

Assessment Review Board (ARB) Update

2021 ARB Hearing Year

The ARB had a successful year in 2021.

A total of 2,391 property assessment complaints were filed by the March 23, 2021 complaint deadline. 523 complaints were filed on residential properties and were scheduled for hearing before the local assessment review board (LARB). 1,868 complaints were filed on non-residential properties and were scheduled for hearing before the composite assessment review board (CARB). A further 51 supplementary and amended assessment complaints were received during the year. Compared to 2020, there were approximately 35 percent fewer LARB complaints and 14 percent fewer CARB complaints in 2021.

The total combined value of non-residential and residential properties under complaint in 2021 was \$19.3B, which was \$3.1B less than in 2020 (\$22.4B). The total value of non-residential property complaints was reduced to \$18.7B in 2021, down from \$21.6B in the previous year. The median non-residential assessment amount under complaint was \$4.5M in 2021, compared to \$4.3M the previous year. The highest assessment amount under complaint in 2021 was \$549.8M for Market Mall. 13.2 percent of all taxable non-residential accounts were under complaint in 2021 which represented 32.2 percent of the assessed value for the entire roll.

The total value of all residential property complaints represented a very small portion of the total inventory. Merely 0.1 percent of all taxable residential accounts, or 0.3 percent of the total value of all residential accounts was under complaint in 2021. While there was anticipation that Council's decision in 2020 to shift some of the municipal tax burden from non-residential to residential properties could result in an increase of LARB complaints in 2021, the opposite occurred due to a very robust housing market with rapidly escalating prices.

With the unexpected onset of the pandemic in 2020, the ARB had offered complainants the choice of either written hearings, where evidence is submitted electronically and considered by the panel without personal attendance by the parties, or telephone conference hearings where parties participate over the telephone on the Microsoft Teams platform. The format and procedures were designed to be as efficient and user-friendly as possible. Parties unfamiliar with technology, or parties with less advanced hardware and internet bandwidth in their new work from home environments could connect to a hearing using their phone, thus minimizing the technological challenges. The ARB wanted to ensure all parties would have equal access to a fair hearing with a minimum of complexity.

In 2021, the ARB added a further option of videoconference hearings on Teams. After a year of the pandemic, the new reality of working from home was now firmly established. Members of the public had become better prepared and more familiar with conducting business remotely using Teams and other similar videoconference platforms. The ARB retained the previous year's hearing options of written and teleconference hearings for those who desired a simpler or less technically involved process. The default hearing option was for a teleconference hearing when a complainant did not specify their hearing preference.

Leading up to the 2021 complaint filing deadline there was hope, yet considerable uncertainty, whether there might be a loosening of provincial health restrictions so that in-person hearings could once again be an option. The ARB's leadership and its administration worked closely together, giving considerable thought to the logistics and necessary planning for the reopening the ARB office to allow hearings while protecting the public health and safety of citizens, administrative staff and ARB members. This involved reconfiguring hearing rooms to allow increased distancing between parties and board members, enhanced cleaning and frequent sanitation, capacity limits for washrooms and elevators (the ARB office is on the fourth floor), and a need for hybrid technology whereby one of the parties might need to access the hearing remotely if feeling unwell. However, as new variants emerged with subsequent increases in COVID-19 cases, the ARB was unable to conduct in-person hearings in 2021.

There was a marked difference observed in hearing preferences for LARB and CARB complaints. In 2021, residential property complainants preferred teleconference hearings (47.8%) over the other hearing options, while non-residential complainants chose videoconference hearings by a wide margin (78.6%). This is because most LARB complaints are filed by self-represented property owners, while 95% of CARB complaints are filed by tax agents. Written hearings were selected for 22.8% of LARB complaints, but were selected for only 0.5% of CARB complaints.

The breakdown for LARB hearing options was 47.8% teleconference, 29.3% videoconference and 22.8% written hearings. In contrast, the options selected for CARB hearings were 78.6% videoconference, 20.9% teleconference and 0.5% written hearings. The ARB's decision to offer a choice in hearing formats has been well received.

