAC s.56(b) relates to costs incurred because of abuse and that the Complainant had not submitted evidence of the costs.

40. MRAC Schedule 3 – Parts 2 and 3 also speak to the application not having a reasonable chance of success, which is not correct in this case.

41. The Respondent also stated that since the ***Bearspaw*** decision, there have been statutory amendments, and the amendments now require the information to be necessary for the assessor to gather information and apply it according to Parts 9 to 12 of the Act.

42. The Respondent also spoke to the ***Bearspaw*** and ***Altamart*** decisions and contrasted them to the subject. ***Bearspaw*** was a late withdrawal of an application, where there was a communication error between the Provincial Assessor and a contracted assessor. Bearspaw had submitted the information to the contracted assessor, who had not advised the Provincial Assessor of that. Bearspaw had expended funds to defend their position prior to the withdrawal. ***Altamart*** was a decision concerning a potentially unauthorized agent and whether a tenant could file a complaint and the Board found they could and the municipality's attempts in using s. 295(4) were unjust. Neither of these decisions have an application to the subject appeal.

43. The Respondent also submitted that the Complainant's assertion that the Respondent was case managing is incorrect. The Complainant has offered no evidence to prove this assertion.

44. The Respondent also submitted that if the Board determined that an award of costs should occur, that the hearing was a procedural hearing, and the scale of costs is reduced. In addition, the same disclosure is being used by the Complainant for all four files. If the Board awards costs it should be based on one application. For instance, in the four applications each are requesting a ½ day or portion thereof. In that there were 10 files heard this would be a total of 5 days, where the hearing in total was only three (3) days.

ISSUES, BOARD FINDINGS and REASONS FOR DECISION

ISSUES TO BE DETERMINED BY THE BOARD

45. The Complainant has requested that an award of costs be made. The Board relied on the legislation at s. 468.1 of the *Act*, *MRAC* s.56(2) and the preamble to *MRAC* Schedule 3 of MRAC as being instructive to that determination. In particular, the panel should determine whether the following have been affirmed:

    1. Can an assessment review board order that costs of any hearing be paid by one or more of the parties in the amount specified in the regulations? (s.468.1)

    2. In order to determine whether costs should be awarded, the assessment review board should consider the following (MRAC s.56(2):

        a. whether there was an abuse of the complaint process;

        b. whether the party applying for costs incurred additional or unnecessary expenses as a result of an abuse of the complaint process.

    3. If an award of costs is made, the following should be considered (MRAC Schedule 3 preamble):

a. Should the award be made under Part 1, 2 or 3:

b. Was it determined that a hearing was required to determine a matter that did not have a reasonable chance of success?

4. If an award of costs is made, should the award be limited to one award of costs for the four (4) files submitted in total?

BOARD FINDINGS

46. The Board findings are as follows:

1. The Board can award costs as specified in the regulations.

2. The Board further finds:

a. There was an abuse of the complaint process by the Respondent;

b. There was additional cost incurred by the Complainant because of the abuse of process by the Respondent.

3. In awarding costs, the following was determined:

c. The costs should be awarded under Part 2 of Schedule 3.

d. The Board finds that the hearing occurred to determine a matter that did not have a reasonable chance of success.

4. The award of costs should be consolidated for this file; however, there are separate owners for the remaining two files and the award of costs should be based on each file. If the Panel was to consider a consolidated assessment amount of $5,035,800 ($3,883,800 and $1,152,000) then Column 2 would apply. The matter of consolidation was a convenience to receive one decision, and the Complainant should not be awarded higher costs due to the consolidation. Pursuant to Schedule 3, Part 2, Column 1 the costs awarded are:

Preparation for the hearing	$2,000
For first ½ day of hearing or portion thereof	$2,000
Total Award	$4,000

47. If the Board has adopted the Respondent's position of one award, the four (4) files were a total assessment of $19,249,200 which would result in Part 2, Column 3 being applied as follows:

Preparation for the hearing	$ 8,000
For the first ½ day or portion thereof	$ 1,750
For each additional ½ day (3 additional ½ days)	$ 2,625
Total Award	$12,375

48. The remaining two (2) files are awarded costs of $2,000 and $5,500. When added to this file's award of $4,000, the total would be $11.500, which is less than one award of costs of $12,375.

REASONS FOR DECISION

1. *Can an assessment review board order that costs of any hearing be paid by one or more of the parties in the amount specified in the regulations. (s.468.1)*

49. The was no argument by either Party that the Panel had the authority to order costs.

2. *In order to determine whether costs should be awarded, the assessment review board should consider the following (MRAC s.56(2):*

   a. *whether there was an abuse of the complaint process;*

   b. *whether the party applying for costs incurred additional or unnecessary expenses as a result of an abuse of the complaint process.*

50. The Board finds that there was an abuse of the complaint process. To assist in defining "an abuse of the complaint process" the Board relied on *Altus Group Limited v. Edmonton (City), 2011 ABQB 760 and Altus Group Limited v. Edmonton (City), 2012 ABQB 289 ("**Altus Group**").* The former was a leave to appeal application and the latter was a request for judicial review. In that decision, the Complainant (Altus) filed a large number of property assessment appeals (88 assessment rolls). The hearings began and Altus requested a one-day adjournment. When they returned, they withdrew 33 appeals. The Respondent (City of Edmonton) filed an application for the awarding of costs. The CARB determined:

> *CARB does not find that the actions of the Respondent amounted to bad faith. However whether categorized as negligence or carelessness or a lack of attention to detail, the result of this massive disclosure of evidence and challenge to the assessment model required the Applicant to prepare detailed and careful response to it. In the circumstances a great deal of this expenditure of time and resources became redundant when the Respondent withdrew its income argument and disclosure at first hearing.*

51. In the ***Altus Group*** judicial review decision, Belzil J. considered the "abuse of the complaint process" and stated:

> *[34] In its costs decision, the CARB used the expression "abuse of process" which in context must be read to mean "abuse of the complaint process" as that term is referred to in s.52(2) of MRAC.*
>
> *[35] While I accept that the concept "abuse of process" has a broader legal meaning, I do not accept that in this context the CARB was doing anything more than considering the procedural reality before it, that is, Altus submitted a large volume of material, presented its argument based on the material and then completely abandoned its position shortly after cross-examination commenced after the City had expended considerable resources preparing to rebut an argument which was abandoned.*

52. This Board finds that like ***Altus Group***, there is no evidence that the Respondent acted in bad faith. The circumstances in ***Altus Group*** when compared to the subject application are not identical; however, have similarities. In this case as well as ***Altus Group***, the Respondent was either negligent

or careless or lacked attention to detail, in determining it required information from owner-occupied properties. The Board found that the information requested was unnecessary.

53. In the subject application, both Parties expended considerable efforts to submit their positions with respect to the preliminary hearing (***Trican Decision***). That matter was decided, the decision was provided, and the Board is not aware that either Party has submitted a request for judicial review of that decision.

54. This panel does not intend to restate the reasons that Board provided in its decision; however, that Board found that:

> [28] *The information requested was not necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.*
>
> *…*
>
> [30] *The rationale for the detailed request was for mass appraisal modelling and even for owner occupied property, information such as operating costs may be useful. In comparison, the subject ARFI requested only the Rental Information with details of the lease, in a situation where none exists. With respect to the November 2020 listing for sale/lease, it was not, in fact, leased and the property continues to be owner occupied. Further, the listing shows the asking lease rate and this would be information already available to the assessor.*
>
> [31] *The only information requested in the ARFI did not exist, and any response would have been to specify that there was no lease to report. Under the circumstances, the Board finds that the information was not necessary and the failure to respond should not result in the taxpayer losing his statutory right to assessment complaint. This would be a disproportionately extreme penalty and the application is denied.*

55. Based on the decision, the Board found the request for information unnecessary. If it was unnecessary, then an application under s. 295(4) was doomed to fail.

56. The Board is also aware that the Complainant had indicated well in advance of the hearing, that the list of properties the Respondent had submitted ARFI requests for were owner occupied properties. The e-mail stated:

> *We also note since you submitted us the list there are several number (sic) of properties that likely should not be on the list as:*
>
> - *Owner occupied, as well in one instance not only is the property owner occupied…*

57. The assessor in his response on April 12, 2022 stated:

> *I appreciate the heads up. Yes, this is very preliminary on review, we have not gone through the full scope of reviewing each and every file for matching names and owner information. I promised I would have a list to you today, so we rushed the process and verified only that an ARFI was sent, and none was received… I am understanding and aware of the owner occupied issue, which we can sort those out tomorrow.*

58. It is clear from this e-mail that the Respondent was well aware of the issue relating to owner-occupied properties. While his e-mail advised "we can sort those out tomorrow", it appears the issue was not resolved.

59. The Board rejects the Respondent's position that they considered they had an arguable position and that the preliminary hearing was necessary. The Board decision on the preliminary matter states that the information was not necessary. There is no basis for the Respondent to consider that they had an arguable position.

60. Therefore, based on the foregoing the Board finds that there was an abuse of the complaint process.

61. In terms of the party applying for costs incurring additional or unnecessary expenses because of an abuse of the complaint process, the Complainant has provided estimates of time and hourly rates to support their position.

62. The Board finds that if the Respondent had not proceeded with its s. 295(4) application, the Complainant would not have incurred the additional time, and subsequent cost, for preparing for the hearing. The Complainant determined it was necessary to defend its position in that hearing, as failure to defend, or success by the Respondent would have resulted in forfeiture of its rights to appeal the assessment for the 2022 tax assessment.

63. The Respondent did not argue the time recorded by the Complainant or its counsel, nor the hourly rates applied. The Respondent did argue that the Complainant did not provide copies of the invoices as evidence of costs. The Board finds no reference in the legislation that payment of costs is dependent on provision of invoices. The award of costs in relation to the actual expenditure and costs are not strictly correlated.

> *3. If an award of costs is made, the following should be considered (MRAC Schedule 3 preamble):*
>
> *a. Should the award be made under Part 1, 2 or 3:*
>
> *b. Was it determined that a hearing was required to determine a matter that did not have a reasonable chance of success.*

64. The Board finds that the award of costs should be made based on Schedule 3, Part 2, Column 1. The Parties agreed that Part 1 was not applicable to this matter.

65. Part 2 refers to Merit Hearings and Part 3 refers to Procedural Applications. The Complainant submits that while the matter was a determined at a Preliminary Hearing, it had significant consequences if it succeeded, as it would have extinguished the Complainant's rights to an appeal for the current years assessment. Numerous decisions have suggested that this is the most "draconian" effect (***Boardwalk***) on a taxpayer.

66. The matter at hand was substantive and mirrors the effects of a merit hearing.

67. The Board also relied on ***Bearspaw*** (para. 58 and 59) where those decisions considered an application under s. 295(4) to be a merit hearing.

68. The decision that was reached in the original hearing did not use the words "a matter that did not have a reasonable chance of success." Once again, this Board sought the guidance of the ***Altus Group*** judicial review decision where Belzil J stated:

> *[28] Paragraph 2 of the preamble to Schedule 3 requires that the CARB make a finding that a hearing was required to determine a matter did not have a reasonable chance of success.*
>
> *[29] The Applicant argues that the CARB failed to make such a finding whereas the Respondents argue that it did so by implication.*

[30] The Supreme Court of Canada recognized that courts must be careful not to impose too rigorous a standard when reviewing the sufficiency of reasons of administrative tribunals in ***Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)****, 2011 SCC 62, at paras. 12-16.*

[31] The context is important. The Applicant submitted approximately 1800 pages of material dealing with the income argument which the City responded to. Prior to cross-examination being completed, the Applicant requested an adjournment and the following morning, completely abandoned the income argument.

[32] While the costs decision does not expressly articulate that the CARB concluded that the hearing had no chance of success on the income issue, that is the clear implication when considered in context.

69. In this application, the circumstances are not identical but have similarities. The Respondent filed its initial material, to which the Complainant responded. Considerable time was expended solely on this matter by the Complainant and its legal counsel. The Board in the initial matter found that the request was unnecessary, and this Panel has concluded it was an abuse of the complaint process. Therefore, while the previous decision was not explicit in submitting it had no chance of success, its words in the decision were that the information was unnecessary, and it implies that it had no reasonable chance of success.

    4. *If an award of costs is made, should the award be limited to one award of costs for the four (4) files submitted in total.*

70. The Respondent argued that it would be unfair to allow for an award of costs for each of the four files argued together. Its position was that an example would be the provision for payment of a ½ day for the hearing for 10 hearings would result in five (5) days, where the hearings only took three (3) days to complete. The Complainant has submitted only one (1) disclosure that is to be considered for four (4) different appeals. The Complainant's request for all four (4) files totals $11,500. The Respondent argued that if the award of costs is successful, the Board should limit the payment to one preparation for hearing and one ½ day of hearing.

71. The Complainant submitted that Altus Group was not applying for the award of costs, it was each individual property owner. As a result, its position was that each property owner should be entitled to an award of costs. In respect of the ½ day issue brought up by the Respondent, the Complaint pointed out that Schedule 3 refers to "For the first ½ day or portion thereof". There is no requirement that the hearing be ½ day.

72. The Board finds that the award of costs should be to each property owner who is making the claim for costs. The Board also finds that Schedule 3 provides for ½ day of hearings, or portion thereof and does not say that it must be a ½ day.

DECISION SUMMARY

73. The Board finds that the award of costs to the Complainant by the Respondent is supported and an award of costs in the amount of $4,000 is ordered.

74. Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 15th day of September 2022 and signed by the Presiding Officer.

D. Roberts
Presiding Officer

If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for judicial review to be filed and served not more than 60 days after the date of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents presented at the Hearing and considered by the Board.

NO.			ITEM
1.	A.1	44 pages	Hearing Materials provided by Clerk
2.	C.1	151 pages	Complainant submission
3.	R.1	15 pages	Respondent submission
4.	R-2	27 pages	Respondent legal brief

Complaint ID 0262-1658
Roll No. 30003111240

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: August 16, 2022

PRESIDING OFFICER: D. Roberts

BETWEEN:

River City Developments Ltd.
(as represented by Altus Group Ltd.)

