

**SUPREME COURT OF CANADA**

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| **Citation:** Edmonton (City) *v.* Edmonton East (Capilano) Shopping Centres Ltd., 2016 SCC 47, [2016] 2 S.C.R. 293 | **Appeal heard:** March 23, 2016  **Judgment rendered:** November 4, 2016  **Docket:** 36403 |

Between:

City of Edmonton

Appellant

and

Edmonton East (Capilano) Shopping Centres Limited

(as represented by AEC International Inc.)

Respondent

- and -

Attorney General of British Columbia,

Assessment Review Board for the City of Edmonton and

British Columbia Assessment Authority

Interveners

**Coram:** McLachlin C.J. and Abella, Cromwell, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ.

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| **Reasons for Judgment:**  (paras. 1 to 62)  **Joint Dissenting Reasons:**  (paras. 63 to 125) | Karakatsanis J. (Abella, Cromwell, Wagner and Gascon JJ. concurring)  Côté and Brown JJ. (McLachlin C.J. and Moldaver J. concurring) |

Edmonton (City) *v.* Edmonton East (Capilano) Shopping Centres Ltd., 2016 SCC 47, [2016] 2 S.C.R. 293

City of Edmonton Appellant

v.

Edmonton East (Capilano) Shopping Centres Limited

(as represented by AEC International Inc.) Respondent

and

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**Indexed as: Edmonton (City) *v.* Edmonton East (Capilano) Shopping Centres Ltd.**

2016 SCC 47

File No.: 36403.

2016: March 23; 2016: November 4.

Present: McLachlin C.J. and Abella, Cromwell, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ.

on appeal from the court of appeal for alberta

*Municipal law — Taxation — Property assessments — Assessment Review Board for City of Edmonton — Taxpayer filing complaint disputing municipal property assessment amount — Board increasing property assessment as requested in City’s response to complaint — Lower courts agreeing with taxpayer that Board cannot increase property assessment — Whether Board had power to increase assessment — Municipal Government Act, R.S.A. 2000, c. M‑26, s. 467.*

*Administrative law — Appeals — Standard of review — Boards and tribunals — Assessment Review Board for City of Edmonton — Taxpayer filing complaint disputing municipal property assessment amount — Board increasing property assessment as requested in City’s response to complaint — Standard of review applicable to Board’s decision to increase taxpayer’s property assessment — Whether Board’s decision reasonable — Municipal Government Act, R.S.A. 2000, c. M‑26, s. 470.*

The taxpayer Company owns a shopping centre in Edmonton, Alberta. For the 2011 taxation year, the City of Edmonton assessed the value of the mall at approximately $31 million. The Company disputed this assessment by filing a complaint with the Assessment Review Board. The Company’s position was that the assessed value exceeded the market value of the mall and was inequitable when compared to the assessed value of other properties. It sought a reduction in the assessed value to approximately $22 million.

When reviewing the Company’s submissions and evidence, the City discovered what it determined was an error in its original assessment. The City requested that the Board increase the assessed value of the shopping centre to approximately $45 million. While the Company expressed concern about the City’s change in position, it did not dispute the Board’s power to increase the assessment in this case. Under s. 467(1) of the *Municipal Government Act*, after hearing a complaint, an assessment review board may “change” the assessment or “decide that no change is required.” The Board ultimately increased the assessment to approximately $41 million. A decision of an assessment review board may be appealed to the Court of Queen’s Bench, with permission, on a question of law or jurisdiction of sufficient importance to merit an appeal. On appeal to the Alberta Court of Queen’s Bench, the chambers judge set aside the Board’s decision and remitted the matter to the Board for a hearing *de novo*. This order was affirmed on appeal to the Alberta Court of Appeal. This Court must determine what the appropriate standard of review is for the Board’s implicit decision that it could increase the Company’s property assessment and determine if the Board’s decision withstands scrutiny on that standard.

*Held* (McLachlin C.J. and Moldaver, Côté and Brown JJ. dissenting): The appeal should be allowed, the decision of the Court of Appeal set aside and the Board’s decision reinstated.

*Per* Abella, Cromwell, Karakatsanis, Wagner and Gascon JJ.: The standard of review in this case is reasonableness. Unless the jurisprudence has already settled the applicable standard of review, the reviewing court should begin by considering whether the issue involves the interpretation by an administrative body of its own statute or statutes closely connected to its function. If so, the standard of review is presumed to be reasonableness. This presumption of deference on judicial review respects the principle of legislative supremacy and the choice made to delegate decision making to a tribunal, rather than the courts. A presumption of deference on judicial review also fosters access to justice to the extent the legislative choice to delegate a matter to a flexible and expert tribunal provides parties with a speedier and less expensive form of decision making.

In this case, the framework from *Dunsmuir v. New Brunswick*,2008 SCC 9, [2008] 1 S.C.R. 190, provides a clear answer. The substantive issue here — whether the Board had the power to increase the assessment — turns on the interpretation of s. 467(1) of the Act, the Board’s home statute. The issue does not fall within one of the four categories identified in *Dunsmuir* as calling for correctness review. Accordingly, the standard of review is presumed to be reasonableness.

A statutory right of appeal is not a new category of correctness and should not be added to the list of correctness categories enumerated in *Dunsmuir*. Recognizing issues arising on statutory appeals as a new category to which the correctness standard applies would go against strong jurisprudence from this Court.

The presumption of reasonableness is grounded in the legislature’s choice to give a specialized tribunal responsibility for administering the statutory provisions, and the expertise of the tribunal in so doing. Expertise arises from the specialization of functions of administrative tribunals like the Board which have a habitual familiarity with the legislative scheme they administer. Expertise may also arise where legislation requires that members of a given tribunal possess certain qualifications. However, expertise is not a matter of the qualifications or experience of any particular tribunal member. Rather, expertise is something that inheres in a tribunal itself as an institution.

This Court has often applied a reasonableness standard on a statutory appeal from an administrative tribunal, even when the appeal clause contained a leave requirement and limited appeals to questions of law, or to questions of law or jurisdiction. In light of this strong line of jurisprudence — combined with the absence of unusual statutory language — there was no need for the Court of Appeal to engage in a long and detailed contextual analysis. Inevitably, the result would have been the same. The presumption of reasonableness is not rebutted here.

The contextual approach can generate uncertainty and endless litigation concerning the standard of review. As in British Columbia, legislatures can specify the applicable standard of review; unfortunately explicit legislative guidance is not common.

The Board’s decision to increase the Company’s property assessment was reasonable. Given that the Company did not dispute the Board’s power to increase the assessment in this case, it is not surprising the Board did not explain why it was of the view that it could increase the assessment. Accordingly, the Board’s decision should be reviewed in light of the reasons which could be offered in support of it. It was reasonable for the Board to interpret s. 467(1) of the Act to permit it to increase the Company’s property assessment at the City’s request. While s. 460(3) of the Actprovides that only assessed persons and taxpayers may make complaints, the scheme of the Act does not require that municipalities be empowered to file a “complaint” against an assessment. The Actprovides other mechanisms by which municipalities can change or seek changes to an assessment. The Board’s interpretation of s. 467(1) of the Actis consistent with the ordinary meaning of “change” in s. 467(1) and the overarching policy goal of the Act, to ensure assessments are correct, fair and equitable. The alternative would permit taxpayers to use the complaints process to prevent assessments made in error from being corrected, thereby frustrating the Act’s purpose.

*Per* McLachlin C.J. and Moldaver, Côté and Brown JJ. (dissenting): The appropriate standard of review of the Assessment Review Board’s decision is correctness. The legislature of Alberta created a municipal assessment complaints regime that allows certain questions squarely within the expertise of an assessment review board to be reviewed on a deferential standard through the ordinary mechanism of judicial review. The legislature, however, also designated certain questions of law and jurisdiction — for which standardized answers are necessary across the province — to be the subject of an appeal to the Court of Queen’s Bench. The statutory scheme and the Board’s lack of relative expertise in interpreting the law lead to the conclusion that the legislature intended that the Board’s decisions on such questions be reviewed on a correctness standard. As a result, even were the Board’s interpretation presumptively owed deference on the basis that the Board is interpreting its home statute, this presumption of deference has been rebutted by clear signals of legislative intent. Consistency in the understanding and application of these legal questions is necessary, and only courts can provide such consistency.

The existence of a statutory right of appeal can, in combination with other factors, lead to a conclusion that the proper standard of review is correctness. A statutory right of appeal, like a privative clause, is an important indicator of legislative intent and, depending on its wording, it may be at ease with judicial intervention. But a statutory right of appeal is not a new “category” of correctness review. The ostensibly contextual standard of review analysis should not be confined to deciding whether new categories have been established. An approach to the standard of review analysis that relies exclusively on categories and eschews any role for context risks introducing the vice of formalism into the law of judicial review. In every case, a court must determine what the appropriate standard of review is for this question decided by this decision maker. This is not to say that a full contextual standard of review analysis must be conducted in every single case. Where a standard of review analysis is performed and the proper standard of review is determined for a particular question decided by a particular decision maker, that standard of review should apply in the future to similar questions decided by that decision maker. Disregard for the contextual analysis would represent a significant departure from *Dunsmuir* and from this Court’s post‑*Dunsmuir* jurisprudence.

The question at issue here is not one which falls within the Board’s expertise. An administrative decision maker is not entitled to blanket deference in all matters simply because it is an expert in some matters. An administrative decision maker is entitled to deference on the basis of expertise only if the question before it falls within the scope of its expertise, whether specific or institutional. Expertise is a relative concept. It is not absolute. While the Board may have familiarity with the application of the assessment provisions of the Act, the legislature has recognized that the Board’s specialized expertise does not necessarily extend to general questions of law and jurisdiction. The Board’s decisions may, instead, be appealed on these questions of law and jurisdiction. The legislature created a tribunal with expertise in matters of valuation and assessment. In light of this lack of relative expertise on questions of law and jurisdiction, it cannot be maintained that a presumption applies that the legislature intended that the Board’s determinations on questions of law and jurisdiction be owed deference.

Applying the proper standard, the Board erred in increasing the Company’s property assessment in this case and the appeal should be dismissed. The Board’s decision to increase the assessed value based on the City’s submissions must be quashed because the Board considered information that it was statutorily prohibited from considering. Assessment review boards have jurisdiction only to adjudicate the issues that are raised in the assessed person’s complaint form. The Board in this case erred by hearing and partially accepting the City’s new and revised assessment based on an entirely new classification, one which was not the subject of the Company’s complaint. The word “change” in s. 467(1) of the Act should be given its ordinary and grammatical meaning. The Board is not precluded from ever increasing an assessment; however, the Board’s decision‑making authority in this case was limited to the specific matters that were raised in the Company’s complaint. The Board had no authority to inquire into the fairness and equity of the assessment generally and to consider or accept elements of the new assessment proposed by the City in increasing the assessment.