In 2021, all ARB operations were consolidated on Teams. This simplified the workflow for the 42 local ARB members and approximately 20 provincial members who participated in the hearings. Previously, hearings were conducted on Teams and all files and documents were placed on OneDrive. There was a continued focus on training for ARB members, although the learning curve was less steep than when the pandemic completely changed the ARB's operations in 2020. New tools for tracking the workflow and enhancing communications were introduced, and the members became increasingly comfortable and proficient with the technology required to be successful in a remote, electronic environment. We can already see long-term benefits.

The 2021 hearing season began with LARB hearings on May 3rd and CARB hearings commenced on June 14th. The LARB hearings went smoothly. The CARB hearings were characterized by numerous postponements and frequent settlements, often shortly before the scheduled hearing date. This resulted in an unavoidable but inefficient hearing schedule where ARB members often found their hearings cancelled with little notice. This necessitated that ARB leadership continually reassign member assignments and ARB administration had to make numerous adjustments to the hearing schedule. The ARB completed its hearing agenda and issued all decisions by late November.

Approximately 64 percent of residential complaints were filed by self-represented homeowners. The expectations of the homeowners and the complexity of their presentations are diverse. Each residential property complaint hearing is unique. In 2021, approximately half of all residential hearings (51.8 percent) were settled without a hearing.

In contrast, typically less than five percent of non-residential property complaints are self-represented. In 2021, 95.1 percent were represented by tax agents. Similar types of properties,

or ones with similar issues, are grouped and scheduled to be heard together. The settlement rate has also been very high in the two prior years. In 2019, the 10% non-residential tax reduction from the \$130M PTP tax relief program approved by Council was the key factor leading to an 83.9 percent settlement rate. In 2020, the sudden switch to an unfamiliar, remote, electronic work environment during the first year of the pandemic likely resulted in fewer hearings and more settlements (79.6 percent).

In 2021, 87.5 percent of all CARB complaints were settled prior to a hearing. This was due in part to an unforeseen and exceptional circumstance. The largest tax agent, who in 2021 filed approximately 900 CARB complaints, was the unfortunate victim of a ransomware / cyber security attack the day before hearings were set to begin. This resulted in numerous cancelled hearing panels, and about a 12-week postponement before the hearings could resume. In the interim, the parties worked together to settle many of the complaints rather than hearing the matters later in the fall.

Initiatives and Projects

The ARB transitioned in 2019 from in-person hearings with evidence and submissions on paper to a more environmentally desirable paperless, electronic format for evidence and submissions. And 2021 continued to be a year of technological innovation, as ARB members found new and better ways to communicate with each other more efficiently, and to accomplish their tasks with increased productivity. Members gained skill and confidence with using technology as a valuable tool. There was a marked reduction in the time to issue ARB decisions. All LARB decisions and nearly all CARB decisions were issued with 30 days of the hearing. This is a remarkable accomplishment for a tribunal with a high complaint volume, especially given unique characteristics and complexity of many non-residential files under complaint. 2021 for the ARB continued to be a success story!

While there were no new major projects in 2021, existing processes were reviewed, refined and enhanced. A new member training manual along with an interactive eLearning component was introduced for member reference and support. The introduction of videoconference hearings provided more convenience and choice for Calgary property owners who wish to challenge their assessment. Naturally, this brought both benefits and challenges associated with increased reliance on computer technology. However, the ARB members performed admirably as they acquired new skills and the hearings went very smoothly.

The ARB administration arranged to have a dedicated City IT expert assigned on-call to troubleshoot and resolve member technology issues which can suddenly and periodically arise, sometimes at a critical time. This worked very successfully. ARB members appreciate the dedication and ongoing support of administration.

2022 Work Plan

The ARB held a non-residential stakeholder meeting in late March of 2022 to outline expectations, review ARB policies, and to listen to any concerns and suggestions of the parties for improvement in our hearings. The meeting was well attended by individuals from larger tax

agents and the City Assessment Business Unit (ABU) and it was considered to be time well-spent by all.

