

# Central Alberta

Regional Assessment Review Board

**PREC 0262 1184 to 1251**

Multiple (9) rolls

COMPOSITE ASSESSMENT REVIEW BOARD DECISION  
HEARING DATES: AUGUST 1, 2019

PRESIDING OFFICER: J. Dawson

BETWEEN:

SCOTT BUILDERS INC  
BRANDT TRACTOR PROPERTIES LTD  
TREIT HOLDINGS 10 CORPORATION  
POLAR CREEK INDUSTRIES INC  
NIBLICK EQUITIES INC  
PANTERRA (3224) PROPERTIES INC  
MANCAL PROPERTIES INC  
(As Represented By Altus Group and Bennett Jones)

Complainant(s)

-and-

CITY OF RED DEER REVENUE AND ASSESSMENT SERVICES  
(As Represented By Revenue & Assessment Services and Brownlee LLP)

Respondent(s)

This decision pertains to a preliminary hearing in regard to complaints submitted to the Central Alberta Regional Assessment Review Board in respect of property assessments prepared by an Assessor of the City of Red Deer as follows:

ID #	ROLL	ADDRESS
0262 1184	30003310515	7449 49 Ave Cr
0262 1185	30008800100	101 Burnt Park Dr
0262 1217	30000931306	3310 50 Ave
0262 1246	30003110335	8051 Edgar Industrial Dr
0262 1247	30003110345	7980 Edgar Industrial Dr
0262 1248	30003110685	8027 Edgar Industrial Dr
0262 1249	30003111020	7679 Edgar Industrial Crt
0262 1250	30003111165	7730 Edgar Industrial Crt
0262 1251	30003211005	8164 Edgar Industrial Cl

The preliminary application was heard by the Composite Assessment Review Board via teleconference on August 1, 2019. The preliminary hearing was convened at the request of the Respondent, which requested a preliminary hearing to determine whether the Complainants' disclosure met the requirements under the *Matters Relating to Assessment Complaints Regulation*, AR 201/2017 ("MRAC").

Appeared on behalf of the Complainant:

Kam Fong, Altus Group  
Kelsey Meyer, Bennett Jones

Appeared on behalf of the Respondent:

Maureen Cleary, Revenue and Assessment Services  
Greg Plester, Brownlee LLP

### **DECISION:**

The Complainants' disclosure was provided outside of the time specified in the *Matters Relating to Assessment Complaints Regulation* AR 201/2017 ("MRAC"). The late disclosure cannot be admitted under section 10 of MRAC.

There are no exceptional circumstances which justify the postponement of the merit hearings. The merit hearings remain scheduled for August 20-23, 2019 as set out in the May 22, 2019 Notice of Hearing.

### **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 *Regional Assessment Review Board Bylaw*.

### **PROPERTY DESCRIPTION AND BACKGROUND**

- [2] The complaints concern 9 properties located within the City of Red Deer, of which 8 are industrial and one is lodging. The roll numbers, municipal addresses, and 2018 assessment value are below:<sup>1</sup>

ROLL	ADDRESS	2018 ASSESSMENT	Property Type
30000931306	3310 50 AV	\$34,208,300	Lodging
30003211005	8164 Edgar Industrial CL	\$2,475,500	Industrial
30003110335	8051 Edgar Industrial DR	\$6,017,400	Industrial
30003110345	7980 Edgar Industrial DR	\$2,972,900	Industrial
30003110685	8027 Edgar Industrial DR	\$3,364,600	Industrial
30003111020	7679 Edgar Industrial CRT	\$2,548,800	Industrial
30003111165	7730 Edgar Industrial CRT	\$8,203,200	Industrial
30003310515	7449 49 AV CR	\$2,307,300	Industrial
30008800100	101 Burnt Park DR	\$6,984,800	Industrial

<sup>1</sup> Exhibit R1, page 3/82. Note that all references to page numbers in Exhibits is to the electronic page when the document is viewed in Adobe.

[3] These complaints are for the 2018 assessment for taxation year 2019.

### **PRELIMINARY MATTERS**

[4] The Board is a composite assessment review board which derives its authority from the *MGA* section 460.1(2).

[5] Neither Party raised any objection to the member hearing the preliminary application.