**Cases Cited**

By Karakatsanis J.

**Applied:** *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190; **distinguished:** *Tervita Corp. v. Canada (Commissioner of Competition)*, 2015 SCC 3, [2015] 1 S.C.R. 161; **approved:** *Edmonton (City) v. Army & Navy Department Stores Ltd.*, [2002] A.M.G.B.O. No. 126 (QL); **referred to:** *Wilson v. Atomic Energy of Canada Ltd.*, 2016 SCC 29, [2016] 1 S.C.R. 720; *Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16, [2015] 2 S.C.R. 3; *Canadian Artists’ Representation v. National Gallery of Canada*, 2014 SCC 42, [2014] 2 S.C.R. 197; *McLean v. British Columbia (Securities Commission)*, 2013 SCC 67, [2013] 3 S.C.R. 895; *Canadian Broadcasting Corp. v. SODRAC 2003 Inc.*, 2015 SCC 57, [2015] 3 S.C.R. 615; *Alberta (Information and Privacy Commissioner) v. Alberta Teachers’ Association*, 2011 SCC 61, [2011] 3 S.C.R. 654; *Smith v. Alliance Pipeline Ltd.*, 2011 SCC 7, [2011] 1 S.C.R. 160; *Bell Canada v. Bell Aliant Regional Communications*, 2009 SCC 40, [2009] 2 S.C.R. 764; *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53, [2014] 2 S.C.R. 633; *Ontario (Energy Board) v. Ontario Power Generation Inc.*, 2015 SCC 44, [2015] 3 S.C.R. 147; *ATCO Gas and Pipelines Ltd. v. Alberta (Utilities Commission)*, 2015 SCC 45, [2015] 3 S.C.R. 219; *Dr. Q v. College of Physicians and Surgeons of British Columbia*, 2003 SCC 19, [2003] 1 S.C.R. 226; *Law Society of New Brunswick v. Ryan*, 2003 SCC 20, [2003] 1 S.C.R. 247; *Rogers Communications Inc. v. Society of Composers, Authors and Music Publishers of Canada*, 2012 SCC 35, [2012] 2 S.C.R. 283; *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12, [2009] 1 S.C.R. 339; *National Corn Growers Assn. v. Canada (Import Tribunal)*, [1990] 2 S.C.R. 1324; *Newfoundland and Labrador Nurses’ Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708; *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27; *Canadian Natural Resources Ltd. v. Wood Buffalo (Regional Municipality)*, 2012 ABQB 177, 535 A.R. 281.

By Côté and Brown JJ. (dissenting)

*Dr. Q v. College of Physicians and Surgeons of British Columbia*, 2003 SCC 19, [2003] 1 S.C.R. 226; *C.U.P.E. v. Ontario (Minister of Labour)*, 2003 SCC 29, [2003] 1 S.C.R. 539; *Monsanto Canada Inc. v. Ontario (Superintendent of Financial Services)*, 2004 SCC 54, [2004] 3 S.C.R. 152; *Osborne v. Rowlett* (1880), 13 Ch. D. 774; *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190; *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12, [2009] 1 S.C.R. 339; *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53, [2014] 2 S.C.R. 633; *McLean v. British Columbia (Securities Commission)*, 2013 SCC 67, [2013] 3 S.C.R. 895; *Smith v. Alliance Pipeline Ltd.*, 2011 SCC 7, [2011] 1 S.C.R. 160; *Bell Canada v. Bell Aliant Regional Communications*, 2009 SCC 40, [2009] 2 S.C.R. 764; *Edmonton (City) v. Edmonton (City) Assessment Review Board*, 2010 ABQB 634, 503 A.R. 144; *Associated Developers Ltd. v. Edmonton (City)*, 2011 ABQB 592, 527 A.R. 287; *Edmonton (City) v. Edmonton (Composite Assessment Review Board)*, 2012 ABQB 118, 534 A.R. 110; *Habtenkiel v. Canada (Citizenship and Immigration)*, 2014 FCA 180, [2015] 3 F.C.R. 327; *R. v. D.L.W.*, 2016 SCC 22, [2016] 1 S.C.R. 402; *Townsend v. Kroppmanns*, 2004 SCC 10, [2004] 1 S.C.R. 315; *Pushpanathan v. Canada (Minister of Citizenship and Immigration)*, [1998] 1 S.C.R. 982; *Canada (Director of Investigation and Research) v. Southam Inc.*, [1997] 1 S.C.R. 748; *National Corn Growers Assn. v. Canada (Import Tribunal)*, [1990] 2 S.C.R. 1324; *Canada (Deputy Minister of National Revenue) v. Mattel Canada Inc.*, 2001 SCC 36, [2001] 2 S.C.R. 100; *Moreau‑Bérubé v. New Brunswick (Judicial Council)*, 2002 SCC 11, [2002] 1 S.C.R. 249; *Rogers Communications Inc. v. Society of Composers, Authors and Music Publishers of Canada*, 2012 SCC 35, [2012] 2 S.C.R. 283; *United Brotherhood of Carpenters and Joiners of America, Local 579 v. Bradco Construction Ltd.*, [1993] 2 S.C.R. 316; *Alberta (Information and Privacy Commissioner) v. Alberta Teachers’ Association*, 2011 SCC 61, [2011] 3 S.C.R. 654; *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2011 SCC 53, [2011] 3 S.C.R. 471; *Canadian Natural Resources Ltd. v. Wood Buffalo (Regional Municipality)*, 2012 ABQB 177, 535 A.R. 281; *Prince Albert (City) v. 101027381 Saskatchewan Ltd.*, 2009 SKCA 59, 324 Sask. R. 313; *79912 Manitoba Ltd. v. Winnipeg City Assessor* (1998), 131 Man. R. (2d) 264; *Orange Properties Ltd. v. Winnipeg City Assessor* (1996), 107 Man. R. (2d) 278; *Harris v. Minister of National Revenue*, [1965] 2 Ex. C.R. 653, aff’d [1966] S.C.R. 489; *Canada v. Last*, 2014 FCA 129, [2015] 3 F.C.R. 245; Edmonton ARB, Decision No. 0098 139/11, August 24, 2011; Edmonton ARB, Decision No. 0098 174/10, August 4, 2010; *Canadian Natural Resources Ltd. v. Wood Buffalo (Regional Municipality)*, 2014 ABCA 195, 575 A.R. 362; *Immeubles B.P. Ltée v. Ville d’Anjou*, [1978] C.S. 422; *Executive Director of Assessment (N.B.) v. Ganong Bros. Ltd.*, 2004 NBCA 46, 271 N.B.R. (2d) 43.

**Statutes and Regulations Cited**

*Administrative Tribunals Act*, S.B.C. 2004, c. 45, ss. 58, 59.

*Assessment Act*, R.S.B.C. 1996, c. 20, s. 32.

*Assessment Act*, R.S.N.S. 1989, c. 23, s. 62(2).

*Assessment Act*, R.S.O. 1990, c. A.31, s. 40.

*Cities Act*, S.S. 2002, c. C‑11.1, s. 197(3).

*Competition Tribunal Act*, R.S.C. 1985, c. 19 (2nd Supp.), s. 13(1).

*Copyright Act*, R.S.C. 1985, c. C‑42.

*Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.).

*Matters Relating to Assessment and Taxation Regulation*, Alta. Reg. 220/2004, ss. 4(1)(a), 15.

*Matters Relating to Assessment Complaints Regulation*, Alta. Reg. 310/2009, ss. 8(2), 9, 10(2), 15(1).

*Municipal Assessment Act*, C.C.S.M., c. M226, ss. 42, 43.

*Municipal Government Act*, R.S.A. 2000, c. M‑26, ss. 15, 23, 26, 30, 31, 43 to 45, 47, 47.1, 205, 207, 208, 285, 293(1), 299, 300, 305, 305.1, 308, 309(1)(c), 317 to 325, 324, 370, 381, 390, 409.3, 425.1, 436.23, 452, 453 to 457, 454, 460, 460.1(2), 465, 467, 470, 470.1(2), 476.1, 484.1, 486, 514 to 517, 527.1, 534, 570 to 580, 571, 708.02.

**Authors Cited**

Alberta. “2015 Alberta Assessment Quality Minister’s Guidelines” (online: www.municipalaffairs.alberta.ca/documents/as/2015\_Assessment\_Quality\_Ministers\_Guidelines.pdf).

Alberta. Legislative Assembly. *Alberta Hansard*, 2nd Sess., 27th Leg., April 21, 2009, p. 735.

Bilson, Beth. “The Expertise of Labour Arbitrators” (2005), 12 *C.L.E.L.J.* 33.

Breyer, Stephen. “Judicial Review of Questions of Law and Policy” (1986), 38 *Admin. L. Rev.* 363.

Brown, Donald J. M., and John M. Evans, with the assistance of David Fairlie. *Judicial Review of Administrative Action in Canada*. Toronto: Thomson Reuters, 2013 (loose‑leaf updated May 2016, release 1).

Daly, Paul. “Struggling Towards Coherence in Canadian Administrative Law? Recent Cases on Standard of Review and Reasonableness” (forthcoming, *McGill L.J.*).

Daly, Paul. “The Unfortunate Triumph of Form over Substance in Canadian Administrative Law” (2012), 50 *Osgoode Hall L.J.* 317.

Dyzenhaus, David. “The Politics of Deference: Judicial Review and Democracy”, in Michael Taggart, ed., *The Province of Administrative Law*. Oxford: Hart, 1997, 279.

Hart, H. L. A. *The Concept of Law*, 3rd ed. Oxford: Oxford University Press, 2012.

Mullan, David J. “Establishing the Standard of Review: The Struggle for Complexity?” (2004), 17 *C.J.A.L.P.*59.

Sossin, Lorne. “Empty Ritual, Mechanical Exercise or the Discipline of Deference? Revisiting the Standard of Review in Administrative Law” (2003), 27 *Adv. Q.* 478.

APPEAL from a judgment of the Alberta Court of Appeal (Berger, Slatter and Rowbotham JJ.A.), 2015 ABCA 85, 643 W.A.C. 210, 599 A.R. 210, 12 Alta. L.R. (6th) 236, 80 Admin. L.R. (5th) 240, 382 D.L.R. (4th) 85, 34 M.P.L.R. (5th) 204, [2015] 5 W.W.R. 547, [2015] A.J. No. 217 (QL), 2015 CarswellAlta 324 (WL Can.), affirming a decision of Rooke A.C.J., 2013 ABQB 526, 570 A.R. 208, 14 M.P.L.R. (5th) 252, [2013] A.J. No. 979 (QL), 2013 CarswellAlta 1745 (WL Can.), which set aside the decision of the Assessment Review Board, No. 0098 56/11, August 2, 2011. Appeal allowed, McLachlin C.J. and Moldaver, Côté and Brown JJ. dissenting.