Complainant

-and-

City of Red Deer
(as represented by Brownlee LLP)

Respondent

This decision pertains to an application for costs submitted to the Central Alberta Regional Assessment Review Board in respect of a preliminary hearing declining to strike complaints about property assessment prepared by an Assessor of The City of Red Deer as follows:

ROLL NUMBER: 30003111240

MUNICIPAL ADDRESS: 203, 8026 Edgar Industrial Cres

ASSESSMENT AMOUNT: $1,224,100

The application was heard by a one-member panel of the Composite Assessment Review Board (CARB) on the 16th day of August 2022, via video conference.

Appeared on behalf of the Complainant: A. Izard, Agent, Altus Group Ltd.

Appeared on behalf of the Respondent: M. Cleary, City Assessor, City of Red Deer
G. Plester, Brownlee LLP, Counsel

DECISION: The Board awards costs in favour of the Complainant in the amount of $2,000.

JURISDICTION

1. The Central Alberta Regional Assessment Review Board ["the Board"] has been established in accordance with section 455 of the *Municipal Government Act,* RSA 2000, c M-26 ["*MGA*"].

2. The *Matters Relating to Assessment Complaints Regulation* AR 201/2017 ("MRAC"), allows the matter to be set for a preliminary hearing to be considered by a one-member panel:

> *40 A one-member composite assessment review board panel may hear and decide on one or more of the following matters:*
>
> *…*
>
> *(d) any matter, other than an assessment, where all of the parties consent to a hearing before a one-member composite assessment review board panel.*

BACKGROUND

3. A preliminary hearing was held on May 25, May 26, and June 8, 2022, where the only issue to be determined was whether the complaints concerning the property assessments for 203, 8026 Edgar Industrial Cres. should be dismissed pursuant to s. 295(4) of the *Act*. The specific issue was whether the information requested by the Respondent was necessary, pursuant to s. 295(1) of the *Act*.

4. The application was denied, and the Complainant subsequently requested costs against the Respondent of $2,000. This panel was convened to consider the question of costs.

5. The Parties agreed that for Hearings 0262-1658 and 0262-1678, the testimonies, questions, arguments, and summaries from Hearing 0262-1645/0262-1646be applied. The Board agreed.

PRELIMINARY MATTERS

6. Neither party raised any objection to the panel hearing the complaint.

7. The Parties agree that the only issue to be decided is whether costs are payable by the Respondent. Both parties indicated that they were prepared to proceed with the preliminary matter. No additional preliminary or procedural matters were raised by any party.

ISSUE TO BE DETERMINED

8. Should costs be awarded to the Complainant, by the Respondent, because of a failed s.295(4) application by the Respondent?

POSITION OF THE PARTIES

Position of the Complainant

9. The Complainant provided a 151-page disclosure document that entered as Complainant Exhibit C-1.

10. The Complainant testified that the application for costs was from the property owner, and not Altus Group Ltd. ("Altus") who were merely acting as an agent for the property owner.

11. The preliminary hearing for the subject properties was one of 10 applications by the Respondent, which were originally scheduled to be heard on May 25 and 26, 2022. It became evident on the hearing dates that all the files would not be heard, and as a result a third hearing date was scheduled for June 8, 2022. The subject property application was heard on June 8, 2022.

12. The Complainant stated that the s. 295(4) application was dismissed by the Board. It was the Complainant's testimony that the Board found that the Assessment Request for Information ("ARFI") form requested information including details of the lease and monthly operating costs charged to the tenant. The property was an owner-occupied property and as a result the information did not exist or would not be helpful in determining rates for mass appraisal purposes. The information was therefore not useful to the assessor to carry out its duties and responsibilities under Parts 9 to 12 of the *Act*.

13. The Complainant also argued that it responded to an e-mail from the Respondent dated April 12, 2022, which provided a list of properties represented by Altus, where the Respondent submitted that ARFI requests were made; however, were not responded to. The Complainant advised the Respondent by return e-mail on April 12, 2022 that:

> *We also note since you submitted us the list that there are several number (sic) of properties that likely should not be on this list as:*
>
> - *Owner occupied, as well in one instance not only is the property owner occupied, it is also assessed on a cost approach where presumably the request sought was for income information, which would not have been relevant having regard for the decisions Amoco, and Boardwalk, and Grande Prairie City.*

14. The Complainant submits the Respondent acknowledged that it was a preliminary list and that the Respondent had not conducted a full review of each file to matching names and owner information.

15. The Complainant opined that the Respondent either knew, or ought to have known, that the subject property was owner occupied. Further, the Complainant argued that Respondent should use due diligence in determining whether the information it sought was necessary to complete its duties. The Complainant argued that the Respondent did not complete its due diligence.

16. As a result of the lack of reasonable due diligence, the Respondent further caused the Complainant additional expense by requesting a preliminary hearing. The hearing was to determine whether the failure to submit the ARFI caused the Respondent to pursue an application under s.295(4) of the *Act*. The Complainant was obliged to argue that the requests were unnecessary. If the Complainant failed to defend its position it may have resulted in an inability to appeal the assessment.

17. The Complainant referred to the subject CARB preliminary decision *(City of Red Deer v. River City Developments Ltd. Complaint ID: 0262 1658)* ("***River City Decision***")) which decided:

> *[30] The information requested was not necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations….*

18. This Complainant highlighted several reasons provided by the panel and noted specifically paragraphs [30], [32], [33] and [34] of the ***River City Decision***. The Board Order stated that the information was unnecessary and should not result in the taxpayer losing its statutory right to an assessment complaint, as that would be a disproportionally extreme penalty.

19. The Complainant submits that significant expense was incurred in defending the Complainant's position. In that the Complainant's argument was applied to several properties (10 in total) there was a shared cost. The Complainant submitted that the following hourly expenses were incurred and excluded any disbursements:

J. Buchanan (legal counsel)	59.5 hours	$455/hr	$27,072.50
A. Izard (Altus)	39.0 hours	$350/hr	$13,650.00
B. Foden (Altus)	22 hours	$275/hr	$ 6,050.00
			$47,772.50

20. The Complainant submitted that even if the costs were split over the 10 applications heard, the costs would be more than the amount being requested in the cost award application. Its position was that the purpose of the cost of awards is to reimburse parties for wasted effort resulting from the conduct of the offending party.

21. The Complainant further submitted that its legal counsel had proposed a streamlined process for the hearings, and that the Respondent refused to adopt the streamline process and as a result extended the time needed to hear the applications.

22. The Complainant argued that the Board could award costs. The salient sections of the legislation are found at s. 468.1 of the *Act*, *MRAC* s.56(2) and the preamble to *MRAC* Schedule 3 of MRAC.

> *s.468.1 A composite assessment review board may, or in the circumstances must, order that costs of and incidental to any hearing before it be paid by one or more of the parties in the amount specified in the regulations.*
>
> *s.56(2) In deciding whether to grant an application for the award of costs, in whole or in part, the composite assessment review board panel or the Municipal Government Board may consider the following:*
>
> > *(a) whether there was an abuse of the complaint process;*
> >
> > *(b) whether the party applying for costs incurred additional or unnecessary expenses as a result of an abuse of the complaint process.*
>
> *Schedule 3*
>
> *Where the conduct of the offending party warrants it, a composite assessment review board panel or the Municipal Government Board may award costs up to the amounts specified in the appropriate column in Part 1.*
>
> *When a composite assessment review board panel or the Municipal Government Board determines that a hearing was required to determine a matter that did not have a reasonable chance of success, it may award costs, up to the amounts specified in the*

appropriate column in Part 2 or 3, against the party that unreasonably caused the hearing to proceed.

(Underlining by the Complainant)

23. The Complainant submitted that the Respondent's actions created a hearing that did not have a reasonable chance of success and should not have proceeded. The request for award of costs is not simply because the application was dismissed.

24. The Complainant argued that the appropriate award of costs in the subject application is based on Part 2 of Schedule 3 and column 1 which refers to assessed value up to and including $5,000,000, and that the Complainant should receive $1,000 for the preparation for the hearing and $1,000 for the fist ½ day of the hearing or portion thereof.

25. The Complainant testified that while Part 2 refers to Merit Hearings and Part 3 refers to Procedural Applications. The Complainant relied on *Bearspaw Petroleum Ltd. v. Designated Linear Assessor for the Province of Alberta, 2020 ABMGB16*, ("***Bearspaw***") (para. 58 and 59) where those decisions considered an application under s. 295(4) to be a merit hearing.

26. The Complainant relied on certain Court decisions as well as previous CARB decisions. These included *Boardwalk Reit LLP v. Edmonton (City), 2008 ABCA 220* ("***Boardwalk***"), ***Bearspaw*** and *Altamart Investments (1993) Ltd. v. The Town of Hinton, [2021] CARB (Hinton) 151 CARB 005*, ("***Altamart***").

Position of the Respondent

27. The Respondent provided a 15-page disclosure document that was entered as Respondent Exhibit R-4. A 27-page legal brief was also provided and was entered as Respondent Exhibit R-2.

28. The Respondent's position is that the test for an award of costs is not whether an application is successful or not, the question that must be answered is whether the application had an unreasonable chance of success. In this application, the Respondent submitted the s.295(4) application was submitted based on an arguable position and rejects the Complainant's argument that the applications were filed as a form of case management.

29. The Respondent also submits that the cost award being requested is disproportionate to the matters raised. Overall, the position of the Complainant is overstated, and their application should be refused.

30. The Respondent noted that for the subject properties, they issued three separate ARFI requests on April 30, 2021, June 25, 2021, and August 13, 2021. There were no responses to the ARFI requests. It was the Respondent's position that the requested information was necessary and beneficial to the preparation of the assessments.

31. The Respondent also submits that it undertook reasonable due diligence to determine whether the information they had on file was sufficient, or whether additional information was required. Based on its review, the Respondent noted that the original group of properties where Altus represented the taxpayer, and additional information was requested, totalled 14 files. The Respondent testified

that it withdrew one (1) application, and Altus withdrew four (4) complaints, leaving nine (9) files to be heard.

32. The Respondent submitted that the Complainant's disclosure included an e-mail from Altus' counsel requesting a streamline process for hearings. The Respondent submits that there were telephone discussions which occurred on the same date as the e-mail, and prior to the hearing of the applications. The Respondent submitted that a streamlined process was adopted, with the first application heard in detail, and the remainder of the hearings followed with only differentiating facts and some additional questions being raised. The Respondent's position is that it took steps to minimize the time required for the hearings and that if the Complainant took issue with the process, why was it not objected to at the hearings?

33. The Respondent's position is that it acted in accordance with the Act by requesting information from property owners and to hold property owners accountable where the information requested is not provided. The s.295(4) applications were not vexatious and were necessary in preparing its assessments.

34. The Respondent provided its legal argument.

35. The Respondent submits that the test for whether costs should be awarded is within *1272272 Ontario Limited as represented by Altus Group v The City of Edmonton*, 2014 ECARB 00753, at p.11:

> *[11] …a cost sanction should rarely be applied and the threshold should be higher than inconvenience. The Board does not see the Respondent's course of conduct any attempt to thwart or frustrate the workings of the Board or abuse of the complaint process.*

36. The Respondent also stated that conduct deserving a cost award must demonstrate negative intent. In this instance the application was a complex issue, and in good faith the Respondent submitted its s. 295(4) application, which they considered was winnable.

37. In the ***River City Decision***, (at p.32 and 33) the Board found that the information was not necessary; however, the Respondent opined it was not the basis for refusing the application.

38. The Respondent also submitted that MRAC s.56(b) relates to costs incurred because of abuse and that the Complainant had not submitted evidence of the costs.

39. MRAC Schedule 3 – Parts 2 and 3 also speak to the application not having a reasonable chance of success, which is not correct in this case.

40. The Respondent also stated that since the ***Bearspaw*** decision, there have been statutory amendments, and the amendments now require the information to be necessary for the assessor to gather information and apply it according to Parts 9 to 12 of the Act.

41. The Respondent also spoke to the ***Bearspaw*** and ***Altamart*** decisions and contrasted them to the subject. ***Bearspaw*** was a late withdrawal of an application, where there was a communication error between the Provincial Assessor and a contracted assessor. Bearspaw had submitted the information to the contracted assessor, who had not advised the Provincial Assessor of that. Bearspaw had expended funds to defend their position prior to the withdrawal. ***Altamart*** was a decision concerning a potentially unauthorized agent and whether a tenant could file a complaint

and the Board found they could and the municipality's attempts in using s. 295(4) were unjust. Neither of these decisions have an application to the subject appeal.

42. The Respondent also submitted that the Complainant's assertion that the Respondent was case managing is incorrect. The Complainant has offered no evidence to prove this assertion.

43. The Respondent also submitted that if the Board determined that an award of costs should occur, that the hearing was a procedural hearing, and the scale of costs is reduced. In addition, the same disclosure is being used by the Complainant for all four files. If the Board awards costs it should be based on one application. For instance, in the four applications each are requesting a ½ day or portion thereof. In that there were 10 files heard this would be a total of 5 days, where the hearing in total was only three (3) days.

ISSUES, BOARD FINDINGS and REASONS FOR DECISION

ISSUES TO BE DETERMINED BY THE BOARD

44. The Complainant has requested that an award of costs be made. The Board relied on the legislation at s. 468.1 of the *Act*, *MRAC* s.56(2) and the preamble to *MRAC* Schedule 3 of MRAC as being instructive to that determination. In particular, the panel should determine whether the following have been affirmed:

    1. Can an assessment review board order that costs of any hearing be paid by one or more of the parties in the amount specified in the regulations? (s.468.1)

    2. In order to determine whether costs should be awarded, the assessment review board should consider the following (MRAC s.56(2):

        a. whether there was an abuse of the complaint process?

        b. whether the party applying for costs incurred additional or unnecessary expenses as a result of an abuse of the complaint process.

    3. If an award of costs is made, the following should be considered (MRAC Schedule 3 preamble):

        a. Should the award be made under Part 1, 2 or 3?

        b. Was it determined that a hearing was required to determine a matter that did not have a reasonable chance of success?

    4. If an award of costs is made, should the award be limited to one award of costs for the four (4) files submitted in total?

BOARD FINDINGS

45. The Board findings are as follows:

1. The Board can award costs as specified in the regulations.

2. The Board further finds:

   a. There was an abuse of the complaint process by the Respondent;

   b. There was additional cost incurred by the Complainant because of the abuse of process by the Respondent.

