

Central Alberta

Regional Assessment Review Board

PREC 0266-811/2016

Complaint ID: 811

Roll No.: 11860

PRELIMINARY COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: August 30, 2016

PRESIDING OFFICER: L. Downey

BETWEEN:

1073026 ALBERTA LTD.
(Rimbey Motor Inn)

Complainant

-and-

TOWN OF RIMBEY

Respondent

This decision pertains to a property assessment complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by an Assessor of the Town of Rimbey as follows:

ROLL NUMBER: 11860

MUNICIPAL ADDRESS: 5117 – 50 Avenue, Rimbey, Alberta

ASSESSMENT AMOUNT: \$690,700

A jurisdictional matter in respect of the complaint was heard by the Composite Assessment Review Board on the 30th day of August 2016 at the Town of Rimbey in the province of Alberta.

Parties:

Present by phone conference on behalf of the Complainant:

Tom Janzen, CVG Canadian Valuation Group Ltd.

Appeared in person on behalf of the Respondent, the Town of Rimbey:

Don Sheridan, Assessor

Terry Willoughby, Assessor

DECISION:

The complaint filed on August 10, 2016, was not made within the proper time and is dismissed.

JURISDICTION

- [1] The Central Alberta Regional Assessment Review Board [“the Board”] has been established in accordance with section 456 of the *Municipal Government Act*, RSA 2000, c M-26 [“MGA”], and *The Town of Rimbey Assessment Review Board Bylaw 874/11*.

PROCEDURAL MATTERS

- [2] The Board confirmed that there was no conflict of interest with regard to the matter.
[3] Neither party raised any objection to the one-member panel hearing this matter.
[4] The Board confirmed the submissions of the parties and entered the following Exhibits into the record:
A1 – Hearing Materials including Agenda provided by Clerk (8 pages)
C1 – Complainant’s submission (4 pages)
R1 – Respondent’s submission (10 pages)

PROPERTY DESCRIPTION AND BACKGROUND

- [5] The subject property is located on 0.476911 acres at 5117 – 50th Avenue in Rimbey, Alberta. The legal land description is 542HW-5-6/7/8. This property is commonly referred to as the Rimbey Motor Inn.
[6] A notice indicating that the 2016 combined assessment and tax notices were prepared and mailed on May 13, 2016 was published in the Rimbey Review on May 17 and May 24, 2016. The notice indicated that the final day for assessment complaint was July 15, 2016.

PRELIMINARY ISSUE

- [7] The preliminary issue before the Board is whether the complaint was made within the proper time, pursuant to the timelines set out in the *Municipal Government Act* (“MGA”).

POSITION OF THE PARTIES ON PRELIMINARY ISSUES

Position of the Complainant

- [8] The Complainant, via telephone, indicated that property owner, Mr. Raj Saunder, did not receive either the mailed or emailed copy of the subject property’s 2016 combined assessment and tax notice prior to the July 15, 2016 complaint deadline.
[9] The Complainant stated that Mr. Saunder contacted the town office in April and May of 2016, and requested that a copy of the combined assessment and tax notice be emailed to him, but Mr. Saunder indicated that he did not receive the email or a mailed copy.
[10] The Complainant further stated that Mr. Saunder called the town office on July 21, 2016, asking that the assessment and tax notice be forwarded to him by email. Mr. Saunder, in his written statement said the July 21 email went into his junk mail (Exhibit C1).
[11] The Complainant indicated that Mr. Saunder likely did not see the notice published in the Rimbey Review as he resides in the City of Edmonton.

-
- [12] The Complainant could not confirm Mr. Saunder's personal email address as he was only in possession of Mr. Saunder's business email address. The Complainant did state that the mailing address where the assessment and tax notice was sent was likely correct.
- [13] The Complainant requested that the Board accept the Assessment Review Board Complaint for the subject property and that the October 25, 2016 merit hearing proceed as scheduled.

Position of the Respondent

- [14] The Respondent stated that the legislated requirement, set out in the *MGA*, section 311, for publishing the assessment notices has been met. A notice was published in the municipal newspaper (the Rimbey Review), on May 17 and May 24, 2016 indicating that the 2016 assessment and tax notices were mailed out on May 13 and the final day for assessment complaints would be July 15, 2016.
- [15] The Respondent provided copies of the emails showing that the subject property's assessment and tax notice was sent via email to the same email address on both May 17 and July 21, 2016 (Exhibit R1).
- [16] The Respondent argued that the *MGA* is clear in stating that an assessment review board must dismiss a complaint that was not made within the proper time.
- [17] The Respondent requested that the Board dismiss the assessment complaint in respect of the subject property on the basis that it was not made within the proper time as shown on the 2016 combined assessment and property tax notice.

BOARD REASONS FOR THE DECISION

- [18] The Board reviewed the documents and arguments of the Complainant and Respondent and determined that the property owners were notified that the assessment notices were sent out, and that the requirements set out in the *MGA* have been met.
- [19] The Board placed weight on the notices published in the Rimbey Review on May 17 and May 24, 2016. Section 311(2) of the *MGA* indicates:

"All assessed persons are deemed as a result of the publication referred to in subsection (1) to have received their assessment notices."

- [20] The Board acknowledged the emails sent on May 17 and July 21 to Mr. Saunder, and accepted that the Respondent, to their knowledge, did fulfill their requirement for sending assessment notices.

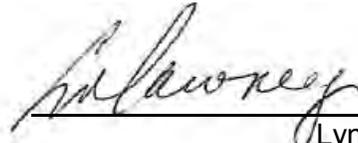
- [21] Section 467(2) of the *MGA* states:

"An assessment review board must dismiss a complaint that was not made within the proper time or does not comply with section 460(7)"

The Complainant's assessment complaint form is dated August 8, 2016. The deadline for filing a complaint filing was July 15, 2016.

DECISION SUMMARY

- [22] The Board finds that the assessment complaint form was not made in the proper time, pursuant to the MGA, and is dismissed. The merit hearing scheduled for October 25, 2016 is cancelled.
- [23] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 6th day of September, 2016 and signed by the Presiding Officer on behalf of all the panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



Lynda Downey
Presiding Officer

This decision can be appealed to the Court of Queen's Bench on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for leave to appeal to be filed and served within 30 days of being notified 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.

<u>NO.</u>	<u>ITEM</u>
A1	Hearing Materials including Agenda provided by Clerk (8 pages)
C1	Complainant's submission (4 pages)
R1	Respondent's submission (10 pages)