

2013 CarswellOnt 4251,

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Casseres v. Municipal Property Assessment Corp., Region No.15

In the Matter of Section 40 of the Assessment Act, R.S.O. 1990, c. A.31, as amended

In the Matter of appeals with respect to taxation years 2010, 2011 and 2012 on premises known municipally as
715 Lakeshore Road East

Sophia Casseres Lucas Casseres, Assessed Person/Appellants and The Municipal Property Assessment Corporation, Region No.15 and the City of Mississauga, Respondents

Ontario Assessment Review Board

C. Marques Member

Heard: January 10, 2013

Judgment: April 9, 2013

Docket: WR 118186

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Counsel: R. **Baranowski**, for Assessed Person / Appellants

C. Mattat, J. Omoregie, for Municipal Property Assessment Corporation

No one for Municipality

Subject: Public; Tax — Miscellaneous; Property

Municipal law --- Municipal tax assessment — Nature and form of assessment — Notice requirements

Municipal law --- Municipal tax assessment — Practice and procedure on assessment appeals and objections — Miscellaneous

C. Marques Member:

1 These appeals came before the Assessment Review Board ("Board" on January 10, 2013 in the City of Mississauga.

Issue

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2 C. Mattat, representing the Municipal Property Assessment Corporation ("MPAC"), served a notice of MPAC's intention to request a higher assessment upon R. **Baranowski**, who represents the assessed person/appellant on November 22, 2012. Mr. **Baranowski** responds that the period of notice is less than 50 days as required by Rule 33 (a) of the Board's Rules of Practice and Procedure ("Rules") which states in part:

If a party intends to request ... an assessment that would result in a higher assessment than that fixed by the Municipal Property Assessment Corporation, it must give notice in writing of its intention to all other parties and the Board. This notice must include the amount of the assessment ... This notice must be given at least 50 days before the hearing of the matter, unless otherwise directed by the Board. If this notice of higher assessment is not served, the Board may refuse to consider the request.

3 Mr. **Baranowski** encourages the Board to reject MPAC's notice because it was not "given at least 50 days before the hearing..." day, and further submits that if the Board refuses to consider the request, he is withdrawing the appeals for all three taxation years.

Decision

4 The Board finds that MPAC has failed to give at least 50 days' notice and rejects MPAC's request for a higher assessment.

5 The Board accepts Mr. **Baranowski's** withdrawal of the appeals for all three taxation years.

Reasons for Decision

6 The Board has calculated the period from November 22, 2012 to January 10, 2013 to be 49 days, which does not satisfy the requirement in the Rules. Moreover, these appeals have been through a lengthy history, including a request for reconsideration and then a process of mediation, during which MPAC did not provide any indication of its intention to request a higher assessment.

7 The Board considers that a decision abridging the time for service of a Notice of Higher Assessment in the circumstances described above would be an abuse of process.

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