### **POSITION OF THE PARTIES**

#### **Position of the Respondent**

[6] The Respondent asked the Board to find that the Complainants' disclosure was not filed in accordance with section 9(2)(a) of MRAC.

[7] The Respondent and the Complainant attended a preliminary hearing on May 13, 2019 regarding the scheduling of 70 complaints filed by the Complainant, and these 9 complaints were part of those 70 complaints. The scheduling hearing lasted an entire day. On May 16, 2019, the Respondent and Complainant came to an agreement regarding scheduling, which resulted in a Notice of Decision being issued by the Board.<sup>2</sup> The resulting Notice of Hearing clearly indicates the dates for the Complainants' disclosure as July 8, 2019. The Respondent and Complainant were aware of the disclosure dates and have an established standard for disclosure via email.

[8] The Respondent did not receive the Complainants' disclosure package until 4:00 pm on Friday July 12, 2019, and only after asking the Complainant if the 9 complaints were going to be withdrawn. The Respondent argued that the disclosure was late, and contrary to section 9(2)(a) of MRAC and was fatal. The Respondent argued that the late disclosure could not be admitted under section 10 of MRAC.

[9] The Respondent also included a Notice of Amended Preliminary Hearing Decision, which corrected a typographical mistake in the decision.<sup>3</sup> That Notice also set out the Respondent's email as [assessment@reddeer.ca](mailto:assessment@reddeer.ca).

[10] The Respondent advised that in June 2019, Respondent representatives and representatives of the Complainant had phone discussions wherein the Complainant representative confirmed that if the Complainant did not disclose, the Complainant was not going forward with the appeal and would withdraw. The Notice of Hearing indicated that the Complainants' disclosure was due July 8, 2019. When the Respondent did not receive the disclosure, a Respondent representative followed up with the Complainant to complete the withdrawal forms. The Complainant indicated that it had disclosed, and shortly after sent an email that "not all of the intended recipients may have received the attached".<sup>4</sup>

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<sup>2</sup> Exhibit R1, page 5/82.

<sup>3</sup> Exhibit R1, page 61/82.

<sup>4</sup> Exhibit R1, page 14/82.

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- [11] The Respondent confirmed with their IT department that [assessment@reddeer.ca](mailto:assessment@reddeer.ca) was not included in the original emails. The Respondent included the emails sent by the Complainant with the disclosure.<sup>5</sup> The emails were sent to: [regionalarb@reddeer.ca](mailto:regionalarb@reddeer.ca), [mgbmail@gov.ab.ca](mailto:mgbmail@gov.ab.ca), [kristen.waddle@reddeer.ca](mailto:kristen.waddle@reddeer.ca) and were also copied to 5 email addresses of the Complainant.
- [12] The Respondent provided evidence of discussions on other tax rolls where the Complainant had not disclosed in time for the 2019 tax year and then later withdrew the complaints. The Respondent argued that it relied upon this past practice to demonstrate that if there was late disclosure the complaint would be withdrawn.
- [13] The Respondent argued that the only exception for late disclosure was with the consent of the Parties to abridge the time. The Respondent confirmed that it did not consent to the abridgement of time. The Respondent argued the impact of late disclosure was that the evidence cannot be entered as an exhibit, cannot be spoken to in oral evidence or argument and cannot be considered by the Board.
- [14] The Respondent provided a number of cases<sup>6</sup> which it referenced in its written submissions, in particular the Court of Queen's Bench decision in *Canada Safeway Ltd. v. Calgary (City)*.<sup>7</sup> The Respondent highlighted paragraphs 45 and 46 of the decision which confirm that the Court, and therefore by extension, the Board, does not have jurisdiction to extend a statutory time limit. The Respondent argued that the Complainant is a knowledgeable tax agent and is aware of the strict disclosure deadlines.
- [15] In regard to the Complainants' request for an extension, the Respondent argued that postponements are not mechanisms for correcting missed deadlines, providing two cases in support of that proposition.<sup>8</sup>
- [16] At the hearing, the Respondent stated the contention that the disclosure was received by The City of Red Deer is a brand-new issue that was not identified in the Complainant's disclosure for the preliminary hearing. Not only was it being raised for the first time at the hearing, it was being raised in summation. The Respondent argued that it would be totally inappropriate for that argument to be given any consideration at all.
- [17] The Respondent argued that Ms. Waddle is not an employee of the assessment department rather an employee of the assessment review board. Additionally, it was argued that the Complainant indicated that they had not disclosed to Ms. Waddle previously and that they have disclosed properly to the assessment department. The Respondent asserted that case law is clear, that serving the assessment review board does not constitute serving the assessment department.
- [18] The Respondent indicated that the hearing notice is entirely sufficient and the address for serving is stated clearly with the agents in this matter having successfully served the assessment department previously and to suggest the fault is somehow the hearing notice is simply not clear is unreasonable. Further, the sufficiency of the Notice of Hearing was not identified by the