*Cameron J. Ashmore* and *Tanya Boutin*, for the appellant.

*Gilbert J. Ludwig*, *Q.C.*, *James B. Laycraft*, *Q.C.*, *Guy Régimbald* and *Brian K. Dell*, for the respondent.

Written submissions only by *Katherine Webber*, for the intervener the Attorney General of British Columbia.

*Katharine L. Hurlburt*, *Q.C.*, for the intervener the Assessment Review Board for the City of Edmonton.

*R. Bruce E. Hallsor* and *Colin G. Simkus*, for the intervener the British Columbia Assessment Authority.

The judgment of Abella, Cromwell, Karakatsanis, Wagner and Gascon JJ. was delivered by

Karakatsanis J. —

1. Introduction
2. Alberta residents may dispute their municipal property assessment before a local assessment review board. When one Edmonton taxpayer did so, the Assessment Review Board decided to *increase* the assessment the taxpayer had disputed. The taxpayer appealed, submitting that when a taxpayer disputes an assessment the Board lacks the statutory power to increase the assessment and may only lower or confirm it. The Alberta Court of Queen’s Bench agreed with the taxpayer, as did the Court of Appeal. The City of Edmonton now appeals to this Court.
3. This appeal raises two issues: (1) What is the appropriate standard of review for the Board’s implicit decision that it could increase the assessment? (2) Does the decision withstand scrutiny on that standard?
4. For the following reasons, I conclude that the standard of review for the Board’s decision is reasonableness and that it was reasonable for the Board to find it had the power to increase the assessment. Accordingly, I would allow the appeal and reinstate the decision of the Board.
5. Facts
6. Edmonton East (Capilano) Shopping Centres Limited (the “Company”) owns the Capilano Shopping Centre in Edmonton, Alberta. For the 2011 taxation year, the City of Edmonton assessed the value of the mall as approximately $31 million.
7. In March 2011, pursuant to s. 460 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 (“*MGA*”), the Company disputed this assessment by filing a complaint with the Assessment Review Board for the City of Edmonton. The Company’s position was that the assessed value exceeded the market value of the mall and was inequitable when compared to the assessed value of other properties. It sought a reduction in the assessed value to approximately $22 million.
8. When reviewing the Company’s submissions and evidence, the City discovered what it determined was an error in its original assessment. The City originally classified the mall as a “community centre” with the value of the rent from its anchor tenant, Wal-Mart, assessed at $3.50 per square foot. The City now said the mall should have been classified as a “power centre” with the value of the rent from Wal-Mart assessed at $11.50 per square foot. This change in position was based in large part on the City’s review of the assessed value of the rents from three other Wal-Marts in Edmonton. In June 2011, the City informed the Company that it would seek an increase from the Board. In its written submissions to the Board, the City requested that the Board increase the assessed value to approximately $45 million.
9. While the Company expressed concern about the City’s change in position, it did not dispute the Board’s power to increase the assessment in this case.
10. The Board ultimately increased the assessment to approximately $41 million. On appeal to the Alberta Court of Queen’s Bench, the chambers judge set aside the Board’s decision and remitted the matter to the Board for a hearing *de novo*. This order was affirmed on appeal to the Alberta Court of Appeal.
11. The Statutory Scheme and Provisions
12. Alberta’s *MGA* regulates property assessments in the province. The scheme operates on an annual basis, with municipalities preparing assessments each year (s. 285). Property assessors are subject to an overarching duty to prepare assessments “in a fair and equitable manner” (s. 293(1)).
13. The *MGA* permits any “assessed person” or “taxpayer” to contest a municipal property assessment before an assessment review board (s. 460). After hearing a complaint, an assessment review board may “change” the assessment or “decide that no change is required” (s. 467(1)). “An assessment review board must not alter any assessment that is fair and equitable, taking into consideration . . . the valuation and other standards set out in the regulations” (s. 467(3)). The valuation standard for most property is its “market value” (*Matters Relating to Assessment and Taxation Regulation*, Alta. Reg. 220/2004, s. 4(1)(a)).
14. A decision of an assessment review board may be appealed to the Court of Queen’s Bench, with permission, on “a question of law or jurisdiction of sufficient importance to merit an appeal” (s. 470(1) and (5) *MGA*). Where the appeal is granted, the matter is referred back to the assessment review board “and the board must rehear the matter and deal with it in accordance with the opinion of or any direction given by the Court on the question of law or the question of jurisdiction” (s. 470.1(2)).
15. In some circumstances, assessments may also be changed outside the complaints process. “If it is discovered that there is an error, omission or misdescription in any of the information shown on the assessment roll . . . the assessor may correct the assessment roll for the current year only” (s. 305(1) *MGA*). However, if a complaint has been made about a property, “the assessor must not correct or change the assessment roll in respect of that property” until an assessment review board has made a decision or the complaint has been withdrawn (s. 305(5)).
16. Decisions Below
    1. Assessment Review Board, No. 0098 56/11, August 2, 2011
17. The Board noted the Company’s position that the City should not be able to effectively submit a new assessment based on a power centre classification. The Board did not address this argument except to say “the Board decided to continue the merit hearing and place appropriate weight on the evidence presented”. Implicit in the Board’s analysis was a decision that it had the authority to increase the assessment should it so choose.
18. On the merits of the assessment, the Board agreed in part with the City: it found that the mall was “something more” than a community centre, though not quite a power centre. It assessed the value of the rent from Wal-Mart at $10.50 per square foot, reasoning in part that it would be inequitable for the assessed value to be as low as $3.50 per square foot when other nearby Wal-Marts had been assessed at $10.50 or $11.50 per square foot. The Board increased the overall assessment to approximately $41 million.
    1. Court of Queen’s Bench, 2013 ABQB 526, 570 A.R. 208 — Rooke A.C.J.
19. The Court of Queen’s Bench granted permission to appeal, including on the issue of whether the Board “was entitled to proceed on a new assessment” (para. 14, quoting 2012 ABQB 445, at para. 60 (CanLII)).
20. Rooke A.C.J. stated that the issue on appeal was a true question of jurisdiction of the kind discussed in *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, and the standard of review was correctness.
21. Turning to the substantive issue, the chambers judge concluded that when a taxpayer complains about an assessment, the municipality must defend the assessed amount as correct and cannot ask the Board to change the assessment. Noting that, under the *MGA*, only assessed persons and taxpayers may complain about an assessment (s. 460(3)), the chambers judge reasoned that the City had tried to do indirectly what it cannot do directly. He concluded the Board lacked jurisdiction to increase the assessment at the City’s request, set aside the Board’s decision and remitted the matter to the Board for a hearing *de novo*.
    1. Court of Appeal, 2015 ABCA 85, 599 A.R. 210 — Slatter, Berger and Rowbotham JJ.A.
22. Writing for the court, Slatter J.A. agreed that the standard of review was correctness. While he did not agree that the issue on appeal was a true question of jurisdiction, he concluded that the decisions of a tribunal subject to a statutory right of appeal (or a right to apply for leave to appeal), rather than ordinary judicial review, should be reviewed on the correctness standard.
23. On the substantive issue, the Court of Appeal concluded that s. 467(1) does not empower the Board to increase an assessment at the City’s request. The City did not have the right to seek an increase: it was not empowered to make a complaint under s. 460(3). The court agreed with the chambers judge that the City’s power to correct errors (s. 305) did not apply here, because there was no error; the City simply changed its mind. The Court of Appeal concluded that the Board erred in increasing the assessment and dismissed the City’s appeal.
24. Analysis
    1. Standard of Review
25. In this case, Slatter J.A. said: “The day may come when it is possible to write a judgment like this without a lengthy discussion of the standard of review” (para. 11). That day has not come, but it may be approaching. In *Wilson v. Atomic Energy of Canada Ltd.*, 2016 SCC 29, [2016] 1 S.C.R. 720, my colleague Abella J. expressed an interest in revisiting the standard of review framework. The majority appreciated Justice Abella’s efforts to stimulate a discussion on how to clarify or simplify our standard of review jurisprudence to better promote certainty and predictability. In my view, the principles in *Dunsmuir* should provide the foundation for any future direction. However, any recalibration of our jurisprudence should await full submissions. This appeal was argued on the basis of our current jurisprudence and I proceed accordingly.
26. The *Dunsmuir* framework balances two important competing principles: legislative supremacy, which requires the courts to respect the choice of Parliament or a legislature to assign responsibility for a given decision to an administrative body; and the rule of law, which requires that the courts have the last word on whether an administrative body has acted within the scope of its lawful authority (paras. 27-31).
    * 1. Presumption of Reasonableness
27. Unless the jurisprudence has already settled the applicable standard of review (*Dunsmuir*, at para. 62), the reviewing court should begin by considering whether the issue involves the interpretation by an administrative body of its own statute or statutes closely connected to its function. If so, the standard of review is presumed to be reasonableness (*Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16, [2015] 2 S.C.R. 3, at para. 46). This presumption of deference on judicial review respects the principle of legislative supremacy and the choice made to delegate decision making to a tribunal, rather than the courts. A presumption of deference on judicial review also fosters access to justice to the extent the legislative choice to delegate a matter to a flexible and expert tribunal provides parties with a speedier and less expensive form of decision making.
