

0262 1182 - 1251 PREC
Complaint ID 1182 - 1251
Roll No. Multiple

COMPOSITE ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: MAY 13, 2019

PRESIDING OFFICER: D. PETRIUK

This decision pertains to a complaint submitted to the Central Alberta Regional Assessment Review Board, as provided by the *Municipal Government Act*, Revised Statutes of Alberta 2000, Chapter M-26 (the Act),

BETWEEN:

ALTUS GROUP LIMITED
(as represented by **Bennett Jones LLP**)

Complainant

-and-

THE CITY OF RED DEER
(as represented by **Brownlee LLP**)

Respondent

in respect of multiple property assessments prepared by an Assessor of The City of Red Deer as follows:

ROLL NUMBER: MULTIPLE ROLLS (ATTACHED)
MUNICIPAL ADDRESS: MULTIPLE (ATTACHED)

This matter was heard by a one-member Composite Assessment Review Board on the 13 day of May 2019, at The City of Red Deer, in the province of Alberta.

Appeared on behalf of the Complainant: Alexis Teasdale, Bennett Jones LLP
Andrew Izard, Altus Group

Appeared on behalf of the Respondent: Greg Plester, Brownlee LLP
Maureen Cleary, The City of Red Deer
Jason Miller, The City of Red Deer

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”], and The City of Red Deer, Bylaw No. 3474/2011, *Regional Assessment Review Board Bylaw* (November 14, 2011).

PROPERTY DESCRIPTION AND BACKGROUND

[2] The properties that are the subject of this application (the “Properties”) are listed in Appendix “A”.

PRELIMINARY MATTERS

[3] Neither party raised any objection to composition of the panel.

[4] This was a preliminary hearing to set hearing dates for complaints related to the Properties. Both parties received notice of this hearing by way of a letter dated April 16, 2019 from the Clerk of the Regional Assessment Review Board. At the outset, the parties were advised that given space restrictions, any additional cost resulting from third party space being rented would be passed on to the parties.

[5] No additional preliminary or procedural matters were raised by any party. Both parties indicated that they were prepared to proceed with the hearing.

[6] The Board confirmed the submissions of the parties and entered the following Exhibits into the record:

- C.1 Complainant’s Preliminary Hearing Argument Submission (199 pages)
- C.2 Complainant’s Proposed Hearing Schedule (3 pages)
- C.3 Respondent’s Proposed Hearing Schedule (3 pages)
- R.1 Respondent’s Preliminary Hearing Submission (no page numbers)
- R.2 Respondent’s email dated May 6, 2019, with attachments (5 pages)
- R.3 Assessment Review Board Complaints (no page numbers)
- R.4 Respondent’s Proposed Hearing Schedule (3 pages)

ISSUES

- [7] The only issue before the Board was how to schedule the complaints in respect of the Properties.

POSITION OF THE PARTIES

Position of the Complainant

- [8] The Complainant proposed that complaints with common issues be grouped and scheduled together to be heard on a rolling basis. This approach anticipates that the Complainant would present a common evidence package for each group and then that evidence would be carried forward to other files with the same issue or issues. The Complainant would also be able to present site specific evidence for each Complaint. The same agent would represent all Properties.
- [9] The Complainant argued that this was an efficient use of the Board's and the parties' time and resources. A common evidence package would mean that evidence common to a group of complaints would need to be presented only once and then carried forward to the balance of the hearings in that group. The Complainant also noted that in its experience, while the first complaint may take longer, any following complaints could proceed quickly as only site specific evidence would be specifically articulated.
- [10] The Complainant noted that having the same Board adjudicate complaints with common issues would favour consistency in decisions.
- [11] The Complainant's proposed hearing schedule (Exhibit C. 2) anticipates completion of all 70 hearings in 7 weeks, utilizing a Monday through Thursday hearing schedule. The Complainant argued that this was practical, as Friday could be used as a hearing day if necessary in any given week.

Position of the Respondent

- [12] The Respondent argued that the schedule proposed by the Complainant was too onerous and did not take into consideration the Respondent's scheduling constraints. Particularly, the Respondent argued that the Complainant's schedule would not allow the Respondent sufficient time to prepare for each hearing. The Respondent also argued that the Complainant's proposed schedule allowed for hearings after September 1, which was impossible for the Respondent given its other ongoing work and in particular roll preparation.
- [13] The Respondent argued that each hearing must be scheduled and heard separately. The Respondent argued that there was not enough overlap in the issues, ownership or property type to have the complaints grouped. Rather, any carry forward of evidence should be made on a case by case basis, at the hearing, and not in assumed in advance.
- [14] The schedule presented by the Respondent (Exhibit R.4) outlined each hearing proceeding separately, with up to three boardrooms (and Panels) running simultaneously, with the hearings to be completed in eight weeks, on a Tuesday, Wednesday, Thursday schedule.

