

Assessment Review Board
Commission de révision de
l'évaluation foncière



ISSUE DATE: March 06, 2018

FILE NO.: DM 151342

Moving Party(ies): Carey Eidlitz
Respondent(s): Municipal Property Assessment Corporation ("MPAC")
Region 15
Respondent(s): Town of Oakville
Property Location(s): 230 Gatestone Avenue
Municipality(ies): Town of Oakville
Roll Number(s): 2401-040-210-35600-0000
Appeal Number(s): 3259849
Taxation Year(s): 2017
Hearing Event No.: 694373
Legislative Authority: Rule 14 of the Assessment Review Board *Rules of Practice and Procedure*

Heard: March 5, 2018 in Oakville, Ontario

APPEARANCES:

Parties

Counsel*/Representative

Carey Eidlitz	Robert Baranowski
MPAC	Leslie Jane Hisey
Town of Oakville	Susan Price

**MEMORANDUM OF ORAL DISPOSITION DELIVERED BY ANTHONY LaREGINA
ON MARCH 5, 2018**

DISPOSITION OF MOTION

[1] The Assessment Review Board's ("Board") *Rules of Practices and Procedure* ("Rules") are clear that, in summary proceedings, the representative for MPAC cannot be both advocate and witness unless they are a licensed paralegal with the Law Society of Upper Canada.

REASONS FOR DISPOSITION OF MOTION

[2] At the initiation of the above hearing Robert Baranowski, representing the appellant, objected to the MPAC valuations officer, John Cole, appearing as both advocate and witness. Mr. Baranowski submitted that under Rules 12 and 14 a paralegal licensed by the Law Society of Upper Canada may appear as both a witness and advocate in summary appeals. Mr. Baranowski objected that Mr. Cole could not act as both a witness and advocate because he is not a paralegal.

[3] Leslie Jane Hisey, a paralegal working for MPAC, had attended to observe the hearing and to deal with preliminary matters. She was not prepared to act as the advocate on assessment matters pertaining to 230 Gatestone Avenue.

[4] Ms. Hisey submitted that Mr. Cole, as an employee of MPAC, could provide legal services without having to be a paralegal.

[5] Ms. Hisey entered a four page document issued by the Law Society of Upper Canada, entitled *Paralegal Regulations Resource*, and argued that the Law Society of Upper Canada can exempt;

A person who is acting in the normal course of carrying on a profession or occupation governed by another Act of the Legislature, or an Act of Parliament, that regulates specifically the activities of persons engaged in that profession or occupation.

[6] Ms. Hisey submits that employees of MPAC fall into this category because they are carrying on a profession and occupation governed by the *Assessment Act*, RSO 1990, c A.31, which is an Act of the Legislature.

Board's Analysis and Decision

[7] The Board must enforce its Rules. Rule 12(a) is clear that a party can only appear in person or by representative. MPAC, as a corporation, cannot appear in person, so must appear by representative. "Representative" is defined in Rule 3 as "a person authorized under the *Law Society Act* or its By-Laws to represent a person in a proceeding before the Board."

[8] Mr. Cole confirmed that he is not a paralegal or a lawyer. Rule 12(b) states that "a representative who is not licensed by the Law Society of Upper Canada must provide a written confirmation of their authority to provide legal services." MPAC did not provide written confirmation of Mr. Cole's authority to provide legal services, as required by the Rules. Even if MPAC employees are exempt from the licensing requirements of the Law Society of Upper Canada, MPAC has not complied with Rule 12 because that exemption is not set out in writing. Mr. Cole cannot, therefore, act as a representative for MPAC at this hearing.

[9] However, Rule 12 is not the only Rule at issue here. The objection was raised to MPAC appearing as both an advocate and a witness, which is governed by Rule 14. That Rule states that licensed paralegals may appear as both advocate and witness in summary proceedings. That permission is not granted to other representatives. That is, even if Mr. Cole was permitted to act as a representative without being licensed, he still could not act as both an advocate and a witness.

[10] MPAC must comply with Rules 12 and 14 by either providing a licensed paralegal to act as both advocate and witness, or by providing a representative with a witness.

“Anthony LaRegina”

ANTHONY LaREGINA
MEMBER

Assessment Review Board

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Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248