

Central Alberta

Regional Assessment Review Board

Decision No.: LARB 0377 645/2014
Complaint ID: 645
Roll No.: 3404194001

LOCAL ASSESSMENT REVIEW BOARD DECISION
HEARING DATE: September 3, 2014

PRESIDING OFFICER R. Schnell

BETWEEN:

735622 AB LTD
Represented by: C. Huhn

Complainant

-and-

Clearwater County
Represented by: D. Crout

Respondent

This is a complaint to the Central Alberta Regional Assessment Review Board in respect of the following assessment:

ROLL NUMBER: 3404194001
MUNICIPAL ADDRESS: 343041 Range Road 5-0

The preliminary matter was heard by the Local Assessment Review Board on the 3rd day of September 2014, in the Council Chambers, at Clearwater County.

JURISDICTION

[1] The Central Alberta Regional Assessment Review Board (hereinafter, "the Board") has been established in accordance with section 456 of the *Municipal Government Act R.S.A. 2000, ch M-26* (hereinafter, "the MGA").

[2] Neither party raised an objection to any Board member hearing the preliminary matter.

[3] No procedural or jurisdictional matters were raised by either party.

[4] On a point of procedure, at the conclusion of the preliminary hearing the Board recessed to consider the parties' submissions. The hearing was called back to order and an oral decision was delivered with a written decision with reasons to follow. This is the written decision with reasons.

BACKGROUND

[5] On July 29, 2014 the Board received a request from the Respondent to have a one-member Local Assessment Review Board hearing to determine the validity of the subject complaint pursuant to section 30(2)(d) of *Matters Relating to Assessment Complaints Regulation* (MRAC).

ISSUES AND FINDINGS

1. Should the complaint be dismissed pursuant to section 2(2) MRAC?

[6] **Respondent:** The Respondent acknowledged that the complaint form was completed and filed on time. It is the Respondent's position that the Complainant failed to pay the fee required and as such requested the Board dismiss the complaint.

(1) If a complaint form is to be heard by an assessment review board the applicant 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 assessment review board must dismiss the complaint.*

[7] The Respondent argued that by using the word "must" in section 2(2) instead of "should" or such other word, the intent of the legislation is made very clear and there is no room for interpretation or variance.

[8] It was asserted by the Respondent that if the complaint is accepted, notwithstanding the fact the filing fee required by legislation was not paid, it would be inequitable to other complainants who follow the legislation.

[9] Lastly, the Respondent argued that the noted reasons for complaint on the complaint form are not sufficient to warrant a merit hearing.

[10] **Complainant:** The Complainant stated that at that time he was very busy and was suffering from a cracked rib. He stated that the complaint was mailed to the County and it was accompanied with \$50 cash for the filing fee.

[11] The Complainant argued that he received a letter on July 21, 2014 indicating the fee was not received and that he tried unsuccessfully to contact the municipality via phone. He said stated that he left a voice mail message that a cheque was being sent in the same day. The municipality received the Complaint's cheque on July 22, 2014 via express post. The Complainant stated that if he were advised in a timely manner that the County had not received the filing fee, that he could have rectified the issue before the filing deadline.

[12] The Complainant requested that should the preliminary hearing be successful in his favor, that the hearing be postponed.

Board Finding:

[13] The Board can appreciate that the Complainant had made an effort by submitting a cheque for the filing fee on July 21, 2014. However, the Board finds that the filing fee was not received before the July 15th deadline. The Board was not provided with evidence to convince it that a cash payment of \$50.00 was provided when the Complaint Form was originally sent in, as was suggested by the Complainant.

[14] The Board finds the complaint to be invalid pursuant to section 2(2)(a) of MRAC.

[15] The Board finds that the complaint is dismissed, and based on the foregoing, the Board will not consider the Complainant's request for a postponement.

SUMMARY

Dated at the City of Red Deer, in the Province of Alberta this 25th day of September, 2014 and signed by the Presiding Officer on behalf of all three panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



Sonya Parsons, Board Officer, on behalf of
Robert Schnell, 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 Municipal Government Act 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 "A"

Documents Presented at the Hearing
and considered by the Board

NO.

ITEM

1. A1 Agenda
2. C1 Complainant Submission Part 1
3. C2 Complainants Submission Part 2
4. R1 Respondent Submission