

# **The Assessment Complaint System**

*Making It Work...*

# Session Objectives

- Inform stakeholders of the proposed processes and procedures,
- To ask users to
  - identify any operational or technical difficulties with the proposed processes and procedures in regulations, and
  - if significant difficulties exist - suggest alternatives to make the processes or procedures workable *within the context of Bill 23*

# Presentation Outline

- Background
- Key Principles
- Bill 23 overview
- Proposed changes
- Break
- Q&A

# What we heard...

- Appeals take too long
- Duplication
- Inconsistent decisions
- Lack of access to information

# What we heard...

- Improper disclosure
- Qualifications and training of board members
- Lack of accountability of all parties

# Where change is required...

- Feedback instrumental in proposing changes to the current Assessment Complaint and Appeals system
- Two main subject areas for improvement
  - structure of the system, and
  - process and procedures

# Key Principles

- All parties are entitled to and have an obligation and accountability for an effective, efficient and timely system.

# Key Principles cont'd

- Municipalities will have autonomy for local assessment review boards, yet there must be provincial oversight.

# Key Principles cont'd

- Information and disclosure must be
  - ✓ accessible,
  - ✓ transparent and
  - ✓ completewhile protecting confidentiality and privacy.

# Key Principles cont'd

- Taxpayers have the right to an
  - ✓ objective and
  - ✓ procedurally fair
  - ✓ understandable,complaint and appeal process.

# Key Principles cont'd

- Members and administrators of assessment tribunals must be
  - ✓ impartial,
  - ✓ competent and
  - ✓ qualified.

# **Municipal Government Amendment Act, 2009 (Bill 23)**

- Introduced on March 16, 2009
- Legislative framework for implementing changes
- Balanced approach to addressing issues

# Bill 23 Overview

- Initial assessment notices sent by July 1
- 60 day complaint period
- Boards ***must*** issue decisions
  - ⇒ no later than 30 days following the hearing, *or*
  - ⇒ no later than the end of the tax year

# Bill 23 Overview cont'd

- Access to information clarified
- A one-level complaint structure
- Three separate boards hearing specific matters
  - “Will ensure that a complaint is heard once by the right board instead of twice by two separate boards”

# Feedback to Bill 23

- May 1 for sending assessment notices
- One-level complaint structure
- Composition of CARB
- Written decisions
- Qualifications & training

# *The process begins...*

- Once an assessment notice is sent  
*or*
- Once a tax notice is sent (other than property tax notice)

# Access to Information

- The variables in the valuation model
- A property's characteristics relative to the model
- Any adjustments made outside the valuation model
- Codes, factors, descriptions, explanations and criteria for the variables, characteristics or adjustments

# Access to Information cont'd

- Timelines for providing information
  - ◆ 15 days for assessed person's property
  - ◆ 15 days for 5 or fewer comparables
  - ◆ 30 days for up to 10 comparables

# Access to Information cont'd

- Information provided
  - ⇒ property characteristics
  - ⇒ assessment-related
  - ⇒ current year
- Penalties for not providing information

# *Filing a Complaint...*

# Standardized Complaint Form

- Two standard complaint forms
  - ❖ one for assessment review boards
  - ❖ one for MGB
- Options
  - o send with notices
  - o municipal website (downloadable)
  - o municipal office
- Department website or Queen's Printer

# Standardized Complaint Form cont'd

Complaint form ***must*** identify

- the property under complaint
- what information on the notice is incorrect
- why the information is incorrect

# Standardized Complaint Form cont'd

## Complaint form *must* identify (cont'd)

- the specific issues related to the incorrect information that are to be decided by the board
- what the correct information is
- requested assessed value
- if complainant is represented by an agent

# Standardized Complaint Form cont'd

- A complaint will not be heard if
  - ⇒ The form is not fully completed
  - ⇒ The filing fee, if any, is not included
- A board must not hear any issues that are not described on the complaint form
- Provides overview of disclosure rules

# Agent Authorization

- A person who, ***for a fee***, represents a taxpayer
- Standard authorization form filed annually
- Agent must disclose qualifications
- Taxpayer retains responsibilities