3. In awarding costs, the following was determined:

   c. The costs should be awarded under Part 2 of Schedule 3.

   d. The Board finds that the hearing occurred to determine a matter that did not have a reasonable chance of success,

4. The award of costs for this file pursuant to an assessment of $1,224,100 are based on Schedule 3, Part 2, Column 1 the award of costs is:

Preparation for the hearing	$1,000
For first ½ day of hearing or portion thereof	$1,000
Total Award	$2,000

46. If the Board has adopted the Respondent's position of one award, the four (4) files were a total assessment of $19,249,200 which would result in Part 2, Column 3 being applied as follows:

Preparation for the hearing	$ 8,000
For the first ½ day or portion thereof	$ 1,750
For each additional ½ day (3 additional ½ days)	$ 2,625
Total Award	$12,375

48. The remaining three (3) files are awarded costs of $4,000 (consolidation of two files) and $5,500. When added to this file's award of $2,000, the total would be $11,500, which is less than one award of costs of $12,375.

REASONS FOR DECISION

1. *Can an assessment review board order that costs of any hearing be paid by one or more of the parties in the amount specified in the regulations. (s.468.1)*

49. The was no argument by either Party that the Panel had the authority to order costs.

2. *In order to determine whether costs should be awarded, the assessment review board should consider the following (MRAC s.56(2):*

   a. *whether there was an abuse of the complaint process;*

b. whether the party applying for costs incurred additional or unnecessary expenses as a result of an abuse of the complaint process.

50. The Board finds that there was an abuse of the complaint process. To assist in defining "an abuse of the complaint process" the Board relied on *Altus Group Limited v. Edmonton (City), 2011 ABQB 760 and Altus Group Limited v. Edmonton (City), 2012 ABQB 289 ("**Altus Group**").* The former was a leave to appeal application and the latter was a request for judicial review. In that decision, the Complainant (Altus) filed a large number of property assessment appeals (88 assessment rolls). The hearings began and Altus requested a one-day adjournment. When they returned, they withdrew 33 appeals. The Respondent (City of Edmonton) filed an application for the awarding of costs. The CARB determined:

> *CARB does not find that the actions of the Respondent amounted to bad faith. However whether categorized as negligence or carelessness or a lack of attention to detail, the result of this massive disclosure of evidence and challenge to the assessment model required the Applicant to prepare detailed and careful response to it. In the circumstances a great deal of this expenditure of time and resources became redundant when the Respondent withdrew its income argument and disclosure at first hearing.*

51. In the ***Altus Group*** judicial review decision, Belzil J. considered the "abuse of the complaint process" and stated:

> *[34] In its costs decision, the CARB used the expression "abuse of process" which in context must be read to mean "abuse of the complaint process" as that term is referred to in s.52(2) of MRAC.*
>
> *[35] While I accept that the concept "abuse of process" has a broader legal meaning, I do not accept that in this context the CARB was doing anything more than considering the procedural reality before it, that is, Altus submitted a large volume of material, presented its argument based on the material and then completely abandoned its position shortly after cross-examination commenced after the City had expended considerable resources preparing to rebut an argument which was abandoned.*

52. This Board finds that like ***Altus Group***, there is no evidence that the Respondent acted in bad faith. The circumstances in ***Altus Group*** when compared to the subject application are not identical; however, have similarities. In this case as well as ***Altus Group***, the Respondent was either negligent or careless or lacked attention to detail, in determining it required information from owner-occupied properties. The Board found that the information requested was unnecessary.

53. In the subject application, both Parties expended considerable efforts to submit their positions with respect to the preliminary hearing (***River City Decision***). That matter was decided, the decision was provided, and the Board is not aware that either Party has submitted a request for judicial review of that decision.

54. This panel does not intend to restate the reasons that Board provided in its decision; however, that Board found that:

> [30] *The information requested was not necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.*

…

[32] *The rationale for the detailed request was for mass appraisal modelling and even for owner occupied property, information such as operating costs may be useful. In comparison, the subject ARFI requested only the Rental Information with details of the lease and monthly operating costs charged to the tenant. Whether or not the property owner and occupant are different legal entities with different shareholders, in this situation it is clear that the entities are closely related and any lease would not be arms length. Under such circumstances the leasing information would not be useful for determining typical rates for mass appraisal purposes, and the information provided was not necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations. With respect to the suggestion that the space was sub-leased, there was no evidence in support and this was not disclosed in accordance with MRAC; therefore, was not considered.*

[33] *The Board agrees that building area information would be available via permit information and the registered condominium plan. Any addition would also require a permit, and likely an amendment to the condominium plan; therefore, it would be information already available to the assessor.*

[34] *It is not hindsight bias to find that in view of the related parties, the information requested would not have been of use to the assessor. Under the circumstances, while it is uncontested that there was no ARFI response, the Board finds that the information was not necessary and the failure to respond should not result in the taxpayer losing his statutory right to an assessment complaint. This would be a disproportionately extreme penalty and the application is denied*

55. Based on the decision, the Board found the request for information unnecessary. If it was unnecessary, then an application under s. 295(4) was doomed to fail.

56. The Board is also aware that the Complainant had indicated well in advance of the hearing, that the list of properties the Respondent had submitted ARFI requests for were owner occupied properties. The e-mail stated:

We also note since you submitted us the list there are several number (sic) of properties that likely should not be on the list as:

- *Owner occupied, as well in one instance not only is the property owner occupied…*

57. The assessor in his response on April 12, 2022 stated:

I appreciate the heads up. Yes, this is very preliminary on review, we have not gone through the full scope of reviewing each and every file for matching names and owner information. I promised I would have a list to you today, so we rushed the process and verified only that an ARFI was sent, and none was received… I am understanding and aware of the owner occupied issue, which we can sort those out tomorrow.

58. It is clear from this e-mail that the Respondent was well aware of the issue relating to owner-occupied properties. While his e-mail advised "we can sort those out tomorrow", it appears the issue was not resolved.

59. The Board rejects the Respondent's position that they considered they had an arguable position and that the preliminary hearing was necessary. The Board decision on the preliminary matter

states that the information was not necessary. There is no basis for the Respondent to consider that they had an arguable position.

60. Therefore, based on the foregoing the Board finds that there was an abuse of the complaint process.

61. In terms of the party applying for costs incurring additional or unnecessary expenses because of an abuse of the complaint process, the Complainant has provided estimates of time and hourly rates to support their position.

62. The Board finds that if the Respondent had not proceeded with its s. 295(4) application, the Complainant would not have incurred the additional time, and subsequent cost, for preparing for the hearing. The Complainant determined it was necessary to defend its position in that hearing, as failure to defend, or success by the Respondent would have resulted in forfeiture of its rights to appeal the assessment for the 2022 tax assessment.

63. The Respondent did not argue the time recorded by the Complainant or its counsel, nor the hourly rates applied. The Respondent did argue that the Complainant did not provide copies of the invoices as evidence of costs. The Board finds no reference in the legislation that payment of costs is dependent on provision of invoices. The award of costs in relation to the actual expenditure and costs are not strictly correlated.

> *3. If an award of costs is made, the following should be considered (MRAC Schedule 3 preamble):*
>
> *a. Should the award be made under Part 1, 2 or 3:*
>
> *b. Was it determined that a hearing was required to determine a matter that did not have a reasonable chance of success.*

64. The Board finds that the award of costs should be made based on Schedule 3, Part 2, Column 1. The Parties agreed that Part 1 was not applicable to this matter.

65. Part 2 refers to Merit Hearings and Part 3 refers to Procedural Applications. The Complainant submits that while the matter was a determined at a Preliminary Hearing, it had significant consequences if it succeeded, as it would have extinguished the Complainant's rights to an appeal for the current years assessment. Numerous decisions have suggested that this is the most "draconian" effect (***Boardwalk***) on a taxpayer.

66. The matter at hand was substantive and mirrors the effects of a merit hearing.

67. The Board also relied on ***Bearspaw*** (para. 58 and 59) where those decisions considered an application under s. 295(4) to be a merit hearing.

68. The decision that was reached in the original hearing did not use the words "a matter that did not have a reasonable chance of success." Once again, this Board sought the guidance of the ***Altus Group*** judicial review decision where Belzil J stated:

> *[28] Paragraph 2 of the preamble to Schedule 3 requires that the CARB make a finding that a hearing was required to determine a matter did not have a reasonable chance of success.*
>
> *[29] The Applicant argues that the CARB failed to make such a finding whereas the Respondents argue that it did so by implication.*

[30] The Supreme Court of Canada recognized that courts must be careful not to impose too rigorous a standard when reviewing the sufficiency of reasons of administrative tribunals in ***Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)****, 2011 SCC 62, at paras. 12-16.*

[31] The context is important. The Applicant submitted approximately 1800 pages of material dealing with the income argument which the City responded to. Prior to cross-examination being completed, the Applicant requested an adjournment and the following morning, completely abandoned the income argument.

[32] While the costs decision does not expressly articulate that the CARB concluded that the hearing had no chance of success on the income issue, that is the clear implication when considered in context.

69. In this application, the circumstances are not identical but have similarities. The Respondent filed its initial material, to which the Complainant responded. Considerable time was expended solely on this matter by the Complainant and its legal counsel. The Board in the initial matter found that the request was unnecessary, and this Panel has concluded it was an abuse of the complaint process. Therefore, while the previous decision was not explicit in submitting it had no chance of success, its words in the decision were that the information was unnecessary, and it implies that it had no reasonable chance of success.

4. If an award of costs is made, should the award be limited to one award of costs for the four (4) files submitted in total.

70. The Respondent argued that it would be unfair to allow for an award of costs for each of the four files argued together. Its position was that an example would be the provision for payment of a ½ day for the hearing for 10 hearings would result in five (5) days, where the hearings only took three (3) days to complete. The Complainant has submitted only one (1) disclosure that is to be considered for four (4) different appeals. The Complainant's request for all four (4) files totals $11,500. The Respondent argued that if the award of costs is successful, the Board should limit the payment to one preparation for hearing and one ½ day of hearing.

71. The Complainant submitted that Altus Group was not applying for the award of costs, it was each individual property owner. As a result, its position was that each property owner should be entitled to an award of costs. In respect of the ½ day issue brought up by the Respondent, the Complaint pointed out that Schedule 3 refers to "For the first ½ day or portion thereof". There is no requirement that the hearing be ½ day.

72. The Board finds that the award of costs should be to each property owner who is making the claim for costs. The Board also finds that Schedule 3 provides for ½ day of hearings, or portion thereof and does not say that it must be a ½ day.

DECISION SUMMARY

73. The Board finds that the award of costs to the Complainant by the Respondent is supported and an award of costs in the amount of $2,000 is ordered.

74. Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 15th day of September 2022 and signed by the Presiding Officer.

D. Roberts
Presiding Officer

If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for judicial review to be filed and served not more than 60 days after the date of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents presented at the Hearing and considered by the Board.

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4.	R-5	27 pages	Respondent legal brief

Signatures

The following individuals have been authorized by and may appear on behalf of Ryan, ULC as a representative for the purposes of conducting a hearing on behalf of the Complainant:

Andrew Izard

Arunan Sivalingam

Paul Chmeleski

Brett Robinson

Ernest Wong

Serena Hirji

Matt Izard

Patrick Kersey

2025 ASSESSMENT REVIEW BOARD
PRELIMINARY HEARING
Amended

Complainant: **Kajer Developments Ltd**
c/o Ryan ULC
1500 12 Avenue SE
High River, AB

Respondent: **Stewart Dalrymple**
Assessor

SCHEDULED FOR:
June 18, 2026 – 1:00 p.m.

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Assessment Review Board Communication

ASSESSMENT REVIEW BOARD

309B Macleod Trail SW
High River, Alberta Canada T1V 1Z5
P: 403.652.2110 F: 403.652.2396
www.highriver.ca

Our File No: [265300_1500-12-Ave-SE]

Notice of Preliminary Hearing - AMENDED

June 3, 2026

Parties before the Board:

Complainant	-AND-	Respondent
Kajer Developments Ltd. c/o Ryan ULC 1500 12 Avenue SE High River, AB		Stewart Dalrymple - Assessor Town of High River 309B Macleod Trail SW High River, AB T1V 1Z5
VIA E-MAIL: apt.calgarytax@ryan.com		***VIA E-MAIL: sdalrymple@highriver.ca***

2026 Assessment Complaint for Roll Number: 265300
Property located at: 1500 12 Avenue SE, High River, AB
Plan 2411058 Block 1 Lot 5

*****Please note, your Preliminary Hearing is no longer scheduled for June 10, 2026*****

The Preliminary Hearing has been re-scheduled for:

Date: **June 18, 2026**
Time: 1:00 p.m.
Location: Teams Video Conference via:
https://teams.microsoft.com/meet/235051986160547?p=X1YcKLS1GO4k3lD15h
Meeting ID: 235 051 986 160 547
Passcode: Wb6Dx6Tp

The reason for re-scheduling the Preliminary Hearing is because there is additional information attached to this notice.

Please review the attachments that indicate the timing of payment and filing of the complaint form:

- Email on May 11, 2026, at 4:58 pm from APT Calgary Tax indicating payment for batch of complaints, 8 in total.

- Receipt for Payment from Ryan ULC on May 12, 2026, at 10:40 am including 8 complaint fees.
- Email on May 12, 2026, at 8:49 am from APT Calgary Tax with Complaint Forms for Batch 1 of complaints, 4 were attached.
- Email on May 12, 2026, at 8:55 am from APT Calgary Tax with Complaint Forms for Batch 1 of complaints, 3 were attached.
- Email on May 12, 2026 at 2:55 pm from Aleisha Pollett (Clerk) requesting paperwork for Roll #265300 – 15,00 12 Avenue SE.
- Email on May 12, 2026, at 3:58 pm from Aleisha Pollett (Clerk) asking for paperwork to be received by 4:00 pm.
- Email on May 12, 2026, at 4:34 pm from APT Calgary Tax with 8th Complaint Form for Roll #265300 – 1500 12 Avenue SE.
- Emails from May 13, 2026, with correspondence between APT Calgary Tax and Jody Hipkin (Clerk) advising the Complaint Form was received after the deadline, detailing where the deadline was posted and mentioned, and that a preliminary hearing will be scheduled.