28. The *Dunsmuir* framework provides a clear answer in this case. The substantive issue here — whether the Board had the power to increase the assessment — turns on the interpretation of s. 467(1) of the *MGA*, the Board’s home statute. The standard of review is presumed to be reasonableness.
    * 1. Categories That Rebut the Presumption of Reasonableness
29. The four categories of issues identified in *Dunsmuir* which call for correctness are constitutional questions regarding the division of powers, issues “both of central importance to the legal system as a whole and outside the adjudicator’s specialized area of expertise”, “true questions of jurisdiction or *vires*”, and issues “regarding the jurisdictional lines between two or more competing specialized tribunals” (paras. 58-61). When the issue falls within a category, the presumption of reasonableness is rebutted, the standard of review is correctness and no further analysis is required (*Canadian Artists’ Representation v. National Gallery of Canada*, 2014 SCC 42, [2014] 2 S.C.R. 197, at para. 13; *McLean v. British Columbia (Securities Commission)*, 2013 SCC 67, [2013] 3 S.C.R. 895, at para. 22).
    * + 1. Is the Issue on Appeal a True Question of Jurisdiction?
30. The chambers judge found, and the Company submits, that whether the Board had the power to increase the assessment is a true question of jurisdiction reviewable on correctness. The Court of Appeal did not agree that this issue was a true question of jurisdiction.
31. This category is “narrow” and these questions, assuming they indeed exist, are rare (*Canadian Broadcasting Corp. v. SODRAC 2003 Inc.*, 2015 SCC 57, [2015] 3 S.C.R. 615, at para. 39; *Alberta (Information and Privacy Commissioner) v. Alberta Teachers’ Association*, 2011 SCC 61, [2011] 3 S.C.R. 654, at paras. 33-34). It is clear here that the Board may hear a complaint about a municipal assessment. The issue is simply one of interpreting the Board’s home statute in the course of carrying out its mandate of hearing and deciding assessment complaints. No true question of jurisdiction arises.
    * + 1. Is a Statutory Right of Appeal a New Category of Correctness?
32. The Court of Appeal concluded that when the decisions of a tribunal are subject to a statutory right of appeal (or a right to apply for leave to appeal), rather than ordinary judicial review, the standard of review on such appeals is correctness. It determined that a statutory appeal should be recognized as “an addition to or a variation of” the list of correctness categories enumerated in *Dunsmuir* (Court of Appeal reasons, at para. 24). Slatter J.A. reasoned that the existence of a statutory right of appeal is a strong indication that the legislature intended the courts to show less deference than they would in an ordinary judicial review.
33. I disagree. In my view, recognizing issues arising on statutory appeals as a new category to which the correctness standard applies — as the Court of Appeal did in this case — would go against strong jurisprudence from this Court.
34. At least six recent decisions of this Court have applied a reasonableness standard on a statutory appeal from a decision of an administrative tribunal (*McLean*; *Smith v.* *Alliance Pipeline Ltd.*, 2011 SCC 7, [2011] 1 S.C.R. 160; *Bell Canada v. Bell Aliant Regional Communications*, 2009 SCC 40, [2009] 2 S.C.R. 764; *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53, [2014] 2 S.C.R. 633; *Ontario (Energy Board) v. Ontario Power Generation Inc.*, 2015 SCC 44, [2015] 3 S.C.R. 147; *ATCO Gas and Pipelines Ltd. v. Alberta (Utilities Commission)*, 2015 SCC 45, [2015] 3 S.C.R. 219).
35. In *Saguenay*, this Court confirmed that whenever a court reviews a decision of an administrative tribunal, the standard of review “must be determined on the basis of administrative law principles . . . regardless of whether the review is conducted in the context of an application for judicial review or of a statutory appeal” (para. 38, per Gascon J.; see also *Dr. Q v. College of Physicians and Surgeons of British Columbia*, 2003 SCC 19, [2003] 1 S.C.R. 226, at paras. 17, 21, 27 and 36; *Law Society of New Brunswick v. Ryan*, 2003 SCC 20, [2003] 1 S.C.R. 247, at paras. 2 and 21).
36. The Court of Appeal relied on this Court’s decision in *Tervita Corp. v. Canada (Commissioner of Competition)*, 2015 SCC 3, [2015] 1 S.C.R. 161,where the statutory appeal clause was referred to when finding the standard of review was correctness (para. 36). However, the Court in *Tervita* relied upon the unique statutory language of that particular appeal clause: a decision of the tribunal was appealable “as if it were a judgment of the Federal Court” (*Competition Tribunal Act*, R.S.C. 1985, c. 19 (2nd Supp.), s. 13(1)). Obviously, judgments of the Federal Court do not benefit from deference on appeal (except on questions of fact, for entirely different reasons). *Tervita* does not stand for the proposition that all issues arising on all statutory appeals are reviewable on the correctness standard.
    * 1. Contextual Analysis
37. The Court of Appeal also conducted a review of the relevant contextual factors to support the conclusion that the standard of review is correctness. The presumption of reasonableness may be rebutted if the context indicates the legislature intended the standard of review to be correctness (*Saguenay*,at para. 46; *Rogers Communications Inc. v. Society of Composers, Authors and Music Publishers of Canada*, 2012 SCC 35, [2012] 2 S.C.R. 283, at para. 16).
38. The presumption of reasonableness is grounded in the legislature’s choice to give a specialized tribunal responsibility for administering the statutory provisions, and the expertise of the tribunal in so doing. Expertise arises from the specialization of functions of administrative tribunals like the Board which have a habitual familiarity with the legislative scheme they administer:“. . . in many instances, those working day to day in the implementation of frequently complex administrative schemes have or will develop a considerable degree of expertise or field sensitivity to the imperatives and nuances of the legislative regime” (*Dunsmuir*,at para. 49, quoting D. J. Mullan, “Establishing the Standard of Review: The Struggle for Complexity?” (2004), 17 *C.J.A.L.P.* 59, at p. 93; see also *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12, [2009] 1 S.C.R. 339, at para. 25). Expertise may also arise where legislation requires that members of a given tribunal possess certain qualifications. However, as with judges, expertise is not a matter of the qualifications or experience of any particular tribunal member. Rather, expertise is something that inheres in a tribunal itself as an institution: “. . . at an institutional level, adjudicators . . . can be presumed to hold relative expertise in the interpretation of the legislation that gives them their mandate, as well as related legislation that they might often encounter in the course of their functions” (*Dunsmuir*, at para. 68). As this Court has often remarked, courts “may not be as well qualified as a given agency to provide interpretations of that agency’s constitutive statute that make sense given the broad policy context within which that agency must work” (*McLean*, at para. 31, quoting *National Corn Growers Assn. v. Canada (Import Tribunal)*, [1990] 2 S.C.R. 1324, at p. 1336, per Wilson J.).
39. As discussed, this Court has often applied a reasonableness standard on a statutory appeal from an administrative tribunal, even when the appeal clause contained a leave requirement and limited appeals to questions of law (see, e.g., *Sattva*), or to questions of law or jurisdiction (see, e.g., *McLean*, *Smith*, *Bell Canada*). In light of this strong line of jurisprudence — combined with the absence of unusual statutory language like that at issue in *Tervita* — there was no need for the Court of Appeal to engage in a long and detailed contextual analysis. Inevitably, the result would have been the same as in those cases. The presumption of reasonableness is not rebutted.
40. I would add this comment. The contextual approach can generate uncertainty and endless litigation concerning the standard of review. Subject to constitutional constraints, the legislature can specify the applicable standard of review. In British Columbia, for example, the legislature has displaced almost the entire common law on the standard of review (see the *Administrative Tribunals Act*, S.B.C. 2004, c. 45, ss. 58 and 59). Unfortunately, clear legislative guidance on the standard of review is not common.
    1. Was It Reasonable for the Board to Find It Could Increase the Assessment?
       1. Reasonableness Review in the Absence of Reasons
41. A decision cannot be reasonable unless it “falls within a range of possible, acceptable outcomes” (*Dunsmuir*, at para. 47, per Bastarache and LeBel JJ.). Reasonableness is also concerned with “the existence of justification, transparency and intelligibility within the decision-making process” (*ibid.*). When a tribunal does not give reasons, it makes the task of determining the justification and intelligibility of the decision more challenging.
42. When procedural fairness requires a tribunal to provide some form of reasons, a complete failure to do so will amount to an error of law (*Newfoundland and Labrador Nurses’ Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708, at paras. 20-22).
43. However, when a tribunal’s failure to provide any reasons does not breach procedural fairness, the reviewing court may consider the reasons “which could be offered” in support of the decision (*Dunsmuir*, at para. 48, quoting D. Dyzenhaus, “The Politics of Deference: Judicial Review and Democracy”, in M. Taggart, ed., *The Province of Administrative Law* (1997), 279, at p. 286). In appropriate circumstances, this Court has, for example, drawn upon the reasons given by the same tribunal in other decisions (*Alberta Teachers*, at para. 56) and the submissions of the tribunal in this Court (*McLean*, at para. 72).
44. The City gave the Company notice that it would be seeking to increase the assessment. In its written submissions to the Board, the City ultimately requested that the Board increase the assessment. The Company filed a lengthy response to the City’s submissions and evidence. At the hearing, the Company argued that the City’s proper role was to “defend the assessment” and “respond to the evidence provided by the complainant”. However, in response to a question from the Board, the Company clarified that it was not disputing the Board’s power to increase the assessment in this case:

[Counsel for the City] has suggested that we are taking issue with your jurisdiction to make a change. We’re not. The legislation certainly allows the Assessment Review Board to decrease or increase the assessment. You have that power.

(A.R., vol. 2, at p. 85)

1. Therefore, it is hardly surprising the Board did not explain why it was of the view that it could increase the assessment: the Company expressly conceded the point. Parties “cannot gut the deference owed to a tribunal by failing to raise the issue before the tribunal and thereby mislead the tribunal on the necessity of providing reasons” (*Alberta Teachers*, atpara. 54). Accordingly, I shall review the Board’s decision in light of the reasons which *could be* offered in support of it.
   * 1. Was the Board’s Decision Reasonable?
2. The Board proceeded on the basis that s. 467(1) allowed it to increase the assessment at the City’s request. In my view, this was a reasonable interpretation of the legislation.
3. Section 467(1) reads:

**467(1)** An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

1. Section 460 provides in relevant part:

**460(1)** A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.

. . .

**(3)** A complaint may be made only by an assessed person or a taxpayer.

. . .

**(5)** A complaint may be about any of the following matters, as shown on an assessment or tax notice:

(a) the description of a property or business;

. . .

(c) an assessment;

1. In a case that raised the same issue (*Edmonton (City) v. Army & Navy Department Stores Ltd.*, [2002] A.M.G.B.O. No. 126 (QL)), the Alberta Municipal Government Board (which formerly heard appeals from the Board and had similar expertise) discerned the meaning of s. 467(1) by examining the words of the provision in their entire context and in their grammatical and ordinary sense, in harmony with the object and scheme of the *MGA*. This is consistent with this Court’s well-established approach to statutory interpretation (*Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27, at para. 21).
2. On its face, the language of s. 467(1) empowers the Board to “change” an assessment with respect to “any matter referred to in section 460(5)”. Section 460(5) references “an assessment” of value. As the Municipal Government Board reasonably observed in *Army & Navy* (at para. 114), as a matter of ordinary language, the word “change” includes “increase”.
3. This grammatical and ordinary meaning of s. 467(1) is consistent with the purpose of the *MGA*. The Court of Appeal said that the broad term “change” was used because some of the matters that can be subject to complaint, for example, the “description of a property” (s. 460(5)(a)), are not numerical in nature. However, the Municipal Government Board in *Army & Navy* noted that to interpret “change” to mean only “confirm or lower” would frustrate the overarching intent of the *MGA*, being to ensure that assessments are “current, correct, fair and equitable” (para. 114). This reasoning is compelling. The importance of fairness and equity to the assessment process is repeatedly emphasized throughout the *MGA*: for example, s. 293(1) provides that property assessors are subject to an overarching duty to prepare the assessment “in a fair and equitable mannerˮ; s. 467(3) directs the Board to consider fairness and equity when making its decisions; and s. 324(1) provides that the Minister of Municipal Affairs may quash an assessment if the Minister is of the opinion that it is not fair and equitable. As the Board emphasizes in its submissions, if it cannot increase an assessment that is below market value, other taxpayers would effectively bear more than their fair share of the overall tax burden. It was reasonable for the Board to conclude that such a result would run contrary to — not further — the *MGA*’s objects.
4. The Board is not simply an adjudicator responding only to the parties’ record and submissions, as evidenced by its inquisitorial powers (s. 465) and power to refer an assessment to the Minister even when it is not the subject of a complaint (s. 476.1). Within the complaints process, the Board’s role is to determine whether the assessment is fair and equitable (s. 467(3)). Outside the complaints process, the Board may refer an assessment it “considers unfair and inequitable” to the Minister, who may investigate or quash the assessment (s. 476.1). Interpreting s. 467(1) in the manner urged by the Board is consistent with its mandate under ss. 467(3) and 476.1 of ensuring assessments are fair and equitable.
5. The Board’s view that s. 467(1) allows it to increase an assessment is also consistent with the scheme of the *MGA*.
6. Section 460(3) provides that only assessed persons and taxpayers may make complaints. The courts below concluded that municipalities may not seek increases from the Board, for that would be tantamount to making a complaint. The Court of Appeal quoted with approval from *Canadian Natural Resources Ltd. v. Wood Buffalo (Regional Municipality)*, 2012 ABQB 177, 535 A.R. 281: “A complaint belongs to the taxpayer, not the Municipality” (para. 166, per Sulyma J.).
7. But the scheme of the *MGA* does not require that municipalities be empowered to file a “complaint” against an assessment. The *MGA* provides other mechanisms by which municipalities can change or seek changes to an assessment.
8. Section 305 provides in relevant part:

**305(1)** If it is discovered that there is an error, omission or misdescription in any of the information shown on the assessment roll,

(a) the assessor may correct the assessment roll for the current year only, and

(b) on correcting the roll, an amended assessment notice must be prepared and sent to the assessed person.

…

**(5)** If a complaint has been made under section 460 or 488 about an assessed property, the assessor must not correct or change the assessment roll in respect of that property until a decision of an assessment review board or the Municipal Government Board, as the case may be, has been rendered or the complaint has been withdrawn.

1. Section 305(1) permits an assessor (i.e., a municipality) to correct the assessment role if there is an “error, omission or misdescription”. The Court of Appeal interpreted s. 305(1) as a narrow provision that permits municipalities to correct only minor errors of a typographical or similar nature. This, it said, was consistent with a municipality’s inability to make a complaint; the statutory scheme intended that the municipality would have to wait until the following year. However, by its ordinary meaning, “error” is not limited to typographical or similar errors. Consistent with the language of the provision, it is reasonable to conclude that s. 305(1) empowers a municipality to change an assessment it later determines is too low — i.e., was made in error. The Municipal Government Board reached this conclusion in *Army & Navy*: “. . . the intent of Section 305 is to allow assessment authorities to correct errors discovered on the assessment roll whether they are of an administrative nature or to do with a change in an assessment” (para. 124).
2. Nor is the Court of Appeal’s restrictive reading of s. 305(1) required by “Canadian expectations about the imposition of taxes”, specifically the expectation that “retroactive taxation is possible, but not presumed” (para. 39). Although changes to an assessment will often produce tax consequences, the municipal taxing bylaw itself remains constant. Changes to an assessment do not amount to retroactive taxation in the sense that term is normally understood. Rather, an error has been corrected in the underlying assessment. Put simply, the taxpayer’s tax liability now corresponds to what the law provides it always should have been for that year.
3. Thus, a municipality can directly correct an error in an assessment if no complaint is pending (s. 305(1)) or, if a complaint is pending, the municipality can ask the Board to correct the error and increase the assessment (s. 467(1)). Properly understood, a complaint does not “belong” to anyone. It is a process through which the Board, with assistance from the taxpayer and municipality (and potentially other persons at the Board’s request), determines the correct, fair and equitable value for the assessment.
4. Section 305(5), which provides that an assessor “must not correct or change” an assessment “until a decision of an assessment review board . . . has been rendered or the complaint has been withdrawn”, is designed to protect the integrity of the complaints process. When a taxpayer files a complaint, s. 305(5) prevents the municipality from altering the assessment unilaterally, rendering the complaint moot and potentially leading to a new complaint about the new assessment. Instead of resolving a dispute about a revised assessment in a separate proceeding, the municipality can simply explain at the hearing of the first complaint its reasons for wanting to revise the assessment, and the Board can change the assessment as it deems necessary. In the context of an annual scheme, this pursuit of administrative efficiency makes sense. After the Board has determined the correct assessed value and rendered its decision, s. 305(5) does not prevent the municipality from correcting an error, omission or misdescription in any of the other information shown on the assessment roll (for example, the name and mailing address of the assessed person).
5. The Company also relies on the *Matters Relating to Assessment Complaints Regulation*, Alta. Reg. 310/2009. The Company notes that a taxpayer has 60 days to review an assessment and file a complaint (s. 309(1)(c) *MGA*), but only 7 days to reply to a municipality’s response to a complaint (*Matters Relating to Assessment Complaints Regulation*, s. 8(2)(b) and (c)). Thus, if a municipality discovers an error outside the complaints process and increases an assessment under s. 305(1), the taxpayer will have 60 days to respond; but if a municipality discovers an error within the complaints process and seeks an increase from the Board, the taxpayer will have only 7 days to respond. The Company says it is implausible that the legislature intended to require a taxpayer to respond much more quickly to a change sought within the complaint process than to one made outside the complaint process, so it must be that a municipality cannot seek an increase from the Board when a taxpayer complains.
6. There are two plausible reasons why the legislature would have created a shorter time period for a taxpayer to reply to a municipality’s response to its complaint than the time period to file a complaint in the first place. First, the legislature has empowered the Board to grant extensions of time and adjournments: where a municipality does seek an increase in response to a complaint, the Board can ensure the taxpayer has sufficient time to prepare its reply (*Matters Relating to Assessment Complaints Regulation*, ss. 10(2) and 15(1)). Natural justice and fairness require that the taxpayer have enough time to respond, and the statutory scheme accommodates this. Accordingly, any perceived sense of injustice is largely illusory.
7. Second, in the interests of administrative expediency, it makes sense that the legislature would have established a shorter time horizon within the complaint process. In the normal course, the municipality will respond to a complaint by defending its original assessment. A municipality will respond to a complaint by seeking an increase only when it discovers an error, which is not likely to occur often. By establishing a presumptively shorter time period to reply to a municipality’s response to a complaint, while allowing the Board to grant extensions of time when appropriate, the twin goals of administrative efficiency and fairness are both advanced. A lengthier time period for a reply would simply not be required in the majority of cases.
8. Section 9(4) of the *Matters Relating to Assessment Complaints Regulation* also does not require a restrictive interpretation of “change” in s. 467(1). Section 9(4) of the Regulation relates to ss. 299 and 300 of the *MGA*, which permit an assessed person to ask a municipality for “sufficient information to show how the assessor prepared the assessment” (s. 299) of their property or any other property. Section 9(4) of the Regulationprovides that the Board “must not hear any evidence from a municipality relating to information that was requested by a complainant under section 299 or 300 of the Act but was not provided to the complainant”.
9. As the heading of s. 9 of the Regulation— “Failure to disclose” — makes clear, s. 9(4) simply provides a remedy for non-disclosure. For example, if the municipality has information relating to an assessment and does not, upon request, disclose it under s. 299 or s. 300, then the municipality cannot rely on that information before the Board. This is a traditional remedy for non-disclosure of evidence. Properly understood, s. 9(4) does not preclude a municipality from changing its mind about an assessment and leading evidence to support its position, as long as it discloses the evidence within the prescribed time limit. Section 8(2)(b) of the Regulation establishes that time limit: it requires the municipality to disclose its evidence at least 14 days before the hearing. This paragraph would serve little purpose if the municipality’s entire case already had to be disclosed to a complainant under s. 299 or s. 300. It is therefore unsurprising that s. 299 and s. 300 were not raised by the parties or addressed in the decisions below.
10. To conclude, it was reasonable for the Board to interpret s. 467(1) to permit it to increase the assessment at the City’s request. As the Municipal Government Board concluded in *Army & Navy*, this interpretation is consistent with the ordinary meaning of “change” and the overarching policy goal of the *MGA*, to ensure assessments are correct, fair and equitable. The alternative would permit taxpayers to use the complaints process to prevent assessments made in error from being corrected, thereby frustrating the *MGA*’s purpose.
11. Conclusion
12. The standard of review is reasonableness and the Board’s decision was reasonable. Accordingly, I would allow the appeal, set aside the decision of the Court of Appeal and reinstate the Board’s decision. I would award the City its costs in this Court and the courts below, payable by the Company only. I would not award costs to or against the Board.