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<sup>5</sup> Exhibit R1, pages 14/82 – 22/82.

<sup>6</sup> See Exhibit R2, Tabs 1-10.

<sup>7</sup> Exhibit R2, page 7/87 and pages 23/87 to 46/87.

<sup>8</sup> See Exhibit R4 and R5.

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Complainant in their disclosure for the hearing and argument relative to it should not be considered.

- [19] The Respondent explained the outcome of denying admissibility of disclosure has been argued as unduly harsh, the simple fact is that the outcome is established by legislation and it is not determined by the Board. The legislation clearly states that it must not be heard.
- [20] The Respondent addressed the suggestion that absent clear wording the Complainant should not be denied rights. The Respondent argued that they agreed with that notion, and so did the justice in the Safeway Decision. However, in this case the legislation is clear, that late disclosure must not be heard by the Board. In this case, the evidence was late by four days; in the Safeway case, it was late by five minutes.
- [21] The Respondent argued against the suggestion of extenuating circumstances, citing it does not apply to late disclosure and to grant a postponement for the sole purpose of allowing evidence to be on time is specifically wrong. It does not apply when dealing with the fact of late disclosure. The courts have found that extenuating circumstances don't allow the parties to avoid the consequences of disclosing late. The Respondent argued that essentially the Complainant was trying to circumvent section 10 of MRAC by obtaining an adjournment to extend its deadline for disclosure.
- [22] The Respondent expressed that obtaining an adjournment to extend a deadline that has already passed is unprecedented and it is unclear whether the Board has the authority to do so.

### Position of the Complainants

- [23] Altus Group Limited ("Altus") is the designated agent of the Complainants in the 9 matters referenced above.
- [24] The Complainant argued that its failure to disclose in time was inadvertent, and that it sent the disclosure 3 days before the deadline (on July 5, 2019).<sup>9</sup> It argues that once the mistake was brought to its attention, it corrected it immediately, and that there was no prejudice to the Respondent.
- [25] The Complainant argued that they sent the disclosure to the Board, but inadvertently did not include the Respondent on the email. It relied upon the case of *Anterra Sunridge Power Centre Ltd. v. Calgary*<sup>10</sup> that "absent express words, a statute must not be interpreted to adversely affect a citizen's right". It relied upon paragraph 51 of the *Safeway* case cited by the Respondent to suggest that there were extenuating circumstances which support its request for an adjournment or postponement of the hearing and suggested there were extenuating circumstances.
- [26] The Complainant requested a postponement or adjournment of the hearings currently scheduled for August 20 to August 23, 2019, in accordance with section 18 of MRAC. The Complainant indicated that the exceptional circumstances are:

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<sup>9</sup> Exhibit C2, page 2/48.

<sup>10</sup> Exhibit C2, page 3/48.