The Assessment Review Board (ARB) received your complaint on May 12, 2026. Before proceeding to the merit hearing, a one-member preliminary hearing will be held by the Composite Assessment Review Board (CARB) for the purposes of determining a *procedural or an administrative matter* as per Section 40 of MRAC 201/2017. Note that this hearing is not to hear evidence on the merits of the complaint; **this is a preliminary matter only** to determine:

- *Completeness of the complaint form;*
- *An invalid complaint;*
- *Complaint submitted after the filing deadline.*

Disclosure of Evidence:

Before your hearing, both you and the Respondent must share with each other and the Clerk of the Assessment Review Board all information you plan to present at the hearing. This is referred to as *disclosure of evidence*. Disclosure must be in sufficient detail to allow the other party to respond to or rebut the evidence at the preliminary hearing.

*****Please note the Disclosure Dates have also been amended*****

Complainant's Disclosure: You must disclose your evidence to both the Respondent and the Clerk of the Assessment Review Board on or before **June 10, 2026**.

Respondent's Disclosure: The Respondent must disclose its evidence to both you and the Clerk of the Assessment Review Board on or before **June 10, 2026**.

The timelines for disclosure must be followed.
The Board will not hear evidence that has not been properly disclosed.

Page **2** of **3**

All comments and/or rebuttals may be heard at the preliminary hearing.

Filing Disclosure

You must file two copies of your disclosure package: one with the Clerk of the Assessment Review Board and one with the Respondent. Keep the originals for your records.

How to file with the ARB	How to file with the Respondent
You may file your disclosure by mail, email, or in-person: Mail or in-person: Clerk, Assessment Review Board Town of High River 309B Macleod Trail SW High River, AB T1V 1Z5 Email: legislativeservices@highriver.ca	*You may file disclosure by mail, email, or in-person:* Mail or in-person: Assessor, Town of High River 309B Macleod Trail SW High River, AB T1V 1Z5 Email: assessment@highriver.ca

Please note that disclosure must be received on or before the disclosure deadline. If filing by mail, please allow time for delivery.

The Preliminary Hearing

If you do not attend this preliminary hearing, the Board may proceed in your absence.

Your complaint is subject to the *Matters Relating to Assessment Complaints Regulation*, AR 201/2017 (MRAC). MRAC is available on the Kings Printer website at:
http://www.qp.alberta.ca/index.cfm

If you require additional information or have any questions concerning these matters, please contact the Assessment Review Board Clerk at 403-603-3580 or by email at:
legislativeservices@highriver.ca.

Best regards,

Jody Hipkin
Clerk, Assessment Review Board

Page **3** of **3**

Subject Property - Summary of Assessment Information

High River

Assessment Summary

Year of General Assessment: 2025

Roll: 265300
Legal: 2411058 1 5
Address: 1500 12 AVE SE
Prev: Plan:1996JK, Block:OT @ 5.50 Acres

Land Area: 4.29 Acres
Subdivision: SUNSHINE MEADOWS
Zoning: Neighbourhood Centre District
Actual Use: Improved Commercial / Retail / Stand Alone

Market Land Valuation Site Area: 0.15 Acres

Income Valuation

IncomeID	Location	Property Type	Year Built
68400262	SUBURBAN	Bank	2014
68401389	SUBURBAN	Large Store	

Assessment Totals

Tax Status	Code	Description	Assessment
T	24	COMMERCIAL	3,635,700
		Grand Totals For 2025	**3,635,700**

Preliminary Matters – To Determine if the Complaint is Valid

Upon the review of the following: (Page 4 above)

- **Completeness of the complaint form**
- **An invalid complaint**
- **Complaint submitted after the filing deadline**

Attendance at the Hearing

Appearing on behalf of the Town of High River will be the following:

- Stewart Dalrymple A.M.A.A.
  - Appointed Assessor
    Municipal Assessor Appointed by Council in conformance with Provincial Qualifications of Assessor Regulation 233/2005. Assessor as defined in MGA Section 284 (1)
- Brandon Garner
  - Assessor A.M.A.A

Specific Legal Terminology

Term	Legal Definition	Discretion Level
Must / Required	A compulsory or mandatory requirement. There is no descretion.	**None**
May	A permissive term that grants decretionary directive	**Allowed but not required**
Shall	Impose a legal duty or obligation	**An action is required and not discretionaly**

Opening Statement

This preliminary hearing is being conducted to determine the validity of a complaint regarding the subject property, submitted after the due date and not being accompanied by the required fee whch are statutory requirements.

Information presented in this submission shows that adequate notice was shared with the agent regarding the stated deadline for the complaint, which according to legislation, to be valid, MUST be accompanied by the fee before the deadline stated. Information regarding the complaint deadline, the complaint and fee payable was publicallly available as well as being clearly communicated to the agent, representing the owner.

Specific Provincial Legislation Relative to the Completeness of the Complaint and the Fee Payable

Municipal Government Act

Complaints

460(1) A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.

(2) A complaint must be in the form prescribed in the regulations and must be accompanied with the fee set by the council under section 481(1), if any.

Fees

481(1) Subject to the regulations made pursuant to section 484.1(q), the council may set fees payable by persons wishing to make complaints or to be involved as a party or intervenor in a hearing before an assessment review board and for obtaining copies of an assessment review board's decisions and other documents.

Address to which a complaint is sent

461(1) A complaint must be filed with the assessment review board at the address shown on the assessment or tax notice for the property

(a) in the case of a complaint about a designated officer's decision to refuse to grant an exemption or deferral under section 364.1, not later than the date stated on the written notice of refusal under section 364.1(9), or

(b) in any other case, not later than the complaint deadline.

(1.1) A complaint filed after the complaint deadline is invalid.

(2) The applicable filing fee must be paid when a complaint is filed.

Matters Relating to Assessment Complaints Regulation, 2018 AR 201/2017

Part 1
Matters before Assessment Review Board Panel

Documents to be filed by complainant

3(1) If a complaint is to be heard by a panel of 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 complaint fee set out in Schedule 2 at the time the complaint is filed if, in accordance with section 481 of the Act, a fee is required by the council.

Division 3
General Procedural Matters

Complaint fees

12(1) The fees payable by persons wishing to make a complaint or be involved as a party in a hearing by a panel of an assessment review board are those fees set out in Schedule 2.

(2) If a complainant withdraws a complaint on agreement with the assessor to correct any matter or issue under complaint, any complaint filing fee must be refunded to the complainant.

Schedule 2

Complaint Fees

	Complaint Fee	
Residential 3 or fewer dwellings and farm land	Up to	$ 50
Residential 4 or more dwellings	Up to	$650
Non-residential	Up to	$650
Business tax	Up to	$ 50
Tax notices (other than business tax)	Up to	$ 30
Linear property — power generation	Flat fee	$650 per facility
Linear property — other	Flat fee	$ 50 per DIPAUID *
Designated industrial property — major plant or facility	Flat fee	$650 per major plant or facility
Designated industrial property – other	Flat fee	$50 per DIPAUID *
Equalized assessment	Flat fee	$650

* Designated Industrial Property Assessment Unit Identification

1) 2026 Assessment Review Board Complaint
Sections: 1 - 4

Alberta Government

Assessment Review Board Complaint

The personal information on this form is being collected under the authority of the *Municipal Government Act*, section 460, as well as the *Freedom of Information and Protection of Privacy Act*, section 33(c). The information will be used for administrative purposes and to process your complaint. For further information, contact your local Assessment Review Board.

Municipality Name (as shown on your assessment notice or tax notice)	Tax Year
High River	2026

Section 1 - Notice Type

Assessment Notice:
- ☒ Annual Assessment
- ☐ Amended Annual Assessment
- ☐ Supplementary Assessment
- ☐ Amended Supplementary Assessment

Tax Notice:
- ☐ Business Tax
- ☐ Other Tax (excluding property tax and business tax)

Name of Other Tax

Section 2 - Property Information

Assessment Roll or Tax Roll Number: 265300

Property Address: 1500 12 Av SE

Legal Land Description (i.e. Plan, Block, Lot or ATS ¼ Sec-Twp-Rng-Mer): 2411058;1;5

Property Type *(check all that apply)*
- ☐ Residential property with 3 or fewer dwelling units
- ☐ Residential property with 4 or more dwelling units
- ☐ Farm land
- ☒ Non-residential property
- ☐ Machinery and equipment

Business Name (if pertaining to business tax)	Business Owner(s)
	Kajer Developments Ltd.

Section 3 - Complainant Information

Is the complainant the assessed person or taxpayer for the property under complaint? ☐ Yes ☒ No

Note: If this complaint is being filed on behalf of the assessed person or taxpayer by an agent for a fee, or a potential fee, the Assessment Complaints Agent Authorization form must be completed by the assessed person or taxpayer of the property and must be submitted with this complaint form.

Complainant Name (if the complainant, assessed person, or taxpayer is a company, enter the complete legal name of the company): Ryan ULC

Mailing Address (if different from above)	City/Town	Province	Postal Code
335 8 Avenue SW, Suite 1700	Calgary	Alberta	T2P 1C9

Telephone Number (include area code)	Fax Number (include area code)	Email Address
(587) 351-6755	(587) 351-6494	apt.calgarytax@ryan.com

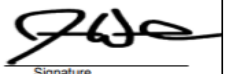
If applicable, please indicate any date(s) that you are not available for hearing

2) 2026 Assessment Review Board Complaint
Sections: 5 - 7

Section 6 - Complaint Filing Fee

If the municipality has set filing fees payable by persons wishing to make a complaint, the filing fee must accompany the complaint form, or the complaint will be invalid and returned to the person making the complaint.
If the assessment review board makes a decision in favour of the complainant, or if all the issues under complaint are corrected by agreement between the complainant and the assessor and the complaint is withdrawn prior to the hearing, the filing fee will be refunded.

Section 7 - Complainant Signature

05/12/2026	Josh Weber Principal, Complex Property Tax	
Date *(mm/dd/yyyy)*	Printed Name of Signatory Person and Title	Signature

Important Notice: Your completed complaint form and any supporting attachments, the agent authorization form, and the prescribed filing fee must be submitted to the address with whom a complaint must be filed as shown on the assessment notice or tax notice prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete complaint form, complaints submitted after the filing deadline, or complaints without the required filing fee, are invalid.

Assessment Review Board Clerk Use Only

Was the complaint filed on time?	☐ Yes	☐ No		
Is the required information included on or with the complaint form?	☐ Yes	☐ No		
Was the required filing fee included?	☐ Yes	☐ No	☐ N/A	Date received _____
Was a properly completed authorization form attached:	☐ Yes	☐ No	☐ N/A	
Complaint to be heard by:	☐ LARB Panel	☐ CARB Panel		

LGS1402 (2018/01)

Page 1 of 2

Reference to the Requirement of the Complaint Fee *(as highlighted)*

MATTERS FOR A COMPLAINT

A complaint to the assessment review board panel may be about any of the following matters, as shown on an assessment notice or on a tax notice:

1 the description of the property or business
2 the name or mailing address of an assessed person or taxpayer
3 an assessment amount
4 an assessment class
5 an assessment sub-class
6 the type of property
7 the type of improvement
8 school support
9 whether the property or business is assessable
10 whether the property or business is exempt from taxation under Part 10, but not if the exemption is given by an agreement under section 364.1(11) that does not expressly provide for the right to make the complaint
11 any extent to which the property is exempt from taxation under a bylaw under section 364.1 of the Act
12 whether the collection of tax on the property is deferred under a bylaw under section 364.1 of the Act
13 a designated officer's refusal to grant an exemption or deferral under a bylaw under section 364.1 of the Act

Note: To eliminate the need to file a complaint, some matters or information shown on an assessment notice or tax notice may be corrected by contacting the municipal assessor. It is advised to discuss any concerns about the matters with the municipal assessor prior to filing this complaint.

If a complaint fee is required by the municipality, it will be indicated on the assessment notice. Your complaint form will not be filed and will be returned to you unless the required complaint fee indicated on your assessment notice is enclosed.

ASSESSMENT REVIEW BOARD PANELS

A local assessment review board panel will hear complaints about residential property with 3 or fewer dwelling units, farm land or matters shown on a tax notice (other than a property tax notice).
A composite assessment review board panel will hear complaints about residential property with 4 or more dwelling units or non-residential property.

DISCLOSURE

Disclosure must include:

All relevant facts supporting the matters of complaint described on this complaint form.
All documentary evidence to be presented at the hearing.
A list of witnesses who will give evidence at the hearing.
A summary of testimonial evidence.
The legislative grounds and reason for the complaint.
Relevant case law and any other information that the complainant considers relevant.

Disclosure timelines:

For a complaint about any matter other than an assessment, the parties must provide full disclosure at least 7 days before the scheduled hearing date.
For a complaint about an assessment - local assessment review board panel:
Complainant must provide full disclosure at least 21 days before the scheduled hearing date.
Respondent must provide full disclosure at least 7 days before the scheduled hearing date.
Complainant must provide rebuttal at least 3 days before the scheduled hearing date.
For a complaint about an assessment - composite assessment review board panel:
Complainant must provide full disclosure at least 42 days before the scheduled hearing date.
Respondent must provide full disclosure at least 14 days before the scheduled hearing date.
Complainant must provide rebuttal at least 7 days before the scheduled hearing date.

DISCLOSURE RULES

Timelines for disclosure must be followed;
Information that has not been disclosed will not be heard by an assessment review board panel.
Disclosure timelines can be reduced if the disclosure information is provided at the time the complaint form is filed. Both the complainant and the assessor must agree to reduce the timelines.

PENALTIES

A Composite Assessment Review Board Panel may award costs against any party to a complaint that has not provided full disclosure in accordance with the regulations.

IMPORTANT NOTICES

Your completed complaint form and any supporting attachments, the agent authorization form and the prescribed filing fee must be submitted to the person and address with whom a complaint must be filed as shown on the assessment notice or tax notice, prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete complaint form, complaints submitted after the filing deadline, or complaints without the required filing fee are invalid.

An assessment review board panel must not hear any matter in support of an issue that is not identified on the complaint form.
The clerk will notify all parties of the hearing date and location.
For more details about disclosure please see the *Matters Relating to Assessment Complaints Regulation*.
To avoid penalties, taxes must be paid on or before the deadline specified on the tax notice even if a complaint is filed.