The ARB also hosted a very informative and successful spring training conference over two mornings in April for locally appointed ARB members and our LPRT provincial counterparts. Topics included a review of recent case law, the Alberta economic forecast, current residential and non-residential market conditions and trends, and a review by panels of interesting complaints heard at the ARB in 2021.

The 2022 complaint filing deadline was on March 14th. A total of 2,004 complaints were filed: 1,606 on non-residential properties; and 398 on residential properties. This is approximately 16 percent fewer total complaints filed compared with last year, and it represents a 14 percent reduction in non-residential complaints, and a 24 percent reduction in residential complaints. The ARB was informed that the non-residential advance consultation period last fall between tax agents and ABU was particularly successful in resolving multiple issues, and this appears to be reflected in the reduced 2022 complaint volume. The significant reduction in residential complaints over the past two years can be attributed to pandemic-related market conditions characterized by historically low interest rates and supply-side issues. The shortage of available properties for sale which first became noticeable in mid-2020 continued throughout 2021. This resulted in a pent-up demand with a very active and heated real estate market producing significant price gains. Property owners often compare the value on their assessment notices issued in early January to the current market, and not to the valuation date on July 1st of the prior year.

There are currently 38 members serving on the ARB for the 2022 hearing season. 41 members were appointed by Council in November 2021, but three subsequently tendered their resignation. One individual discovered a conflict of interest which could potentially create an apprehension of bias. The other two individuals stepped down due to unexpectedly busy commitments with other work. The remaining members should be sufficient for the number of complaints filed this year.

In 2022 LARB hearings commenced on May 2nd and CARB hearings will start on June 6th. Due to the lower complaint volume, hearings should be completed earlier than normal, likely in early October with decisions issued by mid-November.

The ARB is offering in-person hearings as an option for the first time since 2019. The first of these in-person hearings will take place on May 24th using two of the largest hearing rooms which have been modified to ensure there is ample separation between parties. Written, teleconference and videoconference hearings will continue to be offered in keeping with the ARB's commitment to enhance access to justice.

In 2022, 48.7% of residential complainants chose a videoconference hearing. This was the most popular hearing option selected for LARB hearings by a wide margin. In-person hearings were the next most popular option at 19.9%, followed by a written hearings at 16.3% and lastly, teleconference at 15.1%. This indicates that Calgary citizens appreciate the variety of hearing formats offered.

For CARB complaints in 2022, 82.8% of all hearings will be conducted by videoconference. In-person hearings were selected for 15.6% of non-residential complaints, followed by

teleconference at 1.6%. There was only one request for a written hearing, out of 1,606 complaints filed.

Challenges

It has been very challenging to manage the non-residential hearing workload at the ARB over the past three years. In 2019, 83.4 percent of all non-residential property complaints were settled by mutual agreement between the parties, often right before the scheduled hearing dates. In 2020, 79.3 percent of all non-residential files were settled prior to hearing. As previously noted, 87.5% of non-residential files were settled in advance last year. The ARB recognizes the benefit of these agreements, however the cancellations create inefficiencies in managing the ARB's resources. Because the provincial regulations require that the parties be given a minimum ten week notice period before a hearing, the ARB is not able to fill last-minute openings in the hearing schedule.

However, the ARB is committed to innovation and ongoing improvement. The ARB continues to look for and establish processes which improve the efficiency and flexibility in scheduling hearings and assigning members to hearing panels. Emphasis will continue to be placed on training and enhancing writing skills for all members. Daily morning meetings, conducted over Teams and in-person, will continue during the 2022 hearing season to maintain communication, provide support and keep ARB members current with ongoing developments and trends in property assessment complaint hearings. We look forward to a successful year in 2022.

The ARB will be available to answer questions and will provide a PowerPoint slide presentation with key operational statistics in a graphical format at the June 21st meeting of Council.