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- A. The Complainant actually submitted the disclosure three days early, on July 5, 2019, thereby demonstrating its diligence and intent to comply with the disclosure deadlines;
  - B. The Complainant inadvertently failed to include the Respondent on the email of the Complainants' disclosure, and only sent it to the Board. This was an honest mistake by the Complainant for which it apologized;
  - C. Upon the Respondent advising the Complainant on July 12, 2019 that it had not received the complainant's disclosure, the Complainant immediately sent the complainants' disclosure to the Respondent and apologized for its mistake, that same day;
  - D. There is no evidence of any prejudice to the Respondent as a result of the late disclosure;
  - E. To the extent the Respondent has been prejudiced by the late service of the complainants' disclosure (despite the lack of evidence of any such prejudice), granting a postponement or adjournment would eliminate any such prejudice;
  - F. An adjournment of the hearing to a date after August 27, 2019 would result in the complainants' disclosure having been served at least 42 days before the rescheduled hearing date, in accordance with the MRAC, and specifically section 9(2)(a) thereof; and
  - G. Should this Board refuse to postpone or adjourn the hearing, and refuse to permit the Agents' disclosure from being admitted, the Complainants would be subject to an unduly harsh remedy, as a result of an honest, and easily and quickly corrected mistake by their agent.
- [27] The Complainant cited two cases in support of its request for a postponement of the merit hearings.<sup>11</sup>
- [28] At the hearing, the Complainant stated the Respondent is, in 'black and white', The City of Red Deer and The City of Red Deer has received the evidence by submitting it to [kristen.waddle@reddeer.ca](mailto:kristen.waddle@reddeer.ca).
- [29] Counsel for the Complainant asserted that had the Complainant attended City Hall and provided evidence directly to reception, it would have been deemed as compliant with MRAC. The fact that Ms. Waddle is an employee of The City of Red Deer and indicated on the hearing notice, with nothing to indicate that she is employed by the Board and nothing to indicate she is not a representative capable of receiving the disclosure. Her email address ends in redddeer.ca no different than Ms. Cleary's email address. Furthermore, this honest, inadvertent and easily corrected mistake of the Agent is not something that should prevent the Complainant's from being able to submit evidence for the purposes of this hearing and to proceed with this hearing.

### **BOARD DECISION, FINDINGS AND REASONS**

- [30] This decision requires the Board to determine the following three issues:
- A. Did the Complainant advance issues at the hearing that were not properly disclosed in accordance with section 43(2)(a)(i) of MRAC?

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<sup>11</sup> Exhibits C4 and C5.

- B. Did the Complainants file their disclosure in accordance with section 9(2)(b) of MRAC?
- C. Do the circumstances justify an adjournment of the hearing under section 18 of MRAC?

[31] The sections of MRAC are set out below:

### **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.

**(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).

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(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.

#### **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.

#### **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.

#### **Disclosure of evidence**

**43(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



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- (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.

**A. Did the Complainant advance issues at the hearing that were not properly disclosed in accordance with section 43(2)(a)(i) of MRAC?**

- [32] MRAC 44 indicates that the Board must not hear any evidence that has not been disclosed in accordance with section 43. In section 43 (2)(a)(i) clearly indicates that 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.
- [33] The Board finds that the argument that the Complainant did file with the Respondent by disclosing to Ms. Waddle, an employee of the Respondent, is a new argument and any evidence, testimony and argument in advancing that position will not be considered by the Board.
- [34] The Board also finds that the argument that the Notice of Hearing is insufficient, is a new argument and any evidence, testimony and argument in advancing that position will not be considered by the Board.

**B. Did the Complainants file their disclosure in accordance with section 9(2)(b) of MRAC?**

- [35] The Notice of Hearing sets out the Complainants' disclosure date as July 8, 2019. Neither party disputes that July 8, 2019 was the Complainants' disclosure date.
- [36] The question for the Board is to determine whether the Complainants' provided their disclosure by July 8, 2019.
- [37] The evidence presented by the Respondent<sup>12</sup> confirms that there were only 2 addressees on the emails sent by Complainant. Those two addressees were:
  - a. The Board at the email address "Regional [ARB@reddeer.ca](mailto:ARB@reddeer.ca)"; and
  - b. [Kristen.waddle@reddeer.ca](mailto:Kristen.waddle@reddeer.ca).
- [38] The Complainant does not dispute that it did not send its disclosure to the Respondent (at the email address identified on the Notice of Hearing – [assessment@reddeer.ca](mailto:assessment@reddeer.ca)) until July 12, 2019. The only evidence before the Board was that the Complainants sent their disclosure to the Respondent at [assessment@reddeer.ca](mailto:assessment@reddeer.ca) on July 12, 2019.
- [39] The Board notes that the Hearing Notice<sup>13</sup> lists clearly at the top left of the page "Complainant", with the Complainants' street address, and below, it indicates the email address for the Complainant as [calgarytax@altusgroup.com](mailto:calgarytax@altusgroup.com). At the top right of the page is the heading "Respondent". Below that heading is the street address for the Respondent's Revenue and

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<sup>12</sup> Exhibit R1, page 10/82 – 13/82

<sup>13</sup> Exhibit A1, page 2/15.