Assessment Complaints Agent Authorization Form
Section(s): 1 - 3

Government of Alberta

Assessment Complaints Agent Authorization

SECTION 1 - Assessed Person / Taxpayer Information Tax Year 2026

Assessed Person(s) or Taxpayer(s) *(if the assessed person or taxpayer is a company, enter the complete legal name of the company)*
Kajer Developments Ltd.

Business Name (if pertaining to business tax)	Business Owner(s)

SECTION 2 - Municipal and Property Information *(for designated industrial property go to Section 3)*

Municipality Name (as shown on your assessment notice or tax notice)	Assessment Roll or Tax Roll Number
High River	265300

Property Address	Legal Land Description (i.e. Plan, Block, Lot or ATS 1/4 Sec-Twp-Rng-Mer)
1500 12 Ave SE	2411058;1;5

Property Type *(check all that apply)*
- ☐ Residential property with 3 or less dwelling units
- ☐ Residential property with 4 or more dwelling units
- ☐ Farm land
- ☒ Non-residential property
- ☐ Machinery and equipment

SECTION 3 - Agent Information

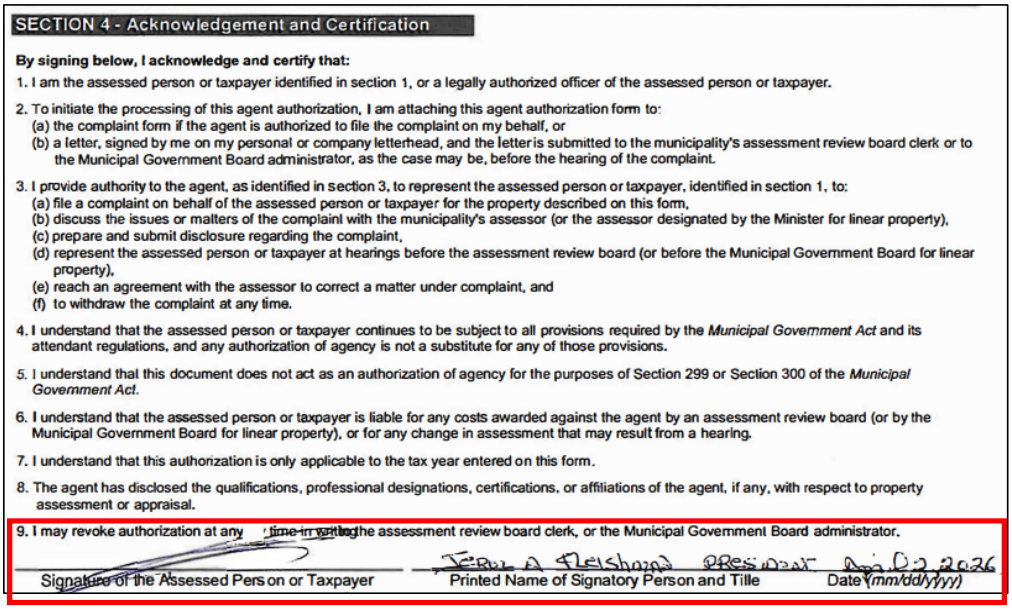
Note: Agent means a person or company who for a fee or potential fee acts for an assessed person or taxpayer during the assessment complaint process or at a hearing before an assessment review board or the Municipal Government Board.

Agent Name	Contact Name (if different) and Position Held
Ryan ULC	

Mailing Address (if different from above)	City/Town	Province	Postal Code
1700, 335 8 Avenue SW	Calgary	Alberta	T2P 1C9

Telephone Number *(include area code)*	Fax Number *(include area code)*	Email Address
(587) 351-6755	(587) 351-6494	APT.calgarytax@ryan.com

Assessment Complaints Agent Authorization Form
Section(s): 4



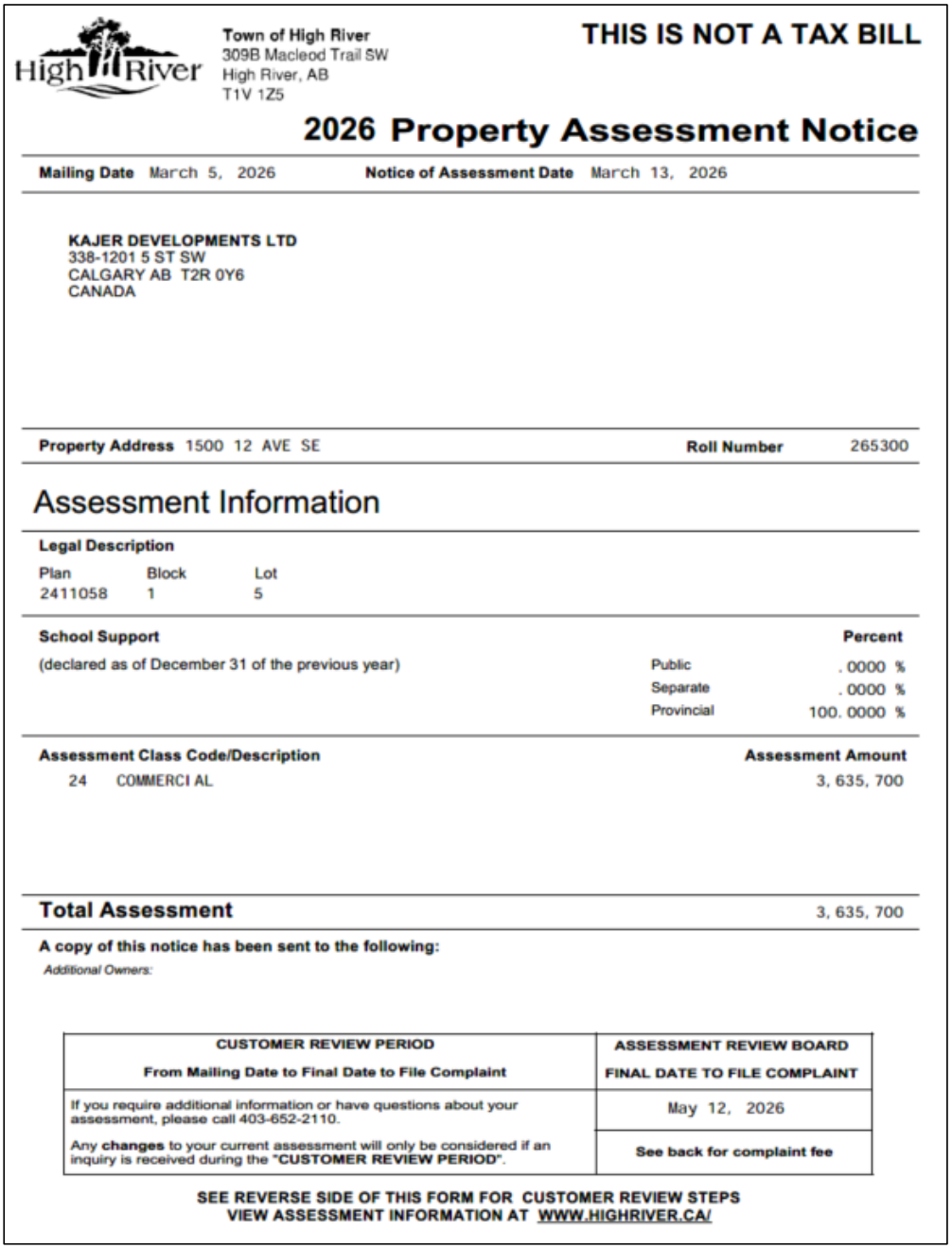
SECTION 4 - Acknowledgement and Certification

By signing below, I acknowledge and certify that:

1. I am the assessed person or taxpayer identified in section 1, or a legally authorized officer of the assessed person or taxpayer.
2. To initiate the processing of this agent authorization, I am attaching this agent authorization form to:
   (a) the complaint form if the agent is authorized to file the complaint on my behalf, or
   (b) a letter, signed by me on my personal or company letterhead, and the letter is submitted to the municipality's assessment review board clerk or to the Municipal Government Board administrator, as the case may be, before the hearing of the complaint.
3. I provide authority to the agent, as identified in section 3, to represent the assessed person or taxpayer, identified in section 1, to:
   (a) file a complaint on behalf of the assessed person or taxpayer for the property described on this form,
   (b) discuss the issues or matters of the complaint with the municipality's assessor (or the assessor designated by the Minister for linear property),
   (c) prepare and submit disclosure regarding the complaint,
   (d) represent the assessed person or taxpayer at hearings before the assessment review board (or before the Municipal Government Board for linear property),
   (e) reach an agreement with the assessor to correct a matter under complaint, and
   (f) to withdraw the complaint at any time.
4. I understand that the assessed person or taxpayer continues to be subject to all provisions required by the *Municipal Government Act* and its attendant regulations, and any authorization of agency is not a substitute for any of those provisions.
5. I understand that this document does not act as an authorization of agency for the purposes of Section 299 or Section 300 of the *Municipal Government Act*.
6. I understand that the assessed person or taxpayer is liable for any costs awarded against the agent by an assessment review board (or by the Municipal Government Board for linear property), or for any change in assessment that may result from a hearing.
7. I understand that this authorization is only applicable to the tax year entered on this form.
8. The agent has disclosed the qualifications, professional designations, certifications, or affiliations of the agent, if any, with respect to property assessment or appraisal.
9. I may revoke authorization at any ~~time in writing~~ the assessment review board clerk, or the Municipal Government Board administrator.

Signature of the Assessed Person or Taxpayer	Printed Name of Signatory Person and Title	Date (mm/dd/yyyy)
	JERRY A FLEISHAUER PRESIDENT	Aug 07 2026

2026 Property Assessment Notice – Page 1.



Town of High River
309B Macleod Trail SW
High River, AB
T1V 1Z5

THIS IS NOT A TAX BILL

2026 Property Assessment Notice

Mailing Date March 5, 2026 **Notice of Assessment Date** March 13, 2026

KAJER DEVELOPMENTS LTD
338-1201 5 ST SW
CALGARY AB T2R 0Y6
CANADA

Property Address 1500 12 AVE SE **Roll Number** 265300

Assessment Information

Legal Description

Plan	Block	Lot
2411058	1	5

School Support (declared as of December 31 of the previous year)

	Percent
Public	.0000 %
Separate	.0000 %
Provincial	100.0000 %

Assessment Class Code/Description	Assessment Amount
24 COMMERCIAL	3,635,700

Total Assessment 3,635,700

A copy of this notice has been sent to the following:
Additional Owners:

CUSTOMER REVIEW PERIOD From Mailing Date to Final Date to File Complaint	ASSESSMENT REVIEW BOARD FINAL DATE TO FILE COMPLAINT
If you require additional information or have questions about your assessment, please call 403-652-2110.	May 12, 2026
Any **changes** to your current assessment will only be considered if an inquiry is received during the **"CUSTOMER REVIEW PERIOD"**.	**See back for complaint fee**

SEE REVERSE SIDE OF THIS FORM FOR CUSTOMER REVIEW STEPS
VIEW ASSESSMENT INFORMATION AT WWW.HIGHRIVER.CA/

2026 Property Assessment Notice – Page 2.

IMPORTANT INFORMATION ABOUT YOUR PROPERTY ASSESSMENT NOTICE

Market Value Assessment

Property assessment is the process of estimating the value of a property for municipal and educational taxation purposes. Market value is the probable price that a property could sell for on the open market as of a given date.

Your current property assessment will be based on the High River real estate market condition as of July 1 of the previous year and the physical condition of your property as of December 31 of the previous year.

Over time, real estate values in High River neighbourhoods increase or decrease at different rates as supply and demand for the properties change. This change in market value is not always the same for each type of housing or property type within the municipality. The result is that the relationship between properties also changes.

Customer Review Steps

Step 1 Review
You have 60 days from when the Assessment Notice is mailed to review your assessment:
- Are the details correct, for example your name, address, or school support declaration?
- Does the property classification (residential, non-residential, or farm) correctly describe your property?
- Is the assessment value a reasonable estimate of the typical market value of your property as of July 1 of the previous year?
- Is your assessment equitable with others in your neighbourhood? Check comparable properties within your neighbourhood at www.highriver.ca or in person at the Town of High River Office. When comparing your property take into consideration, structure, size, age, quality, condition and location.

Step 2 Contact
After reviewing your Assessment Notice any questions may be referred to Town of High River Assessors at 403-652-2110 or attend one of the Open Houses. Please watch for further details in the Town Crier, the local newspaper and our website www.highriver.ca.

Each assessed person is entitled to see or receive sufficient information about the person's property in accordance with section 299 and 300 of the Municipal Government Act.

Step 3 Complaints
After discussing your concerns with an assessor, if you are still not satisfied, you have the right to file a complaint with the Assessment Review Board.

To file a complaint, complete a complaint form and submit it, along with the correct filing fee. Complaints must be processed on or before the **"Final Date for Complaint"** on the front of this notice, or the complaint is not valid.

Filing Fees (cheques payable to Town of High River):
- Residential (3 or fewer dwellings) - $50 per complaint
- Residential (4 or more dwellings) - $650
- Non-residential - $650 per complaint

Complaint Forms:
- Available online at www.highriver.ca or at the Town of High River Office.

Mail or deliver your completed complaint form and required fee to:
The Clerk of the Assessment Review Board
Town of High River
309B Macleod Trail S.W.
High River, AB. T1V 1Z5

Agent Authorization: An agent may not file a complaint or act for an assessed person or taxpayer at a hearing unless the assessed person or taxpayer has prepared and filed an Assessment Complaints Agent Authorization Form with the Assessment Review Board Clerk. The form is available online at www.highriver.ca or from the Town Office.

INQUIRIES?