# Complaint Filing Fees

- Municipalities & provinces surveyed
- Minister will set fees
- Municipality
  - may choose not to charge a fee, or
  - must adopt fees
- Filing fees for linear property

# *Complaint Process Overview*

# Timelines

- Complaint process complete within tax year
- Different timelines for different matters
  - assessment vs. non-assessment matters
  - LARB assessments vs. CARB and MGB assessments

# Timelines cont'd

- Timelines may be extended, **but...**
- Penalties if timelines are not adhered to

# Disclosure

- Exchange of evidence and information during formal complaint and hearing process
- Disclosure only for issues on complaint form
- Disclosure must be full and complete

# Disclosure cont'd

- Hearing date drives disclosure timelines
- Penalties for non-compliance
- Board must not hear information that is not disclosed within the timelines
- Municipalities must inform taxpayers about disclosure rules

# Disclosure cont'd

- Relevant facts supporting the issues
- Source of disclosed facts
- Documentary evidence
- Witnesses
- Testimonial evidence
- Written argument

# *Assessment Review Board Clerk*

# Assessment Review Board Clerk

- Receive, review and categorize complaints
- Identify “invalid” complaints
- Notify Minister of CARB complaints

# Assessment Review Board Clerk cont'd

- Schedule hearings within timelines
- Provide copy of complaints
- Notify parties
  - ⇒ date and place of hearing
  - ⇒ rules and timelines for disclosure

# Assessment Review Board Clerk cont'd

- 3 Cs to coordinate scheduling of provincially appointed member
  - Communicate
  - Collaborate
  - Cooperate

# *Assessment Review Boards*

# Establishment of ARB

- Municipalities establish assessment review boards
- May establish one-member boards (more info later)
- Joint or regional assessment review boards encouraged

# Local Assessment Review Board (LARB)

- Three locally appointed members
- Hears complaints about
  - tax notices
  - assessments
    - for residential properties with three or less dwelling units, and
    - for farm land

# Timelines - LARB Hearings

- Scheduled hearing date
  - not less than 40 days after complaint is filed
- Notify parties of date and place of hearing
  - after copy of complaint provided
  - at least 35 days before hearing date
- Hearing date drives disclosure timelines

# Timelines – LARB Disclosure

- Complainant disclosure
  - at least 25 days before hearing date
- Respondent disclosure
  - at least 10 days before hearing date
- Complainant rebuttal
  - at least 5 days before hearing date
- Timelines may be shortened if agreed to

# Composite Assessment Review Board (CARB)

- Two locally appointed members
- One provincially appointed person from the MGB as the presiding officer
- Hears complaints about assessments
  - non-residential property
  - residential property with four or more dwelling units

# Timelines – CARB Hearings

- Scheduled hearing date
  - not less than 90 days after complaint is filed
- Notify parties of date and place of hearing
  - after copy of complaint provided
  - at least 70 days before hearing date
- Hearing date drives disclosure timelines

# Timelines – CARB Disclosure

- Complainant disclosure
  - at least 60 days *before* hearing date
- Respondent disclosure
  - at least 30 days *before* hearing date
- Complainant rebuttal
  - at least 15 days *before* hearing date
- Timelines may be shortened if agreed to

# One-member LARB

- Matters on a tax notice
- Non-assessment matters on assessment notice
- Administrative matters
- Procedural matters

# One-member CARB

- Must be provincial member
- Non-assessment matters on assessment notice
- Administrative matters
- Procedural matters

# Timelines – One-member ARB

- Notify parties of date and place of hearing
  - after copy of complaint provided
  - at least 15 days before hearing date
- Decision on merits must adhere to legislated timelines
- Complainant **and** respondent disclosure
  - at least 5 days before hearing date

# Joint ARB

- Two or more municipalities
- LARB and/or CARB
- Benefits
  - ✓ shared costs
  - ✓ shared resources
- Making it work – any comments?