The reasons of McLachlin C.J. and Moldaver, Côté and Brown JJ. were delivered by

Côté and Brown JJ. (dissenting) —

1. Introduction
2. We are of the view that the appropriate standard of review of the City of Edmonton Assessment Review Board’s decision is correctness. The legislature of Alberta created a municipal assessment complaints regime that allows certain questions squarely within the expertise of an assessment review board to be reviewed on a deferential standard through the ordinary mechanism of judicial review. The legislature, however, also designated certain questions of law and jurisdiction — for which standardized answers are necessary across the province — to be the subject of an appeal to the Court of Queen’s Bench. Where the court quashes a decision, its answers to these questions are binding on the Board. This leads to the unavoidable conclusion that the legislature intended correctness review to be applied to these questions.
3. As to the merits, we are of the view that the Board’s decision in this case should be quashed. Assessment review boards have jurisdiction only to adjudicate the issues that are raised in the assessed person’s complaint form. The Board in this case erred by hearing and partially accepting the City of Edmonton’s new and revised assessment based on an entirely new classification, one which was not the subject of Edmonton East (Capilano) Shopping Centres Limited’s (“Company”) complaint.
4. Standard of Review
5. The “overall aim” of the standard of review analysis has always been “to discern legislative intent, keeping in mind the constitutional role of the courts in maintaining the rule of law”: *Dr. Q v. College of Physicians and Surgeons of British Columbia*, 2003 SCC 19, [2003] 1 S.C.R. 226, at para. 26. As Binnie J. once remarked, the standard of review analysis “is necessarily flexible” as it seeks “the polar star of legislative intent”: *C.U.P.E. v. Ontario (Minister of Labour)*, 2003 SCC 29, [2003] 1 S.C.R. 539, at para. 149.
6. In our view, taken together, the statutory scheme and the Board’s lack of relative expertise in interpreting the law lead to the conclusion that the legislature intended that the Board’s decisions on questions of law and jurisdiction appealed to the Court of Queen’s Bench be reviewed on a correctness standard. As a result, even were the Board’s interpretation presumptively owed deference on the basis that the Board is interpreting its home statute, this presumption of deference has been rebutted by clear signals of legislative intent.
   1. Contextual Analysis of the Statutory Scheme and Signals of Legislative Intent
7. As we will explain, the nature of the relevant statutory scheme demonstrates that the legislature intended correctness review be applied to decisions on questions of law and jurisdiction for which leave to appeal is granted to the Court of Queen’s Bench. Any expertise of the Board does not overcome this clear indication of legislative intent. Indeed, we are of the view that the legislature has indicated that the Board lacks relative expertise to decide those questions.
8. Before addressing this legislative context, however, we wish to make some preliminary comments on the statutory right of appeal in s. 470 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 (“Act”).
   * 1. A Statutory Right of Appeal Is Not a Category of Correctness Review
9. In response to the reasons of Slatter J.A. in the Court of Appeal (2015 ABCA 85, 599 A.R. 210), the majority questions whether a statutory right of appeal is a new “category” of correctness review. Relying on recent decisions of this Court, it concludes that no such category of correctness review exists because the reasonableness standard has been applied in other cases where statutory rights of appeal are present.
10. We agree that a statutory right of appeal is not a new “category” of correctness review. However, the ostensibly contextual standard of review analysis should not be confined to deciding whether new categories have been established. An approach to the standard of review analysis that relies exclusively on categories and eschews any role for context risks introducing the vice of formalism into the law of judicial review, as it seeks to “secure a measure of certainty or predictability at the cost of blindly prejudging what is to be done in a range of future cases, about whose composition we are ignorant”: H. L. A. Hart, *The Concept of Law* (3rd ed. 2012), at pp. 129-30.
11. In every case, a court must determine what the appropriate standard of review is for *this* question decided by *this* decision maker. This is not to say that a full contextual standard of review analysis must be conducted in every single case. The applicable standard of review is a question of law: *Monsanto Canada Inc. v. Ontario (Superintendent of Financial Services)*, 2004 SCC 54, [2004] 3 S.C.R. 152, at para. 6. Questions of law forming part of the *ratio decidendi* of a decision are binding on lower courts as a matter of *stare decisis*: *Osborne v. Rowlett* (1880), 13 Ch. D. 774, at p. 785. Where a standard of review analysis is performed and the proper standard of review is determined for a particular question decided by a particular decision maker, that standard of review should apply in the future to similar questions decided by that decision maker.
12. In *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, this Court made room for the simple operation of the doctrine of precedent in this manner. It recognized that a full contextual standard of review analysis need not be performed in every case, since the appropriate standard of review has often been settled in the jurisprudence. But “[t]his simply means that the analysis required is already deemed to have been performed and need not be repeated” (para. 57). It does not mean that the contextual analysis itself should be curtailed in favour of categories that are themselves “both over- and under-inclusive”: P. Daly, “The Unfortunate Triumph of Form over Substance in Canadian Administrative Law” (2012), 50 *Osgoode Hall L.J.* 317, at p. 342. Despite the “attractive simplicity” of the category-based approach, eschewing context in favour of categories is “seriously overbroad”: S. Breyer, “Judicial Review of Questions of Law and Policy” (1986), 38 *Admin. L. Rev.* 363, at p. 373. Disregard for the contextual analysis would represent a significant departure from *Dunsmuir* and from this Court’s post-*Dunsmuir* jurisprudence.
    * 1. The Statutory Scheme
13. Because context always matters, we do not agree that the existence of a statutory right of appeal cannot, in combination with other factors, lead to a conclusion that the proper standard of review is correctness. A statutory right of appeal, like a privative clause, “is an important indicator of legislative intent” and, depending on its wording, it “may be at ease with [judicial intervention]”: *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12, [2009] 1 S.C.R. 339, at para. 55, per Binnie J. In our view, the wording of this statutory appeal clause, in combination with the legislative scheme, points to the conclusion that the legislature intended that a more exacting standard of review be applied to questions appealed to the Court of Queen’s Bench.
14. The majority says, however, that a contextual analysis is unnecessary here in light of this Court’s recent decisions of *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53, [2014] 2 S.C.R. 633; *McLean v. British Columbia (Securities Commission)*, 2013 SCC 67, [2013] 3 S.C.R. 895; *Smith* *v.* *Alliance Pipeline Ltd.*, 2011 SCC 7, [2011] 1 S.C.R. 160; and *Bell Canada v. Bell Aliant Regional Communications*, 2009 SCC 40, [2009] 2 S.C.R. 764. With respect, we do not read those decisions as supportive of our colleagues’ position, because none of them states or even implies that a right of appeal is not a relevant factor in the contextual analysis.
15. Section 470 of the Actgrants a statutory right of appeal with leave to the Court of Queen’s Bench on a “question of law or jurisdiction” (s. 470(1)) where a judge “is of the opinion that the appeal involves a question of law or jurisdiction of sufficient importance to merit an appeal and has a reasonable chance of success” (s. 470(5)). If a question of law or jurisdiction is appealed to the Court of Queen’s Bench and the Court of Queen’s Bench decides the question and refers the matter back to the Board, “the board must rehear the matter and deal with it in accordance with the opinion of or any direction given by the Court on the question of law or the question of jurisdiction” (s. 470.1(2)).
16. It is only questions of law and jurisdiction that are “of sufficient importance to merit an appeal” that may be appealed pursuant to s. 470 of the Act. All other questions may still be the subject of judicial review: *Edmonton (City) v. Edmonton (City) Assessment Review Board*, 2010 ABQB 634, 503 A.R. 144, at paras. 10-12; *Associated Developers Ltd. v. Edmonton (City)*, 2011 ABQB 592, 527 A.R. 287, at paras. 17-24; *Edmonton (City) v. Edmonton (Composite Assessment Review Board)*, 2012 ABQB 118, 534 A.R. 110, at para. 78.
17. In our view, the legislature’s decision to enact a limited right of appeal rather than a full right of appeal indicates that the legislature intended these questions to be reviewed by the Court of Queen’s Bench for correctness.
18. The legislature must have known that judicial review is available for any question not covered by a limited right of appeal (*Habtenkiel v. Canada (Citizenship and Immigration)*, 2014 FCA 180, [2015] 3 F.C.R. 327, at para. 35; see also D. J. M. Brown and J. M. Evans, *Judicial Review of Administrative Action in Canada* (loose-leaf), at p. 3-9), given that the legislature is presumed to know the law: *R. v. D.L.W.*, 2016 SCC 22, [2016] 1 S.C.R. 402, at para. 21, per Cromwell J.; *Townsend v. Kroppmanns*, 2004 SCC 10, [2004] 1 S.C.R. 315, at para. 9. The legislature only designated some questions to be the subject of this right of appeal, thereby signalling its intention that these important questions of law and jurisdiction be treated differently from all other questions which are subject to ordinary judicial review. These issues, after all, transcend the particular context of a disputed assessment and have broader implications for the municipal assessment regime. Had the legislature merely intended to provide for a different procedure than judicial review to enhance administrative efficiency within the yearly cycle created by the legislature, it would have enacted a full statutory right of appeal with a shorter limitation period than ordinary judicial review. After all, questions of fact and mixed fact and law would also benefit from a shorter limitation period to enhance administrative efficiency within the yearly cycle. We note, in this regard, the similarity between the wording of s. 470(5) and the statutory right of appeal that was considered in *Pushpanathan v. Canada (Minister of Citizenship and Immigration)*, [1998] 1 S.C.R. 982, in respect of which Bastarache J., for this Court, said:

First, s. 83(1) would be incoherent if the standard of review were anything other than correctness. The key to the legislative intention as to the standard of review is the use of the words “a serious question of general importance” . . . . The general importance of the question, that is, its applicability to numerous future cases, warrants the review by a court of justice. Would that review serve any purpose if the Court of Appeal were obliged to defer to incorrect decisions of the Board? Is it possible that the legislator would have provided for an exceptional appeal to the Court of Appeal on questions of “general importance”, but then required that despite the “general importance” of the question, the court accept decisions of the Board which are wrong in law, even clearly wrong in law, but not patently unreasonable? The only way in which s. 83(1) can be given its explicitly articulated scope is if the Court of Appeal — and inferentially, the Federal Court, Trial Division — is permitted to substitute its own opinion for that of the Board in respect of questions of general importance. [Emphasis added; para. 43.]