Assessment Inquiries:
Town of High River Assessors
Phone 403-652-2110
Fax 403-601-8691
E-mail assessment@highriver.ca

Complaint Process Inquiries:
Assessment Review Board Clerk
Phone 403-603-3415
Email legislativeservices@highriver.ca

General or Tax Inquiries:
Phone 403-652- 2110
Fax 403-652- 2396
E-mail corporateservices@highriver.ca

THIS IS AN ASSESSMENT NOTICE NOT A TAX BILL

Preliminary Matter – To Determine if the Complaint is Valid

Upon the review of the following:

1) **Submission of the Assessment Review Board Complaint**
2) **Payment of the required fee**

Preliminary Hearing Communication Regarding the Complaints Filed and Fees Paid					
Date	**Time**	**From**	**To**	**Notes**	**Addendum Page**
05/11/2026	4:58 pm	APT Calgary (Grace)	Clerk of the ARB Jody Hipkin	Fees Submitted for 8 Appeals Roll: 1766000 Roll: 1512000 Roll: 265300 Roll: 2843000 Roll: 4460100 Roll: 8255000 Roll: 8256000	22
05/12/2026	10:40 am	Town of High River	APT Calgary (Grace)	Receipt for appeal fees paid as above @ $5,200	23
05/12/2026	8:49 am	APT Calgary (Grace)	THR Leg Services	Assessment Complaints - Batch 1 Roll: 8256000 Roll: 2843000 Roll: 1766000 Roll: 4460100	24
05/12/2026	8:55 am	APT Calgary (Grace)	THR Leg Services	Assessment Complaints - Batch 2 Roll: 8255000 Roll: 2853000 Roll: 1512000	25
05/12/2026	2:55 pm	Clerk of the ARB (Aleisha Pollett)	APT Calgary (Grace)	e-mail / fees paid for 8 properties, Complaints received for only 7, Requested Complaint for Roll: 265300	26
05/12/2026	3:01 pm	APT Calgary (Grace)	Clerk of the ARB (Aleisha Pollett)	Stating will forward complaint, awaiting Agent Authorization Form	27
05/12/2026	3:58 pm	Clerk of the ARB (Aleisha Pollett)	APT Calgary (Grace)	Notification Complaint needs to be received by 4 pm	27
05/12/2026	4:34 pm	APT Calgary (Grace)	Clerk of the ARB (Aleisha Pollett)	Submission of Complaint for Roll: 265300 **AFTER 4PM DEADLINE**	28
05/13/2026	11:53 am	Clerk of the ARB Jody Hipkin	APT Calgary (Grace)	**Notification that complaint received AFTER 4 pm deadline (4 pm Deadline as Advertised on the TOHR web site & as informed in e-mail communications)**	28 - 30

Preliminary Matters – To Determine if the Complaint is Valid

1) Non-Payment of the Complaint Filing Fee

As per Section 6 of the Assessment Review Board Complaint (page 12)

- "**the filling fee must accompany the complaint form**"

Section 6 — Complaint Filing Fee

If the municipality has set filing fees payable by persons wishing to make a complaint, the filing fee must accompany the complaint form or the complaint will be invalid and returned to the person making the complaint.

If the assessment review board panel makes a decision in favour of the complaint, or if all issues under complaint are corrected by agreement between the complainant and the assessor, and the complaint is withdrawn prior to the hearing, the filing fee will be refunded.

Also as stated on page 2 of the Assessment Review Board Complaint *(page 13)*

MATTERS FOR A COMPLAINT

MATTERS FOR A COMPLAINT

A complaint to the assessment review board panel may be about any of the following matters, as shown on an assessment or tax notice:

1 the description of the property or business
2 the name or mailing address of an assessed person or taxpayer
3 an assessment amount
4 an assessment class
5 an assessment sub-class
6 the type of property
7 the type of improvement
8 school support
9 whether the property is assessable
10 whether the property or business is exempt from taxation under Part 10, but not if the exemption is given by an agreement under section 364.1(11) that does not expressly provide for the right to make the complaint
11 any extent to which the property is exempt from taxation under a bylaw under section 364.1 of the Act
12 whether the collection of tax on the property is deferred under a bylaw under section 364.1 of the Act
13 a designated officer's refusal to grant an exemption or deferral under a bylaw under section 364.1 of the Act

Note: To eliminate the need to file a complaint, some matters or information shown on an assessment notice or tax notice may be corrected by contacting the municipal assessor. It is advised to discuss any concerns about the matters with the municipal assessor prior to filing this complaint.

If a complaint fee is required by the municipality, it will be indicated on the assessment notice. Your complaint form will not be filed and will be returned to you unless the required complaint fee indicated on your assessment notice is enclosed.

Town of High River – 2026 Newsletter *(included with every assessment notice)*
Explanation of the Requirements for Proceeding to Appeal are included

2026 Assessment Newsletter

HIGHRIVER.CA/ASSESSMENT

2026 Important Dates

Assessment Notices Mailed:
March 5, 2026

60-Day Customer Review Period:
March 13 to May 12, 2026
Inquiries Must be Made Within the 60-Day Review Period

Key Dates Related to Your 2025 Property Assessment for the 2026 Tax Year:

Valuation Date:
July 1, 2025

Physical Condition Date:
December 31, 2025

Calls & Walk-Ins Welcome:

Appointments can be made to speak with an Assessor:

P: 403.652.2110
A: 309B Macleod Trail SW
E: assessment@highriver.ca

Property owners are encouraged to conduct their own research in preparation to discuss their property value

Resources for the Review of Your Property Assessment:

- Visit highriver.ca/assessment for information on the Assessment Roll, GIS interactive Property Assessment Map, and other links.
- Other resources residents can review: Appraisals, MLS Information, newspaper, and private sales.

In Preperation to Speak to an Assessor:

- Have details of your property available for review.
- Compare your property value to similar properties in the neighbourhood.
- Compare your property value to similar properties that have sold in the neighbourhood (i.e. Multiple Listing Service (MLS) sales, recent appraisals).

When a Resident Contacts the Assessment Division, the Assessor:

- Will ensure property details are correct and make necessary changes.
- Conducts a property inspection if necessary.
- Reviews comparable properties.

Procedure for Submitting Assessment Appeals:

If your complaint is still unresolved after following the steps outlined above for reviewing your Assessment.

REQUIREMENTS FOR PROCEEDING TO APPEAL:

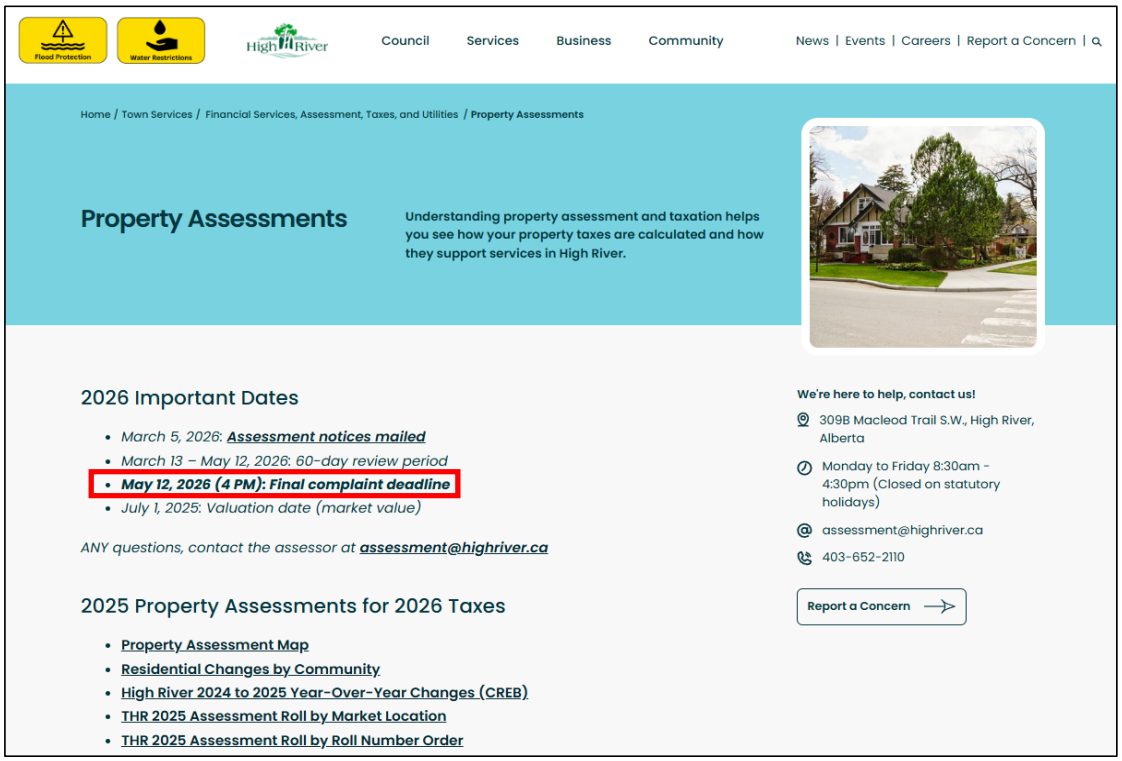
1. **Obtain a Provincially approved complaint form from the Town of High River website or Town office**
2. **Ensure your complaint form is accompanied with the appropriate fee at time of submission:**
   Residential (3 or fewer dwellings): $50.00
   Residential (4 or more dwellings): $650.00
   Non-Residential / Linear: $650.00
3. **Drop off or mail the completed form and applicable fee to the Town Office**

299/300 Requests (Highriver.ca/assessment)

Residential $50.00
Non-Residential $200.00
Multi-Family (3+ units) $200.00
*Additional Fees For Service May Apply *

APPEALS MUST BE RECEIVED BEFORE 4 PM ON MAY 12, 2026

Town of High River Web Page
Explanation of the Requirements for Proceeding to Appeal are included, specific to the Date and Time, as highlighted below:



Flood Protection | Water Restrictions | High River | Council | Services | Business | Community | News | Events | Careers | Report a Concern

Home / Town Services / Financial Services, Assessment, Taxes, and Utilities / Property Assessments

Property Assessments

Understanding property assessment and taxation helps you see how your property taxes are calculated and how they support services in High River.

2026 Important Dates

- *March 5, 2026:* ***Assessment notices mailed***
- *March 13 – May 12, 2026: 60-day review period*
- ***May 12, 2026 (4 PM): Final complaint deadline***
- *July 1, 2025: Valuation date (market value)*

ANY questions, contact the assessor at ***assessment@highriver.ca***

2025 Property Assessments for 2026 Taxes

- Property Assessment Map
- Residential Changes by Community
- High River 2024 to 2025 Year-Over-Year Changes (CREB)
- THR 2025 Assessment Roll by Market Location
- THR 2025 Assessment Roll by Roll Number Order

We're here to help, contact us!

309B Macleod Trail S.W., High River, Alberta

Monday to Friday 8:30am - 4:30pm (Closed on statutory holidays)

assessment@highriver.ca

403-652-2110

Report a Concern

Summary
Assessment Review Board Complaint did not accompany the fee and was filed AFTER the Appeal submission deadline.

Additionally
Reason stated for late submission of the complaint form was:

"*We are awaiting the agent authorization form, which delayed the forwarding of the appeal package."*

With reference to the Agent Authorization Form on page 4, it was signed by the owner of the property on April 2, 2026 well before the deadline for appeal, May 12, 2026.

The deadline was clearly publicly advertised, in addition to being specifically communicated to the agent, representing the owner, by the Clerk of the Assessment Review Board.

Assessment Review Board Complaint NOT Accompanying the Fee
Sufficient communication and time was provided:

1. Assessment Review Board Complaint Form
2. Assessment Notice
3. Sufficient notification of the appeal deadline – *(Assessment Newsletter and Town of High River Web Site, Page 16)*
    - March 13, 2026 – May 12, 2026 Deadline of *4pm
    - (***Business Hours** – Allowing time for processing on the last date of complaint)
4. Communication with the Clerk of the Assessment Review Board and Legislative Services

Legislation clearly states, when the required fee does not accompany the complaint before the deadline stated, the complaint is invalid and must be dismissed.

Recommendation of the Town of High River
Complaint be declared as "invalid" and dismissed

Attached Board Order #CARB 013-2025
One Member – Preliminary Hearing

- **Issue of Complaint**
    - Is the complaint valid due to the late payment of the complaint fee?
- **Decision of the Board**
    - The late payment of fees results in the complaint being dismissed.

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ADDENDUM
e-mail Correspondence – As detailed on Page 17

Jody Hipkin

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Monday, May 11, 2026 4:58 PM
To: THR Legislative Services; THR Legislative Services
Cc: APT CalgaryTax; Grace Ciszewski
Subject: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River

[EXTERNAL EMAIL] WARNING: This e-mail originated outside of the Town of High River. Do not click on any links or attachments unless you recognize the sender.

Good Day,

Please see below the Assessment Review Board Complaint list. The **appeal fee of $5,200.00** may be paid by VISA.
The ARB appeal packages will follow via emails.

Roll Number	Address	Municipality	Ryan Property Type	Appeal Fee
1766000	319 Centre St SW	High River	Retail	$ 650.00
1512000	1104 11 AV SE	High River	Hospitality	$ 650.00
265300	1500 12 AV SE	High River	Retail	$ 650.00
2843000	1512 13 AV SE	High River	Hospitality	$ 650.00
2853000	1103 18 ST SE	High River	Retail	$ 650.00
4460100	1010 24 ST SE	High River	Office	$ 650.00
8255000	1225 1 ST SE	High River	Retail	$ 650.00
8256000	1220 1 ST SE	High River	Retail	$ 650.00
				$ 5,200.00

Please note that we will accept receipts sent electronically.
Please phone for further information at 403-508-7862.