Assessment Services, and below that is the email address for the Respondent: [assessment@reddeer.ca](mailto:assessment@reddeer.ca).

[40] In the middle of the page, the Hearing Notice states:

<b>PRIOR TO THE HEARING YOU MUST PROVIDE:</b>	Six (6) paper copies to Central Alberta Regional Assessment Review Board 2 <sup>nd</sup> Flor, 4914 48 <sup>th</sup> Avenue Red Deer, Alberta T4N 3T4	<b>AND</b>	One (1) copy to: The opposing party as identified above.
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[41] The Board notes that the email address set out at the top of the page clearly indicates “assessment” and that the notice (referenced in paragraph [40] above) clearly indicates that the Respondent’s copy is to be provided to the address set out above.

[42] The Board notes that the decision which set the hearing dates sets out the representatives of the Parties. The Respondent’s representatives include legal counsel, and two individuals from the Respondent, Ms. Cleary and Mr. Miller. There is no reference to Ms. Waddle as being a representative of the Assessment Department.

[43] Further, the Board notes that in the Respondent’s Exhibit R1, pages 72/82, 73/82, 74/82, and 75/82, emails sent from the Complainant to the Respondent are sent to “Assessment Mailbox” and to Ms. Cleary and Mr. Miller directly, but none of the emails include Ms. Waddle.

[44] Based on the evidence provided, the Board makes the following finding of facts:

[45] The disclosure date was July 8, 2019.

[46] The Complainants did not send their disclosure to the Respondent by the disclosure date of July 8, 2019.

[47] The Complainants sent their disclosure to the Respondent on July 12, 2019, which was after the disclosure date of July 8, 2019.

[48] The Board notes that in oral testimony, the Complainant’s representative argued that had he hand delivered the disclosure on July 8, 2019 to the wrong person, he would have been directed to the correct person. However, the Board notes that the example given is not the facts before it. On the facts before it, the Board notes that the only method of sending the Complainants’ disclosure was by email.

[49] In light of the Board’s findings of fact, section 10 specifies that the Board *must not* hear evidence which was not disclosed in accordance with section 9.

[50] The Board notes that its conclusion may be viewed as harsh by the Complainants, who will not be able to speak to that disclosure at the hearing. However, the Board has reviewed the *Canada Safeway* case provided by the Respondent. The Board concludes that the Court, and by extension, the Board, has no jurisdiction to extend timelines set out in the Act or the regulations, here, MRAC.

**C. Do the circumstances justify an adjournment of the hearing under section 18 of MRAC?**

- [51] The Complainants have requested an adjournment of the merit hearing on the basis that there was no prejudice, and an adjournment of the merit hearing dates would then permit the disclosure to be “within time”.
- [52] Section 18(1) of MRAC provides that a Board may only grant a postponement or adjournment of a hearing in exceptional circumstances as determined by a panel of an assessment review board.
- [53] The question then for the Board to determine is whether sending the disclosure to the wrong email address is an exceptional circumstance which justifies the postponement of the merit hearing, currently scheduled to start on August 20, 2019.
- [54] In making its request for an adjournment, the Complainants argue that disclosure was completed 3 days before the deadline of July 8 (on July 5, 2019), thus evidencing a desire to comply with the disclosure dates. The Board notes that the Complainant provided disclosure on the dates as set out in the table below.