1. That correctness review was legislatively intended is supported by other aspects of the statutory scheme. Section 470.1(2) of the Act provides that, where the Court of Queen’s Bench “cancels a decision”, it must refer the matter back to the Board and the Board must “rehear the matter and deal with it in accordance with the opinion of or any direction given by the Court on the question of law or the question of jurisdiction”. This strongly suggests that correctness review is the standard that the legislature intended to be applied to these questions, because giving “direction” on a pure and distilled question of law and jurisdiction would be inconsistent with reasonableness review. The fundamental premise of reasonableness review is that “certain questions that come before administrative tribunals do not lend themselves to one specific, particular result”: *Dunsmuir*, at para. 47. However, the fundamental premise of s. 470.1(2) is that pure questions of law and jurisdiction appealed to the Court of Queen’s Bench do lend themselves to one specific, particular result because the Court of Queen’s Bench is bound to provide *direction* on these pure questions of law and jurisdiction and the Board is prohibited from reaching a different result on those questions when the matter is remitted to it.
2. Further, as Slatter J.A. noted at the Court of Appeal, the municipal assessment regime set out in the Act is applied by local and composite assessment review boards in municipalities across the province. Each assessment review board is a unique entity established by the local municipal council (s. 454). Because each assessment review board is a distinct entity, there is no overarching institutional body capable of promoting consistency in the interpretation and application of the Act between them. We echo the concern of Slatter J.A. that “it is undesirable for the *Municipal Government Act* to mean different things in different parts of the province” (para. 30). Consistency in the understanding and application of these legal questions is necessary, and only courts can provide such consistency. And, to reiterate, the legislature of Alberta has done so here by providing assessed persons a right to appeal certain questions to the courts, which are, in turn, tasked with providing *binding rulings* on those questions: s. 470.1(2) of the Act.
   1. Expertise
3. In our view the question at issue is not one which falls within the Board’s expertise. Indeed, the Board’s lack of expertise in statutory interpretation suggests that the legislature would have wanted courts to review Board answers on questions of law on a more exacting standard.
4. We acknowledge that the notion of “expertise” has become a catch-all trigger for deferential review in this Court’s jurisprudence, since an administrative decision maker is simply presumed to be an expert in matters regarding the application of its home statute. We wish, therefore, to be clear: our point of departure from the majority is whether the presumption has been rebutted. And we add this: in strengthening the presumption by ignoring or explaining away any factors that might rebut it, the majority risks making this presumption irrebuttable.
5. Despite its prevalence, this presumption of expertise has rarely been given much explanation or content in our jurisprudence: L. Sossin, “Empty Ritual, Mechanical Exercise or the Discipline of Deference? Revisiting the Standard of Review in Administrative Law” (2003), 27 *Adv. Q.* 478, at pp. 490-91; B. Bilson, “The Expertise of Labour Arbitrators” (2005), 12 *C.L.E.L.J.* 33, at p. 41. As McLachlin C.J. explained in *Dr. Q*, expertise “can arise from a number of sources and can relate to questions of pure law, mixed fact and law, or fact alone” (para. 29). Some administrative decision makers are required to possess expert qualifications or experience in a particular area as a condition of appointment: *Canada (Director of Investigation and Research) v. Southam Inc.*, [1997] 1 S.C.R. 748, at paras. 50-53. Other administrative decision makers may accumulate “a measure of relative institutional expertise” by habitually making findings of fact in a particular specialized legislative context: *Dr. Q*, at para. 29; *National Corn Growers Assn. v. Canada (Import Tribunal)*, [1990] 2 S.C.R. 1324, at p. 1336, per Wilson J. This specific or institutional expertise may command deference, though the question of expertise is “closely interrelated” to the nature of the question that forms the basis of the application for judicial review: *Canada (Deputy Minister of National Revenue) v. Mattel Canada Inc.*, 2001 SCC 36, [2001] 2 S.C.R. 100, at para. 32. In other words, an administrative decision maker is not entitled to blanket deference in all matters simply because it is an expert in some matters. An administrative decision maker is entitled to deference on the basis of expertise only if the question before it falls within the scope of its expertise, whether specific or institutional.
6. A constant in this Court’s jurisprudence both pre- and post-*Dunsmuir* is that expertise is a relative concept. It is not absolute: *Pushpanathan*,at para. 33; *Dr. Q*, at para. 28; *Moreau-Bérubé v. New Brunswick (Judicial Council)*, 2002 SCC 11, [2002] 1 S.C.R. 249, at para. 50; *Rogers Communications Inc. v. Society of Composers, Authors and Music Publishers of Canada*, 2012 SCC 35, [2012] 2 S.C.R. 283,at para. 15, perRothstein J. As Sopinka J. explained in *United Brotherhood of Carpenters and Joiners of America, Local 579 v. Bradco Construction Ltd.*, [1993] 2 S.C.R. 316, “a lack of relative expertise on the part of the tribunal *vis-à-vis* the particular issue before it as compared with the reviewing court is a ground for a refusal of deference” (p. 335). An administrative decision maker often possesses greater relative expertise in interpreting and applying its constituting statute in the context of administering a specialized regime: *Pushpanathan*,at para. 36; *Dunsmuir*,at para. 54; *Smith*, at para. 80, per Deschamps J., dissenting on this point. But this is not an absolute rule, as a legislature may always indicate that the expertise of an administrative decision maker in interpreting and administering its home statute is not greater relative to the courts: see, e.g., *Rogers Communications*,at para. 16.
7. The legislature therefore has a role to play in designating and delimiting the presumed expertise of an administrative decision maker. The majority’s view that “expertise is something that inheres in a tribunal itself as an institution” (para. 33) risks transforming the presumption of deference into an irrebuttable rule. Courts must not infer from the mere creation of an administrative tribunal that it necessarily possesses greater relative expertise in all matters it decides, especially on questions of law. After all, “some administrative decision makers have considerable legal expertise . . . . Others have little or none”: *Alberta (Information and Privacy Commissioner) v. Alberta Teachers’ Association*, 2011 SCC 61, [2011] 3 S.C.R. 654, at para. 84, per Binnie J., concurring. Respect for legislative supremacy must leave open to the legislature the possibility of creating a non-expert administrative decision maker, or creating an administrative decision maker with expertise in some areas but not others. Rothstein J. gave effect to this possibility in *Rogers Communications*, holding that the concurrent jurisdiction shared by the courts and the Copyright Board under the *Copyright Act*, R.S.C. 1985, c. C-42, led to the inference “that the legislative intent was not to recognize superior expertise of the Board relative to the court with respect to such legal questions” (para. 15). We must therefore examine the legislative scheme to determine whether the legislative intent was to recognize the superior expertise of the Board or the courts on matters forming the subject of an appeal pursuant to s. 470.
8. The Act is a broad statute that covers a vast array of municipal government issues. The Board at issue here is a composite assessment review board, created pursuant to s. 454 of the Actwith jurisdiction to only hear complaints about certain assessments by taxpayers and assessed persons, and to deal only with the issues listed in s. 460(5) of the Act. The Alberta legislature delegated to other boards and administrative decision makers the simultaneous task of interpreting and applying provisions of the Act, such as the Municipal Government Board (s. 486); growth management boards (s. 708.02); the Minister of Municipal Affairs (in the context of the assessment provisions of the Act, see ss. 317 to 325, 370, 381, 390, 409.3, 425.1, 436.23, 452, 453 to 457, 476.1, 484.1, 514 to 517, 527.1 and 570 to 580); the chief administrative officer of each municipal council (ss. 205, 207 and 208); the Land Compensation Board (ss. 15, 23, 26 and 534); and the Alberta Utilities Commission (ss. 30, 31, 43 to 45, 47 and 47.1), among others. It is therefore incorrect to characterize a specific composite assessment review board as an expert tribunal tasked with administering the Act. We cannot presume greater relative expertise without first examining the statutory scheme that creates the administrative decision maker.
9. The question, then, is whether the Alberta legislature intended to recognize superior expertise in assessment review boards or in the courts with respect to the specific questions appealed pursuant to s. 470 of the Act. As the majority acknowledges, this case is, in part, about the interpretation of s. 467 of the Act. Statutory interpretation does not fall within the specialized expertise of the Board, since its day-to-day work focuses on complex matters of valuation of property. We note that the majority relies on this Court’s jurisprudence for the proposition that a court may not be as qualified as a board to interpret the board’s home statute given “the broad policy context within which” the board must work (para. 33). That may be true in the application of one’s governing statute. However, it is not so in these circumstances, where the matter is one of legal interpretation going to jurisdiction, not practical application. While the Board may have familiarity with the application of the assessment provisions of the Act, the legislature has recognized that the Board’s specialized expertise does not necessarily extend to general questions of law and jurisdiction. The Board’s decisions may, instead, be appealed on these questions of law and jurisdiction.
10. In light of this lack of relative expertise on questions of law and jurisdiction, it cannot be maintained that a presumption applies that the legislature intended that the review board’s determinations on questions of law and jurisdiction be owed deference. The legislature created a tribunal with expertise in matters of valuation and assessment. But the legislature placed that tribunal within a statutory scheme that would allow municipalities and assessed persons to appeal questions of law and jurisdiction, while still implicitly permitting judicial review on all other questions. This, in our view, is a clear signal by the legislature that the tribunal it created is not entitled to deference from the courts on questions of law and jurisdiction appealed pursuant to s. 470, while it must be afforded deference on other matters. Such clearly expressed legislative intent should be respected, by applying correctness review in this case.
11. We note the concern that a contextual analysis can generate uncertainty and prolonged litigation concerning the applicable standard of review. But the lode star of legislative supremacy and the rule of law remains. The contextual standard of review analysis ensures that legislative intent is respected and the rule of law is protected when courts review decisions of administrative actors. And context does not cease to be relevant once the standard of review is selected. Even if the applicable standard of review were reasonableness, it is a contextual analysis — guided by the principles of legislative supremacy and the rule of law — that defines the range of reasonable outcomes in any given case: P. Daly, “Struggling Towards Coherence in Canadian Administrative Law? Recent Cases on Standard of Review and Reasonableness” (forthcoming, *McGill L.J.*), at p. 21. In short, “context simply cannot be eliminated from judicial review” (*ibid.*, at p. 16).
12. We note the chambers judge’s conclusion that the issue in this case is a true question of jurisdiction: 2013 ABQB 526, 570 A.R. 208. As the majority explained in *Dunsmuir*, a true question of jurisdiction asks “whether or not the tribunal had the authority to make the inquiry”, and added that “[a]dministrative bodies must . . . be correct in [these] determinations”: at para. 59; *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2011 SCC 53, [2011] 3 S.C.R. 471, at para. 18. In light of our conclusion above, however, it is not necessary to also consider whether the question at issue falls within that category.
13. Merits
14. The majority characterizes the issue in this case as whether s. 467 of the Act allowed the Board to “increase the assessment at the City’s request” (para. 41). We agree that the word “change” in s. 467(1) should be given its ordinary and grammatical meaning, and that the Board is not precluded from ever increasing an assessment. However, in our view, the Board’s decision-making authority in this case was limited to the specific matters that were raised in the Company’s complaint. The Board had no authority to inquire into the fairness and equity of the assessment generally and to consider or accept elements of the new assessment proposed by the City in increasing the assessment.
15. In our view, this conclusion is supported by five considerations. First, this conclusion respects the assessment complaints procedure set out in the Act and in various regulations. These limit the jurisdiction of the review board to precisely those matters identified on the complaint form and, where applicable, to the information provided by the municipality in response to an access to information request pursuant to ss. 299 and 300 of the Act. There is no space under the Act for municipalities to act as a *de facto* appellant of its own assessment. Second, to hold otherwise, as the majority does, would allow municipalities to circumvent s. 305 of the Act, which only permits municipalities to correct errors, omissions, or misdescriptions in an assessment when a complaint is not pending. Third, a contrary interpretation would undermine taxpayers’ reliance on the information provided by the municipality in its notice of assessment and in any document disclosed pursuant to an access to information request under ss. 299 and 300 of the Act. Fourth, to hold otherwise would also allow municipalities to circumvent certain prescribed notice periods intended to benefit assessed persons. Fifth, the Act does not place an obligation on the Board to ensure that all assessments are “fair” and “equitable”.
    1. Overview of the Board’s Jurisdiction
16. In general terms, the complaints procedure before the Board is a vehicle *for taxpayers* to contest the fairness, correctness and equity of yearly municipal tax assessments. It is in this sense that the complaint belongs to the taxpayer: *Canadian Natural Resources Ltd. v. Wood Buffalo (Regional Municipality)*, 2012 ABQB 177, 535 A.R. 281, at para. 166. The Board’s narrow jurisdiction reflects the complaint procedure’s limited function, and confines the Board’s decision-making authority to only those specific matters that were outlined in the City’s original assessment, and which were subsequently raised by the taxpayer in his or her complaint.
17. This understanding of the assessment complaints process flows from the following provisions of the Act. A complaint regarding an assessment may be about any of the matters listed in s. 460(5) of the Actshown on the assessment notice. However, a “complaint may be made only by an assessed person or a taxpayer” (s. 460(3)). This restricted scope on who may bring a complaint distinguishes the complaints process outlined in the Actfrom legislation in a number of other jurisdictions where municipalities are explicitly provided with a right to appeal an assessment and, as a result, where review boards have the power to raise an assessment in response to a municipality’s appeal: see *Assessment Act*, R.S.B.C. 1996, c. 20, s. 32; *Assessment Act*, R.S.O. 1990, c. A.31, s. 40; *Assessment Act*,R.S.N.S. 1989, c. 23, s. 62(2); *The Cities Act*, S.S. 2002, c. C-11.1, s. 197(3); *The* *Municipal Assessment Act*, C.C.S.M., c. M226, ss. 42 and 43; *Prince Albert (City) v. 101027381 Saskatchewan Ltd.*, 2009 SKCA 59, 324 Sask. R. 313; *79912 Manitoba Ltd. v. Winnipeg City Assessor* (1998), 131 Man. R. (2d) 264 (C.A.), at para. 4; *Orange Properties Ltd. v. Winnipeg City Assessor* (1996), 107 Man. R. (2d) 278 (C.A.).
18. This feature of the Act’s complaint process resembles appeals from assessments under the federal *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.). The Minister of National Revenue has no right to appeal assessments under that Act, and it has long been settled that a taxpayer’s appeal cannot, in light of this, result in an increased assessment: *Harris v. Minister of National Revenue*, [1965] 2 Ex. C.R. 653, aff’d on other grounds, [1966] S.C.R. 489. In *Canada v. Last*, 2014 FCA 129, [2015] 3 F.C.R. 245, Dawson J.A. observed that