Complainant's Rebuttal

- [15] The Complainant argued that it was unreasonable for the Respondent to provide a truncated hearing schedule, asserting that its assessors were unavailable from October to December, and on Mondays and Fridays, but then assert that the schedule provided by the Respondent did not provide adequate preparation time.

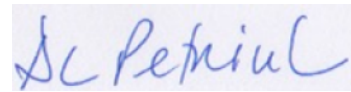
Joint Submission

- [16] The hearing remained open until May 15 at 4pm, subsequently extended to May 16 at noon, to provide the parties with an opportunity to present a joint scheduling submission. The parties presented a joint hearing schedule, which is attached as Appendix "B". Appendix "B" outlines 5 weeks of hearings, beginning on July 22, 2019 and ending with the week of September 23, 2019. Hearings are not set to run continuously throughout this time. The only issue which remains to be decided is whether the hearings during the weeks of July 22, 2019, August 12, 2019 and August 19, 2019 should run from Monday to Thursday (the Complainant's request) or Tuesday to Friday (the Respondent's request). The parties have agreed that hearings will be held Monday through Friday for the balance of the hearing schedule.

BOARD RULING and DECISION

- [17] The parties are to be commended on their ability to reach an agreement with respect to the majority of the hearings.
- [18] Section 461(3) of the MGA provides that 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. The regulations then further direct the clerk as to scheduling and notice of hearing. If there is a dispute, as in this case, *Matters Relating to Assessment Complaints Regulation*, AR 310/2009, as amended ("MRAC") s. 42(1)(b) provides jurisdiction to a panel in procedural matters including the scheduling of a hearing.
- [19] Both parties have scheduling constraints. Each party has provided its own schedule in an attempt to accommodate staff and time availability. The Respondent has outlined its concerns regarding availability of staff along with the reality of its other ongoing commitments. The Complainant has indicated that the same agent is responsible for all Properties and provided a schedule to take that into consideration.
- [20] In order to ensure that both parties have an equal and fair opportunity to prepare and make their case, hearings for the week of July 22, 2019 shall be scheduled for Monday to Thursday and hearings for the weeks of August 12, 2019 and August 19, 2019 shall be scheduled for Tuesday to Friday. This allows roughly the same number of hearings in each of the parties' preferred times.

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- [21] The ruling in paragraph 20 above, along with Appendix "B" shall form the basis for the schedule for the hearings for the Properties all of which is subject to scheduling by the Clerk of the Regional Assessment Review Board.
- [22] The parties have agreed to a joint schedule, and in doing so have provided hearing dates which fall outside of the required timelines for notice requirements pursuant to MRAC s. 8. Accordingly, notice under MRAC s. 8 (d) is abridged pursuant to s. 11(1) of MRAC.
- [23] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 17th day of May, 2019 and signed by the Presiding Officer.



DEBORAH PETRIUK
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 A

0262	1187	CARB	30000931490	3901 50A Ave, Red Deer, AB
0262	1190	CARB	30001620645	4514 48 Ave, Red Deer, AB
0262	1191	CARB	30001620660	4813 46 St, Red Deer, AB
0262	1188	CARB	30001620665	4823 46 St, Red Deer, AB
0262	1189	CARB	30001620670	4827 46 St, Red Deer, AB
0262	1186	CARB	30002032155	25 Howarth St, Red Deer, AB
0262	1202	CARB	30000920730	3110 47 Ave, Red Deer, AB
0262	1203	CARB	30002321906	A 31 Timberstone WY, Red Deer, AB
0262	1204	CARB	30002321907	B 31 Timberstone WY, Red Deer, AB
0262	1205	CARB	30002330875	A 301 Timothy DR, Red Deer, AB
0262	1206	CARB	30002330876	B 301 Timothy DR, Red Deer, AB
0262	1207	CARB	30002330877	C 301 Timothy DR, Red Deer, AB
0262	1216	CARB	30000920090	3010 50 Ave, Red Deer, AB
0262	1219	CARB	30001410155	1840 49 AV, Red Deer, AB
0262	1220	CARB	30001410160	1824 49 AV, Red Deer, AB
0262	1193	CARB	30002941765	7414 50 Ave, Red Deer, AB
0262	1194	CARB	30002941770	7424 50 Ave, Red Deer, AB
0262	1232	CARB	30000422181	1890 49 AV, Red Deer, AB
0262	1197	CARB	30000540220	24 Signet Cl, Red Deer, AB
0262	1198	CARB	30000540235	2101 Seneca Dr, Red Deer, AB
0262	1211	CARB	30002332080	2000 499 Timberlands Dr, Red Deer, AB
0262	1223	CARB	30001620215	4909 49 St, Red Deer, AB
0262	1183	CARB	30001620376	4901 48 St, Red Deer, AB
0262	1222	CARB	30001620130	4902 50 Ave, Red Deer, AB
0262	1200	CARB	30001620020	4822 51 Ave, Red Deer, AB
0262	1199	CARB	30000920270	2840 Bremner Ave, Red Deer, AB
0262	1215	CARB	30002910120	6794 50 Ave, Red deer, AB
0262	1182	CARB	30002822785	6757 50 Ave, Red Deer, AB
0262	1228	CARB	30000540190	4 5111 22 ST, Red Deer, AB
0262	1242	CARB	30002910155	6870 50 Av, Red Deer, AB
0262	1201	CARB	30000933055	3421 50 Av, Red Deer, AB
0262	1243	CARB	30002921780	6350 67 St, Red Deer, AB
0262	1192	CARB	30002921815	6130 67 St, Red Deer, AB
0262	1195	CARB	30003214635	7730 50 Ave, Red Deer, AB
0262	1244	CARB	30002911735	6720 52 Av, Red Deer, AB
0262	1245	CARB	30002921785	15 6350 67 St, Red Deer, AB