Thank you,

Grace

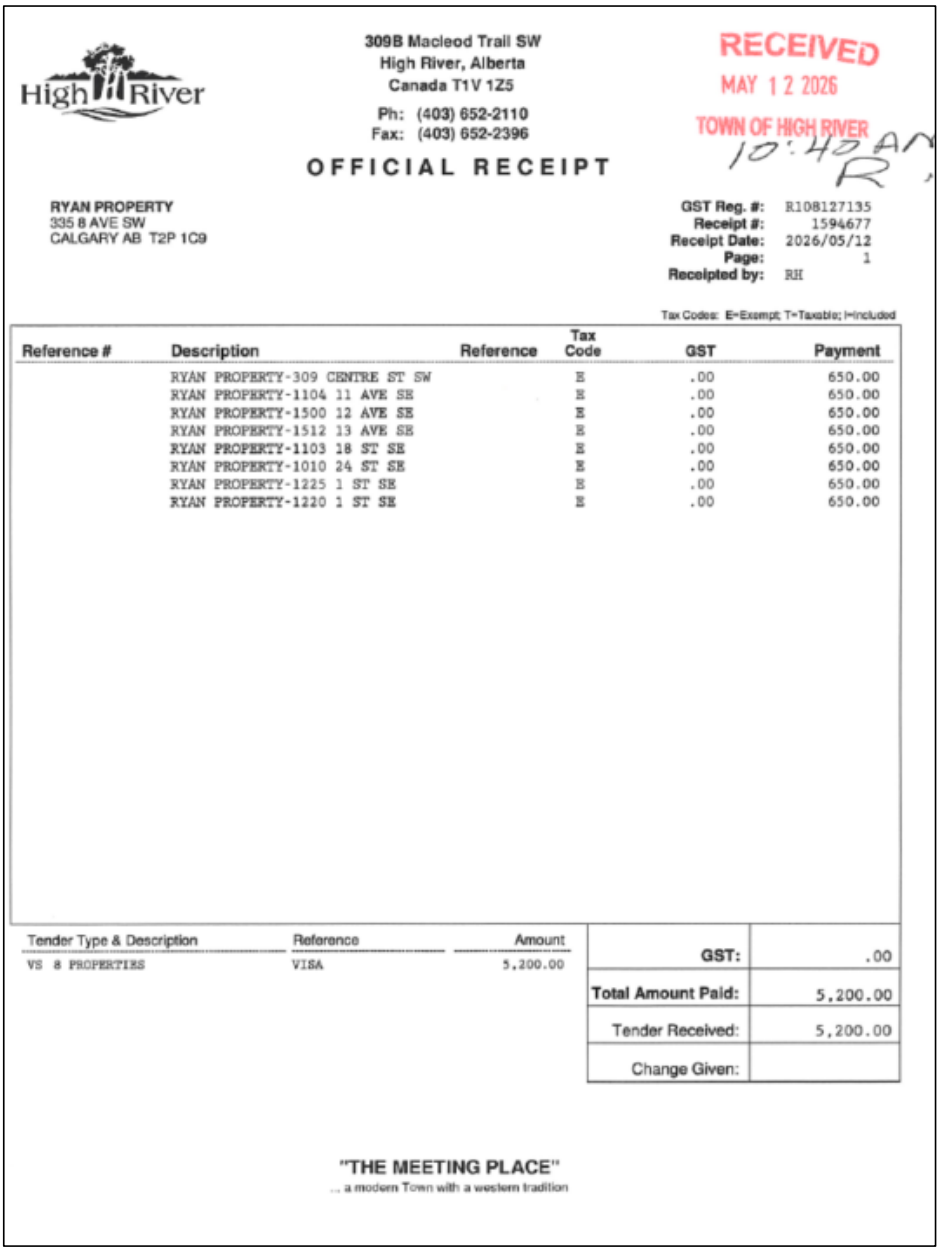
Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

As of January 1st, 2025, Altus Group Property Tax Services is now part of Ryan. Learn more about the acquisition here. (https://ryan.com/canada/)

1



309B Macleod Trail SW
High River, Alberta
Canada T1V 1Z5
Ph: (403) 652-2110
Fax: (403) 652-2396

RECEIVED
MAY 12 2026
TOWN OF HIGH RIVER
10:40 AM
R

OFFICIAL RECEIPT

RYAN PROPERTY
335 8 AVE SW
CALGARY AB T2P 1C9

GST Reg. #: R108127135
Receipt #: 1594677
Receipt Date: 2026/05/12
Page: 1
Receipted by: RH

Tax Codes: E=Exempt; T=Taxable; I=Included

Reference #	Description	Reference	Tax Code	GST	Payment
	RYAN PROPERTY-309 CENTRE ST SW		E	.00	650.00
	RYAN PROPERTY-1104 11 AVE SE		E	.00	650.00
	RYAN PROPERTY-1500 12 AVE SE		E	.00	650.00
	RYAN PROPERTY-1512 13 AVE SE		E	.00	650.00
	RYAN PROPERTY-1103 18 ST SE		E	.00	650.00
	RYAN PROPERTY-1010 24 ST SE		E	.00	650.00
	RYAN PROPERTY-1225 1 ST SE		E	.00	650.00
	RYAN PROPERTY-1220 1 ST SE		E	.00	650.00

Tender Type & Description	Reference	Amount
VS 8 PROPERTIES	VISA	5,200.00

GST:	.00
Total Amount Paid:	5,200.00
Tender Received:	5,200.00
Change Given:	

"THE MEETING PLACE"
... a modern Town with a western tradition

Jody Hipkin

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Tuesday, May 12, 2026 8:49 AM
To: THR Legislative Services; THR Legislative Services
Cc: APT CalgaryTax; Grace Ciszewski
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 1
Attachments: _8256000.pdf; _2843000.pdf; _1766000.pdf; _4460100.pdf

[EXTERNAL EMAIL] WARNING: This e-mail originated outside of the Town of High River. Do not click on any links or attachments unless you recognize the sender.

Good Morning,

Attached batch 1.

Thank you,

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

As of January 1st, 2025, Altus Group Property Tax Services is now part of Ryan. Learn more about the acquisition here. (https://ryan.com/canada/)

Jody Hipkin

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Tuesday, May 12, 2026 8:55 AM
To: THR Legislative Services; THR Legislative Services
Cc: APT CalgaryTax; Grace Ciszewski
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2
Attachments: 8255000.pdf; _2853000.pdf; _1512000.pdf

[EXTERNAL EMAIL] WARNING: This e-mail originated outside of the Town of High River. Do not click on any links or attachments unless you recognize the sender.

Attached batch 2.

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

As of January 1st, 2025, Altus Group Property Tax Services is now part of Ryan. Learn more about the acquisition here. (https://ryan.com/canada/)

Jody Hipkin

From: Aleisha Pollett
Sent: Tuesday, May 12, 2026 2:55 PM
To: APT CalgaryTax; Grace Ciszewski
Cc: THR Legislative Services
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2

Hi Grace,

Your email below lists 8 properties, but I only see 7 attachments.

Can you forward the paperwork for Roll # 265300 – 1500 12 Ave SE.

Thanks,

ALEISHA POLLETT ***Advisor***
Legislative & Advisory Services
T 403.603.3658

From: Grace Ciszewski <grace.ciszewski@ryan.com>
Sent: May 12, 2026 3:01 PM
To: Aleisha Pollett <APollett@highriver.ca>; APT CalgaryTax <APT.CalgaryTax@ryan.com>
Cc: THR Legislative Services <T@highriver.ca>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2

[EXTERNAL EMAIL] WARNING: This e-mail originated outside of the Town of High River. Do not click on any links or attachments unless you recognize the sender.

Hi Aleisha,

Thank you for your note.
Yes, I will forward the paperwork for this property momentarily. We were awaiting the agent authorization form, which delayed the forwarding of the appeal package.

Grace

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

4

ryan.com

As of January 1st, 2025, Altus Group Property Tax Services is now part of Ryan. Learn more about the acquisition here. (https://ryan.com/canada/)

From: Aleisha Pollett <APollett@highriver.ca>
Sent: Tuesday, May 12, 2026 3:58 PM
To: Grace Ciszewski <grace.ciszewski@ryan.com>; APT CalgaryTax <APT.CalgaryTax@ryan.com>
Cc: THR Legislative Services <T@highriver.ca>; Jody Hipkin <JHipkin@highriver.ca>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2

Thank you for letting me know. Will the paperwork be received by 4 pm?

ALEISHA POLLETT *Advisor*
Legislative & Advisory Services
T 403.603.3658

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Tuesday, May 12, 2026 4:34 PM
To: Aleisha Pollett <APollett@highriver.ca>; APT CalgaryTax <APT.CalgaryTax@ryan.com>
Cc: THR Legislative Services <T@highriver.ca>; Jody Hipkin <JHipkin@highriver.ca>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2 - Roll# 265300

[EXTERNAL EMAIL] WARNING: This e-mail originated outside of the Town of High River. Do not click on any links or attachments unless you recognize the sender.

Hi Aleisha,

Attached the ARB appeal package for roll 265300 – 1500 12 AV SE.

Thank you,

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700

3

Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

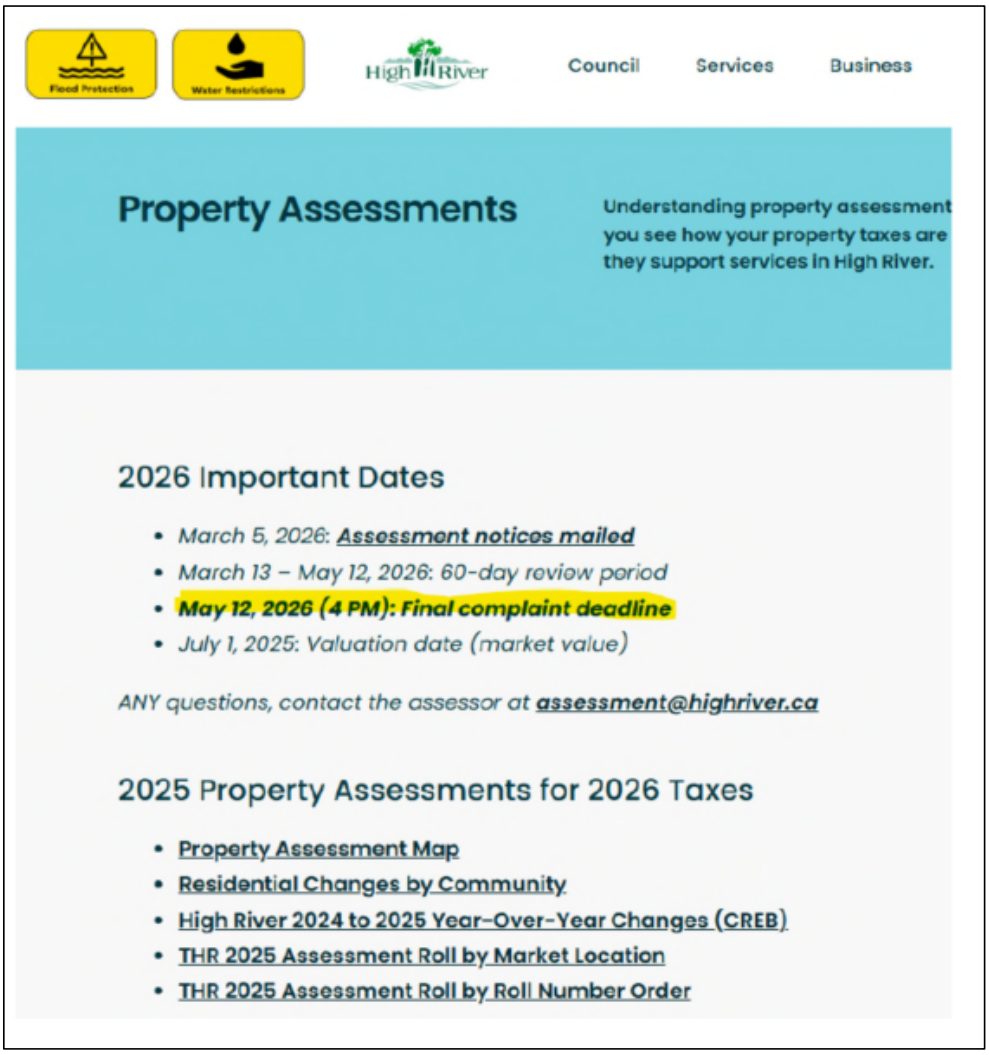
As of January 1st, 2025, Altus Group Property Tax Services is now part of Ryan. Learn more about the acquisition here. (https://ryan.com/canada/)

From: Jody Hipkin <JHipkin@highriver.ca>
Sent: Wednesday, May 13, 2026 11:53 AM
To: APT CalgaryTax <APT.CalgaryTax@ryan.com>; Aleisha Pollett <APollett@highriver.ca>
Cc: THR Legislative Services <T@highriver.ca>; Grace Ciszewski <grace.ciszewski@ryan.com>
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2 - Roll# 265300

Hi Grace,

I got your voicemail and wanted to share that the deadline is clear on our website and Aleisha also emailed wanting to confirm if the paperwork was going to be received by 4 pm.

Even if our office was open until 4:30 pm, your email didn't arrive until after that time.



Flood Protection

Water Restrictions

High River

Council Services Business

Property Assessments

Understanding property assessment
you see how your property taxes are
they support services in High River.

2026 Important Dates

- *March 5, 2026: **Assessment notices mailed***
- *March 13 – May 12, 2026: 60-day review period*
- ***May 12, 2026 (4 PM): Final complaint deadline***
- *July 1, 2025: Valuation date (market value)*

*ANY questions, contact the assessor at **assessment@highriver.ca***

2025 Property Assessments for 2026 Taxes

- Property Assessment Map
- Residential Changes by Community
- High River 2024 to 2025 Year-Over-Year Changes (CREB)
- THR 2025 Assessment Roll by Market Location
- THR 2025 Assessment Roll by Roll Number Order

RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batc

Aleisha Pollett
To ○ Grace Ciszewski; ○ APT CalgaryTax
Cc ○ THR Legislative Services; ● Jody Hipkin

Thank you for letting me know. Will the paperwork be received by 4 pm?

ALEISHA POLLETT *Advisor*
Legislative & Advisory Services
T 403.603.3658

We will have to schedule a preliminary hearing to determine whether the appeal will proceed. You can expect to receive notice once we have determined the details.

Thank you,

Jody Hipkin, Manager
Legislative & Advisory Services
403-603-3580
My working hours may not be your working hours. Please do not feel you need to reply outside of your normal work schedule.

Jody Hipkin

From: APT CalgaryTax <APT.CalgaryTax@ryan.com>
Sent: Wednesday, May 13, 2026 12:13 PM
To: Jody Hipkin; APT CalgaryTax; Aleisha Pollett
Cc: THR Legislative Services; Grace Ciszewski
Subject: RE: Ryan ULC: 2026 Assessment Review Board Complaint - Town of High River - Batch 2 - Roll# 265300

[EXTERNAL EMAIL] WARNING: This e-mail originated outside of the Town of High River. Do not click on any links or attachments unless you recognize the sender.

Thank you, Jody!