# *The Municipal Government Board*

# MGB Administrator

- Receive and review complaints (linear property & equalized assessments)
- Identify “invalid” complaints
- Schedule hearings within timelines
- Provide copy of complaints

# MGB Administrator cont'd

- Notify parties
  - ⇒ date, time and place of hearing
  - ⇒ rules and timelines for disclosure
- “3 Cs” - coordinate scheduling of Provincial Member with ARB Clerk

# Municipal Government Board

- Panels hear complaints about
  - linear property assessments, and
  - equalized assessments
- Provides provincial member for CARB
  - presiding officer

# Timelines – MGB Hearings

- Scheduled hearing date
  - not less than 90 days after complaint is filed
- Notify parties of date and place of hearing
  - after copy of complaint provided
  - at least 70 days before hearing date
- Hearing date drives disclosure timelines

# Timelines – MGB Disclosure

- Complainant disclosure
  - at least 60 days before hearing date
- Respondent disclosure
  - at least 30 days before hearing date
- Complainant rebuttal
  - at least 15 days before hearing date
- Timelines may be shortened if agreed to

# One-member MGB Panel

- Member must meet requirements
- Non-assessment matters on assessment notice
- Administrative matters
- Procedural matters

# Timelines – One-member MGB

- Notify parties of date and place of hearing
  - *after* copy of complaint provided
  - at least 15 days *before* hearing date
- May schedule dates and timelines
  - must adhere to legislated timelines
- Complainant ***and*** respondent disclosure
  - at least 5 days *before* hearing date

# *Procedures*

# Board Administrative Procedures

- Postponements or adjournments
  - must not be for indefinite periods
  - as long as decisions issued by year end
  - reasons must be substantive
  - can not occur twice for same reason

# Board Administrative Procedures

- A Board must ***not*** hear
  - issues not identified on the complaint form
  - undisclosed evidence
  - evidence that was a pre-complaint request for information that was not provided
- All Boards must use independent legal counsel
- Boards must keep a record of a hearing

# Records of Hearing

- Complaint form, including list of issues
- Documentary evidence
- Witnesses
- Transcripts, or summary of testimony
- Written arguments
- Written decision(s) with reasons

# Written Decisions

- Issues before the Board
- Summary of complainant's argument
- Summary of respondent's argument
- The decision(s)
- Reasons for decision, including dissenting reasons
- Notation of any procedural or jurisdictional issues

# Awarding of Costs

- CARB or MGB
- Cost application by either party or on Board's initiative
- Application may be made any time, but no later than 30 days after hearing
- Cost hearing may be separate from merit hearing
- Schedule of costs (in development)

# Awarding of Costs cont'd

- Awarding of costs when
  - evidence could have been included with disclosure
  - a party causes unreasonable delays
  - a party has acted contrary to process
  - irrelevant evidence prejudices other party
  - non-complaint issues are introduced
  - failure to provide information

# Accountability for Costs

- Complainant (property owner or taxpayer)
  - own property
  - complaint about another property
- Respondent
  - municipality
  - Minister (linear property and equalized assessments)

# *Appeals of Decisions*

# Appeal to Court

- All appeals to Court of Queen's Bench
  - ⇒ on the record
  - ⇒ on a point of law or jurisdiction
- Application for leave must be filed within 30 days

# *Other topics*

# Training

- Mandatory training for
  - All board members,
  - ARB clerks, and
  - MGB administrator
- Different assessment training for different Board members.
- Courses begin in the fall of 2009 (curriculum drafted)

# Qualifications

- Provincially appointed members must meet criteria for qualifications
- Chair of MGB panel must meet criteria for qualifications
- Minister may grant equivalencies

# Remuneration of Board Members

- Remuneration of provincially appointed member based on schedule approved by GOA
- Municipality has discretion to provide remuneration to other board members

# Remuneration of Board Members cont'd

- Current proposal
  - for municipalities with less than 10 CARB complaints, and for joint ARB – the province
  - for municipalities with 10 or more CARB complaints – the municipality

# ***Making It Work...***

- Regulation drafting underway
- Information sessions in summer/fall of 2009
- Implementation for January 1, 2010

# Questions

- You can get a copy of Bill 23 at:  
[www.assembly.ab.ca](http://www.assembly.ab.ca)  
(under *Bills and Amendments*)

*“Making It Work...”*