

LAND COMPENSATION BOARD
FOR THE PROVINCE OF ALBERTA

ORDER NO. 410

FILE NO. 10866.2

January 30, 2002

An Application to determine penalty interest payable to the Claimant by the Respondent, pursuant to the Expropriation Act, R.S.A. 1980, Chapter E-16.

BETWEEN:

LESLIE KOZIOL

Claimant

- and -

THE CITY OF EDMONTON

Respondent

BEFORE:

THE LAND COMPENSATION BOARD FOR THE PROVINCE OF ALBERTA

SITTING MEMBERS:

- Marilyn McAvoy, Member
- Doug MacKenzie, Member
- Ernie F. Stevens, Member

**Land Compensation Board
Order No. 410**

APPLICATION:

The Board by Order 397 dated October 2, 2000, awarded the Claimant \$226,490.00 for the market value of the expropriated land. The proposed payment by the City of \$160,000.00 was less than 80% of the amount awarded by the Board.

Board Order 397 is silent on the matter of penalty interest payable under section 66(4) of the *Expropriation Act*. That section reads:

If the amount of the proposed payment is less than 80% of the amount awarded for the interest taken and severance damage, if any, the Board shall order the expropriating authority to pay additional interest at the same rate as that prescribed in subsection (1), from the date of notifying the owner of the proposed payment until payment, on the amount by which the compensation exceeds the amount of the proposed payment.

The Claimant by letter dated January 4, 2002, copied to the City, requests the Board to award interest as follows:

- (i) penalty interest in the amount of \$9,151.32 representing the interest payable on the difference between the proposed payment and the Board's award (\$66,490.00) to October 31, 2000; and
- (ii) post judgement interest on the amount of \$9,151.32 at the rate of 6.25% per annum to the date of payment.

The City by letters dated December 6, 2001, and January 3, 2002, requested the Board to address the matter of interest and confirmed it would make no further submissions regarding the matter.

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ORDER

The Board finds no reason to deny the Claimant's application and awards interest as follows:

- (i) pursuant to section 66(4) of the *Expropriation Act*, penalty interest in the amount of \$9,151.32; and
- (ii) post judgement interest on the amount of \$9,151.32 from October 31, 2000 to the date of payment at the rate of 6.25% per annum.

LAND COMPENSATION BOARD

Marilyn McAvoy, Member

Doug MacKenzie, Member

Ernie F. Stevens, Member