Grace Ciszewski
Senior Administrative Assistant, Property Tax
Ryan
335 8 Avenue SW
Suite 1700
Calgary, Alberta T2P 1C9

403.508.7862 Direct

ryan.com

As of January 1st, 2025, Altus Group Property Tax Services is now part of Ryan. Learn more about the acquisition here. (https://ryan.com/canada/)

Ryan

BOARD ORDER #CARB 013-2025

Yellowhead County

Composite Assessment Review Board ("CARB")

One-Member – Preliminary Hearing

20-Aug-2025

Assessment Roll Number:	**302877**
Legal Address:	**Plan 9020485 – Block 3 – Lot 12**
Assessment Year:	**2024**
Taxation Year:	**2025**

Between:

Whispering Winds Logging (2022) Inc
c/o Pamela Kopp (Monica & Larry Day)
Complainant

And

Yellowhead County
Represented by: Bob Daudelin, Accurate Assessment Group Ltd., Municipal Assessor
Respondent

DECISION OF

D Woolsey, Presiding Officer, Member - Land and Property Rights Tribunal

---

Procedural Matters

[1] The parties agreed that the hearing would be conducted as a paper hearing from written submissions and the complaint documents since neither party would be attending the hearing.

Issues of the Complaint

[2] Is the complaint invalid due to the late payment of the complaint fee?

[3] Is the complaint invalid due to the complaint form not being signed by the complainant?

Complainant's Position

[4] The Complainant submitted its complaint form on July 22, 2025.

[5] In its email of August 11,2025 the Complainant explained that she was not familiar with the complaint process and found it tricky to navigate for someone who is not in the system full time. Further to that she did not realize the payment was separate from submitting the application on a different website. It was not an attempt to circumvent the complaint process and payment was made on August 8, 2025

[6] In regard to the signature, there was no clear option to provide a signature (no signature box, e-sign or DocuSign). She would have signed if there had been an option to do so. She requested grace in this matter, as her intent has always been to comply fully with the complaint process.

Respondent's Position

[7] The Respondent asked that the complaint be dismissed as it didn't meet the requirements set out in Section 461(2) of the Municipal Government Act (MGA), "The applicable filing fee must be paid when a complaint is filed."

[8] Further, the complainant's name doesn't match with the property owner's name, the complainant's signature is missing on the signature line, and no agent authorization form is attached to the complaint form.

[9] The Respondent also provided a copy of the assessment notice stating the assessment complaint deadline of July 23, 2025.

[10] In support of its request for a dismissal of the complaint the Respondent provided a number of previous composite assessment review board (CARB) decisions from other municipalities showing that late complaints and/or late payment of complaint fees resulted in dismissal of the complaints.

Decision of the Board

[11] The late payment of fees results in the complaint being dismissed.

[12] The non-signing of the complaint by the complainant has no effect on the validity of the complaint. If an agent authorization form is required, it must be determined if Ms. Kopp is being paid as an agent.

[13] The $100.00 complaint fee should be refunded unless there is a policy not to do so.

Reasons for the Decision

[14] The complaint deadline was July 23, 2025. The $100.00 complaint fee was received on August 8, 2025. Legislation requires that the complaint fee and the complaint must be received on or before the complaint deadline of July 23, 2025.

[15] The Board sympathizes with the complainant, but it does not have jurisdiction to vary or extend the date for filing the complaint or the complaint fee. The regulation (Matters Relating to Assessment Complaints Regulation) regarding filing of fees prior to the complaint deadline does not allow the Board any discretion. It must deny the request and invalidate the complaint.

[16] Numerous decisions have stated that the signature, while desirable, if not supplied does not invalidate a complaint. As long as the critical information is on the form that identifies the property under complaint the form is adequate to proceed to the next step in the complaint process. The other critical requirement is the payment of the complaint fee.

[17] Similarly the requirement of the signed agent authorization form is required prior to the start of the hearing, if a person that is not the property owner, is to present a case on behalf of the property owner. If that person is an agent legislation sets out that an agent is "someone who is paid" to represent a property owner. That would have to be determined at the start of a merit hearing.

DATED at Edmonton, in the Province of Alberta, this 21st day of August 2025.

G. Amorin ARB Clerk for: D Woolsey, Presiding Officer

This decision may be judicially reviewed by the Court of King's Bench pursuant to section 470(1) of the Municipal Government Act, RSA 2000, c. M-26

DOCUMENTS AND LEGISLATION CONSIDERED BY THE CARB

Documents

B1 Notice of **Preliminary Hearing**
B2 Email Correspondence:

- B2.1 - EMAIL County Office to ARB Clerk July 29, 2025
- B2.2 - EMAIL County Office to Complainant - reject complaint July 23, 2025
- B2.3 - EMAIL ARB Clerk to Complainant July 30 - Aug 8, 2025
- B2.4 - EMAIL ARB Clerk to Respondent July 30 - Aug 4, 2025

B3 Assessment Notice
B4 Complaint Fee Receipt
C Complaint Form
D Complainant 7 Day Disclosure Package
E Respondent 7 Day Disclosure Package

Legislation

ALBERTA REGULATION 201/2017 Municipal Government Act

Complaints
460(1) A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.
(2) A complaint must be in the form prescribed in the regulations and must be accompanied with the fee set by the council under section 481(1), if any.

MATTERS RELATING TO ASSESSMENT COMPLAINTS REGULATION, 2018
Part 1
Matters before Assessment Review Board Panel
Documents to be filed by complainant

3(1) If a complaint is to be heard by a panel of 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 complaint fee set out in Schedule 2 at the time the complaint is filed if, in accordance with section 481 of the Act, a fee is required by the council.
(2) If a complainant does not comply with subsection (1),
(a) the complaint is invalid, and
(b) the panel must dismiss the complaint.

Page **4** of **4**

Classification: Protected A

Matters Relating To Assessment Complaints Regulation
2018 AR 201/2017
Schedules 1 - 2

Coming into force

60 This Regulation comes into force on January 1, 2018.

Schedule 1

Government of Alberta ■

Assessment Review Board Complaint

Municipality Name (as shown on your assessment notice or tax notice)	Tax Year

Section 1 — Notice Type

Assessment notice:
- ☐ Annual Assessment
- ☐ Amended Annual Assessment
- ☐ Supplementary Assessment
- ☐ Amended Supplementary Assessment

Tax Notice:
- ☐ Business Tax
- ☐ Other Tax (excluding property tax and business tax) _____ Name of Other Tax

Section 2 — Property Information

Assessment Roll or Tax Roll Number ☐

29

Schedule 1 — MATTERS RELATING TO ASSESSMENT COMPLAINTS REGULATION, 2018 — AR 201/2017

Property Address
Legal Land Description (i.e. Plan, Block, Lot or ATS 1/4 Sec-Twp-Rng-Mer)

Property Type (check all that apply)
- ☐ Residential property with 3 or fewer dwelling units
- ☐ Residential property with 4 or more dwelling units
- ☐ Farm land
- ☐ Non-residential property
- ☐ Machinery and equipment

Business Name (if pertaining to business tax)	Business Owner(s)

Section 3 — Complainant Information

Is the complainant the assessed person or taxpayer for the property under complaint?
☐ Yes ☐ No

Note: If this complaint is being filed on behalf of the assessed person or taxpayer by an agent for a fee, or a potential fee, the Assessment Complaints Agent Authorization form must be completed by the assessed person or taxpayer of the property and must be submitted with this complaint form.

Complainant Name (if the complainant, assessed person or taxpayer is a company, enter the complete legal name of the company)			
Mailing Address (if different from above)	City/Town	Province	Postal Code
Telephone number (include area code)	Fax Number (include area code)	Email Address	
If applicable, please indicate any dates you are not available for a hearing			

Section 4 — Complaint Information — **Check the matter(s) that apply to the complaint (see reverse for coding)**

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10

Note: Some matters or information may be corrected by contacting the municipal assessor prior to filing a formal complaint.

Section 5 — Reason(s) for Complaint — **Note: An assessment review board panel must not hear any matter in support of an issue that is not identified on the complaint form**

A complainant must
- indicate what information shown on an assessment notice or tax notice is incorrect,
- explain in what respect that information is incorrect,
- indicate what the correct information is, and
- identify the requested assessed value, if the complaint relates to an assessment.

Requested assessed value: ☐

Section 6 — Complaint Filing Fee

If the municipality has set filing fees payable by persons wishing to make a complaint, the filing fee must accompany the complaint form or the complaint will be invalid and returned to the person making the complaint.

If the assessment review board panel makes a decision in favour of the complaint, or if all issues under complaint are corrected by agreement between the complainant and the assessor, and the complaint is withdrawn prior to the hearing, the filing fee will be refunded.

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Schedule 1 | MATTERS RELATING TO ASSESSMENT COMPLAINTS REGULATION, 2018 | AR 201/2017

Section 7 — Complainant Signature

Signature | Printed name of signatory person and title | Date (mm/dd/yyyy)

Important Notice: Your completed complaint form and any supporting attachments, the agent authorization form and the prescribed filing fee must be submitted to the person and address with whom a complaint must be filed as shown on the assessment notice or tax notice prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete form, complaints submitted after the filing deadline or complaints without the required filing fee are invalid.

Assessment Review Board Clerk Use Only

Was the complaint filed on time?	☐ Yes	☐ No	
Is the required information included on or with the complaint form?	☐ Yes	☐ No	
Was the required filing fee included?	☐ Yes	☐ No	☐ N/A
Was a properly completed agent authorization form attached?	☐ Yes	☐ No	☐ N/A Date Received ____
Complaint to be heard by:	☐ LARB panel	☐ CARB panel	

MATTERS FOR A COMPLAINT

A complaint to the assessment review board panel may be about any of the following matters, as shown on an assessment or tax notice:

1 the description of the property or business
2 the name or mailing address of an assessed person or taxpayer
3 an assessment amount
4 an assessment class
5 an assessment sub-class
6 the type of property
7 the type of improvement
8 school support
9 whether the property is assessable
10 whether the property or business is exempt from taxation under Part 10, but not if the exemption is given by an agreement under section 364.1(11) that does not expressly provide for the right to make the complaint
11 any extent to which the property is exempt from taxation under a bylaw under section 364.1 of the Act
12 whether the collection of tax on the property is deferred under a bylaw under section 364.1 of the Act
13 a designated officer's refusal to grant an exemption or deferral under a bylaw under section 364.1 of the Act

Note: To eliminate the need to file a complaint, some matters or information shown on an assessment notice or tax notice may be corrected by contacting the municipal assessor. It is advised to discuss any concerns about the matters with the municipal assessor prior to filing this complaint.

If a complaint fee is required by the municipality, it will be indicated on the assessment notice. Your complaint form will not be filed and will be returned to you unless the required complaint fee indicated on your assessment notice is enclosed.

ASSESSMENT REVIEW BOARD PANELS

A local assessment review board panel will hear complaints about residential property with 3 or less dwelling units, farm land or matters shown on a tax notice (other than a property tax notice).

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A composite assessment review board panel will hear complaints about residential property with 4 or more dwelling units or non-residential property.

DISCLOSURE

Disclosure must include:

All relevant facts supporting the matters of complaint described on this complaint form.
All documentary evidence to be presented at the hearing.
A list of witnesses who will give evidence at the hearing.
A summary of testimonial evidence.
The legislative grounds and reason for the complaint.
Relevant case law and any other information that the complainant considers relevant.

Disclosure timelines:

For a complaint about any matter other than an assessment, the parties must provide full disclosure at least 7 days before the scheduled hearing date.

For a complaint about an assessment - local assessment review board panel:
Complainant must provide full disclosure at least 21 days before the scheduled hearing date.
Respondent must provide full disclosure at least 7 days before the scheduled hearing date.
Complainant must provide rebuttal at least 3 days before the scheduled hearing date.

For a complaint about an assessment - composite assessment review board panel:
Complainant must provide full disclosure at least 42 days before the scheduled hearing date.
Respondent must provide full disclosure at least 14 days before the scheduled hearing date.
Complainant must provide rebuttal at least 7 days before the scheduled hearing date.

DISCLOSURE RULES

Timelines for disclosure must be followed.
Information that has not been disclosed will not be heard by an assessment review board panel.
Disclosure timelines can be reduced if the disclosure information is provided at the time the complaint form is filed.
Both the complainant and the assessor must agree to reduce the timelines.

PENALTIES

A Composite Assessment Review Board Panel may award costs against any party to a complaint that has not provided full disclosure in accordance with the regulations.

IMPORTANT NOTICES

Your completed complaint form and any supporting attachments, the agent authorization form and the prescribed filing fee must be submitted to the person and address with whom a complaint must be filed as shown on the assessment notice or tax notice, prior to the deadline indicated on the assessment notice or tax notice. Complaints with an incomplete complaint form, complaints submitted after the filing deadline or complaints without the required filing fee are invalid.

An assessment review board panel must not hear any matter in support of an issue that is not identified on the complaint form.

The clerk will notify all parties of the hearing date and location.

For more details about disclosure please see the *Matters Relating to Assessment Complaints Regulation.*

To avoid penalties, taxes must be paid on or before the deadline specified on the tax notice even if a complaint is filed.

The personal information collected through this form is for the purpose of processing your complaint. This collection is authorized by section 4(c) of the *Protection of Privacy Act* and section 460 of the *Municipal Government Act*. For questions about the collection of personal information, contact (the

email address, telephone number or other contact information to which the individual may direct the individual's questions about the collection). (The public body's intention, if any, at that time to input the information into an automated system to generate content or make decisions, recommendations or predictions).

AR 201/2017 Sched.1;258/2022;142/2025

Schedule 2

Complaint Fees

	Complaint Fee	
Residential 3 or fewer dwellings and farm land	Up to	$ 50
Residential 4 or more dwellings	Up to	$650
Non-residential	Up to	$650
Business tax	Up to	$ 50
Tax notices (other than business tax)	Up to	$ 30
Linear property — power generation	Flat fee	$650 per facility
Linear property — other	Flat fee	$ 50 per DIPAUID *
Designated industrial property — major plant or facility	Flat fee	$650 per major plant or facility
Designated industrial property – other	Flat fee	$50 per DIPAUID *
Equalized assessment	Flat fee	$650

* Designated Industrial Property Assessment Unit Identification