0262	1233	CARB	30000431645	2119 50 AV, Red Deer, AB
0262	1226	CARB	30000540130	2004 50 AV, Red Deer, AB
0262	1227	CARB	30000540155	200 5001 19 ST, Red Deer, AB
0262	1229	CARB	30000540195	5 5111 22 St, Red Deer, AB
0262	1230	CARB	30000540200	5111 22 St, Red Deer, AB
0262	1234	CARB	30000540066	5250 22 St, Red Deer, AB
0262	1224	CARB	30001623565	4407 50 AV, Red Deer, AB
0262	1247	CARB	30003110345	7980 Edgar Industrial Dr, Red Deer, AB
0262	1246	CARB	30003110335	8051 Edgar Industrial Dr, Red Deer, AB
0262	1248	CARB	30003110685	8027 Edgar Industrial Dr, Red Deer, AB
0262	1251	CARB	30003211005	8164 Edgar Industrial CL, Red Deer, AB
0262	1249	CARB	30003111020	7679 Edgar Industrial CRT, Red Deer, AB
0262	1185	CARB	30008800100	101 Burnt Park Dr, Red Deer, AB
0262	1250	CARB	30003111165	7730 Edgar Industrial CRT, Red Deer, AB
0262	1184	CARB	30003310515	7449 49 Ave CR, Red Deer, AB
0262	1217	CARB	30000931306	3310 50 Ave, Red Deer, AB
0262	1235	CARB	30000540125	2030 50 AV, Red Deer, AB
0262	1225	CARB	30001711485	5016 51 AV, Red Deer, AB
0262	1196	CARB	30000540215	15 Signet Cl, Red Deer, AB
0262	1218	CARB	30001130708	69 Dunlop St, Red Deer, AB
0262	1231	CARB	30000341900	3020 22 ST, Red Deer, AB
0262	1239	CARB	30002332055	200 500 Timberlands Dr, Red Deer, AB
0262	1208	CARB	30002332050	100 500 Timberlands DR, Red Deer, AB
0262	1209	CARB	30002332060	300 500 Timberlands DR, Red Deer, AB
0262	1221	CARB	30002332065	400 500 Timberlands Dr, Red Deer, AB
0262	1210	CARB	30002332070	500 500 Timberlands DR, Red Deer, AB
0262	1240	CARB	30002332085	3000 499 Timberlands Dr, Red Deer, AB
0262	1241	CARB	30002332090	4000 499 Timberlands Dr, Red Deer, AB
0262	1212	CARB	30002332110	9000 499 Timberlands DR, Red Deer, AB
0262	1213	CARB	30002332115	10000 499 Timberlands DR, Red Deer, AB
0262	1214	CARB	30002332120	11000 499 Timberlands DR, Red Deer, AB
0262	1237	CARB	30002212020	63 Clearview Market WY, Red Deer, AB
0262	1238	CARB	30002212045	8 Conway St, Red Deer, AB
0262	1236	CARB	30002211940	3 Clearview Market WY, Red Deer, AB

Appendix C

Documents presented at the Hearing and considered by the Board.

1. C.1 Complainant's Preliminary Hearing Argument Submission (199 pages)
2. C.2 Complainant's Proposed Hearing Schedule (3 pages)
3. C. 3 Respondent's Proposed Hearing Schedule (3 pages)
4. R.1 Respondent's Preliminary Hearing Submission (no page numbers)
5. R.3 Assessment Review Board Complaints (no page numbers)
6. R.4 Respondent's Proposed Hearing Schedule (3 pages)