Roll	Address	Date and Time of Disclosure
30000931306	3310 50 Avenue	July 5, 2019 at 11:46 am <sup>14</sup>
30003211005	8164 Edgar Industrial CL	July 8, 2019 at 11:15 pm <sup>15</sup>
30003110335	8051 Edgar Industrial DR	July 8, 2019 at 9:55 pm <sup>16</sup>
30003110345	7980 Edgar Industrial DR	July 8, 2019 at 11:20 pm <sup>17</sup>
30003110685	8027 Edgar Industrial DR	July 8, 2019 at 11:17 pm <sup>18</sup>
30003111020	7679 Edgar Industrial CRT	July 8, 2019 at 11:13 pm <sup>19</sup>
30003111165	7730 Edgar Industrial CRT	July 8, 2019 at 11:06 pm <sup>20</sup>
30003310515	7449 49 Av CR	July 8, 2019 at 9:03 pm <sup>21</sup>
30008800100	101 Burnt Park DR	July 8, 2019 at 8:17 pm <sup>22</sup>

- [55] Therefore, only one of the disclosure packages was sent on July 5, 2019, and 8 were sent on July 8, 2019 after business hours.
- [56] The Complainants’ arguments in support of the postponement (see paragraph 26 above) speak of the harshness of the lack of an extension and the lack of prejudice to the Respondent. However, the test is not whether the result would be harsh, or whether there is prejudice or not, but whether there are exceptional circumstances. The Complainant did not provide any evidence of exceptional

<sup>14</sup> Exhibit R1, page 16/82.

<sup>15</sup> Exhibit R1, page 21/82.

<sup>16</sup> Exhibit R1, page 14/82.

<sup>17</sup> Exhibit R1, page 17/82.

<sup>18</sup> Exhibit R1, page 18/82.

<sup>19</sup> Exhibit R1, page 19/82.

<sup>20</sup> Exhibit R1, page 20/82.

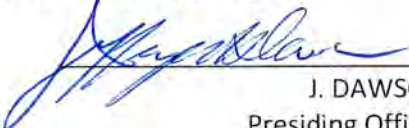
<sup>21</sup> Exhibit R1, page 22/82.

<sup>22</sup> Exhibit R1, page 15/82.

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circumstances. While Complainant' error is unfortunate, it is not exceptional. Errors, even inadvertent ones, occur every day. "to err is human....".

- [57] In coming to its conclusion, the Board examined the cases provided by the Complainant. The case at Exhibit C4 deals with a postponement because the complainant was out of province. Factually, this case is not on par with the circumstances before this Board. In the case referenced at Exhibit C5, the Respondent did not object to the postponement, and the Complainant needed more time to prepare. This case is also distinguishable from the facts before this Board.
- [58] The Board has examined the cases provided by the Respondent at Exhibits R4 and R5. The Board agrees with the conclusions in those cases that *'Postponements are not mechanisms for correcting missed deadlines.'*<sup>23</sup>
- [59] Based upon review of the evidence and the law, the Board finds there are no exceptional circumstances which justify a postponement or adjournment.
- [60] In the interests of clarity, the Board recommends that the term "XC" be replaced with verbiage indicating in some form, that additional copies of the Notice of Hearing must be submitted to the Municipal Government Board, the member municipality's administration and the property owner.
- [61] The Board further recommends that the Board clearly separate itself from all thirty-one member municipalities by creating a distinct website, email and mailing address that cannot be mistaken for, interfered by, or inappropriately influenced by any one municipality.
- [62] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 16<sup>th</sup> day of August, 2019 and signed by the Presiding Officer.



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J. DAWSON  
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](http://www.albertacourts.ab.ca).*

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<sup>23</sup> Exhibit R4 page 3/3 para 12

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**APPENDIX**

Documents properly disclosed for the Hearing and considered by the Board.

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NO.

ITEM

**CLERK MATERIALS**

1. A1 Hearing Materials provided by Clerk 15 pages

**COMPLAINANT DISCLOSURE**

2. C1 Letter filed July 30, 2019 2 pages  
3. C2 Complainants' Submissions on Preliminary Hearing 48 pages  
4. C3 Complainants' email filed July 31 2019 2 pages  
5. C4 Complainant filed Case: Awis Holdings 1995 v. Edmonton 3 pages  
6. C5 Complainant filed Case: Anupinder Grewal v. Edmonton 3 pages

**RESPONDENT DISCLOSURE**

7. R1 Respondent Disclosure of Evidence 82 pages  
8. R2 Respondent Legal Arguments 87 pages  
9. R3 Respondents' email filed July 31 2019 2 pages  
10. R4 Respondent filed Case: CANSEL Real Estate v. Edmonton 3 pages  
11. R5 Respondent filed Case: Evolution Concrete v. Edmonton 2 pages