*Harris* is authority for the proposition that on appeal from an assessment, the question to be answered is whether the Minister’s assessment is higher than it should be. However, *Harris* is also authority for the proposition that a taxpayer’s appeal cannot result in an increased assessment. This is because the Act does not give any right of appeal to the Minister and any increase to an assessment would in effect allow the Minister to appeal from her own assessment. This principle is to be applied to each source of income. [para. 23]

1. Nowheredoes the Actauthorize the assessment review board to inquire generally into the fairness and equity of the challenged assessment. Instead, the assessment review board has jurisdiction only “to hear complaints aboutany matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a)”(s. 460.1(2)). A plain reading of this provision reveals two restrictions on the assessment review board’s jurisdiction. The review board is limited to hearing “complaints”, and these complaints must be “about” a matter “shown on an assessment notice”. Section 9(1) of the *Matters Relating to Assessment Complaints Regulation*, Alta. Reg. 310/2009 (“*MRAC*”), reinforces these restrictions by adding that the review board “must not hear any matter in support of an issue that is not identified on the complaint form”. Giving this provision full effect, composite assessment review boards have refused to hear issues raised by assessed persons that were not identified in the assessed person’s complaint form: see, e.g., Edmonton ARB, Decision No. 0098 139/11, August 24, 2011, at pp. 2-3; Edmonton ARB, Decision No. 0098 174/10, August 4, 2010.
2. Section 9(4) of the *MRAC* restricts this jurisdiction further where a request for information is made by an assessed person or taxpayer. Sections 299 and 300 of the Act provide the assessed person with the right to ask the municipality for access to the assessment record, as well as a summary of the assessment. These “let the assessed person see or receive sufficient information to show how the assessor prepared the assessment of that person’s property” (s. 299(1)) and “let the assessed person see or receive a summary of the assessment of any assessed property in the municipality” (s. 300(1)). Section 9(4) of the *MRAC* provides that the review board “must not hear any evidence from a municipality relating to information that was requested by a complainant under section 299 or 300 of the Act but was not provided to the complainant”.
3. In our view, these provisions confine the Board to considering only matters arising from the City’s original assessment notice that were the subject of complaint by an assessed person or taxpayer on the prescribed complaint form. As a result, once a complaint has been filed, the onus lies on the complainant to identify errors in the City’s assessment, and the City can do nothing more than defend its own assessment. To read s. 9(4) as not precluding a municipality from changing its mind about an assessment and leading evidence to support its position would fail to account for s. 9(1) of the *MRAC* which expressly precludes the Board from hearing “any matter in support of an issue that is not identified on the complaint form”. The review board’s jurisdiction leaves no space for the City to act as a *de facto* appellant of its own assessment. This would explain why the complainant must disclose to the City and to the review board its documentary evidence, a summary of its testimonial evidence, and any written argument in support of its complaint *42 days* before the hearing date (s. 8(2)(a) *MRAC*), while the City is only bound to provide such disclosure to the complainant *14 days* before the hearing date (s. 8(2)(b) *MRAC*).
4. This interpretation also reflects the fact that the complaints process is pleading-driven, a feature reflected in assessment review boards’ persistent refusal to consider issues that were not initially included in the complaint form. If respected, a pleading-driven process usually has the effect of streamlining and simplifying proceedings, enhancing the efficiency of this administrative regime.
5. While it is true that the Board has the power to “change” an assessment roll with respect to any matter referred to in s. 460(5), this power must be interpreted in light of the Board’s jurisdiction, as set out in s. 460.1(2) of the Act and in ss. 9(1) and 9(2) of the *MRAC*. To hold otherwise would fail to read these provisions as forming a consistent whole, since it would mean that the Board has the power to make decisions on matters it has no authority to hear.
6. For these reasons, we would adopt the conclusion of Sulyma J. who concluded in *Wood Buffalo*, at para. 166, that

[a] complaint belongs to the taxpayer, not the Municipality. It gives the taxpayer an opportunity to demonstrate what the correct number should be . . . . The Municipality cannot then come in and ask the [Review Board] to change the assessment to an altogether different number; it can only defend the assessed amount as correct.

1. This conclusion is also consistent with the Minister’s description of the purpose of amendments to the complaints process in 2009, being to “provide taxpayers with the understandable, objective, and fair complaint and appeal system they deserve”: *Alberta Hansard*, 2nd Sess., 27th Leg., April 21, 2009, at p. 735 (emphasis added). The complaint and appeal system were clearly intended to belong to “taxpayers”. The Act must be interpreted in a manner consistent with this overarching purpose. An interpretation that would allow the City to hijack the complaint process by (1) using a new classification that was not identified on the complaint form or disclosed pursuant to the ss. 299 and 300 request (since it did not exist at the time of the request), (2) disclosing that new classification to the complainant a mere 14 days before the hearing, and (3) asking the Board to increase the taxpayer’s assessment based on that new classification irrespective of the subject matter or merits of the actual complaint, is, in our respectful view, an interpretation that does not provide taxpayers with an understandable, objective, or fair complaint system. Nor does it respect the clear policy choice of the Alberta legislature.
2. As already noted (at para. 91), we do not mean to suggest that the assessment review boards can never increase an assessment. It is worth remembering that both an assessed person and any other taxpayer may file a complaint (s. 460(3) of the Act). It is conceivable that a taxpayer may file a complaint to have the assessed value on *another* property increased, so that the overall tax burden is more equitably distributed. In our view, assessment review boards could raise an assessment in these circumstances, where it is in response to a taxpayer’s complaint and where the assessment review board’s intervention is limited to matters raised in that complaint.
   1. Section 305 of the Act
3. Our view on the merits of this appeal is affirmed by s. 305 of the Act*.* It allows a municipality to correct an “error, omission or misdescription” on the assessment roll and send the taxpayer a revised notice of assessment:

**305(1)** If it is discovered that there is an error, omission or misdescription in any of the information shown on the assessment roll,

* + - * 1. the assessor may correct the assessment roll for the current year only, and
        2. on correcting the roll, an amended assessment notice must be prepared and sent to the assessed person.
      1. If it is discovered that no assessment has been prepared for a property and the property is not listed in section 298, an assessment for the current year only must be prepared and an assessment notice must be prepared and sent to the assessed person.
      2. If exempt property becomes taxable or taxable property becomes exempt under section 368, the assessment roll must be corrected and an amended assessment notice must be prepared and sent to the assessed person.
      3. The date of every entry made on the assessment roll under this section or section 477 or 517 must be shown on the roll.
      4. If a complaint has been made under section 460 or 488 about an assessed property, the assessor must not correct or change the assessment roll in respect of that property until a decision of an assessment review board or the Municipal Government Board, as the case may be, has been rendered or the complaint has been withdrawn.
      5. Despite subsection (5), subsection (1)(b) does not apply if the assessment roll is
         1. corrected as a result of a complaint being withdrawn by agreement between the complainant and the assessor, or
         2. changed under section 477 or 517.

1. The assessor is entitled to correct errors on the assessment roll at any time within 120 days of the end of the tax year for which the assessment was prepared, or 90 days following the final expiry date to appeal a decision on an assessment that is made by the Board or a court (“2015 Alberta Assessment Quality Minister’s Guidelines” (online), s. 2.4, adopted pursuant to *Matters Relating to Assessment and Taxation Regulation*, Alta. Reg. 220/2004, s. 15). However, the assessor’s ability to correct those errors is suspended while a complaint about the property is pending (s. 305(5)). It resumes once a decision is rendered or the complaint is withdrawn, though subject to the time limits set out above (s. 305(5)). Any correction to the assessment roll must be reported to the Minister (s. 305.1).
2. The Actdoes not grant an assessor the right to complain about its own assessment — that right belongs only to “an assessed person or a taxpayer” (s. 460(3)). Instead, it grants the assessor the right to correct errors on the assessment roll before a complaint is submitted by an assessed person or taxpayer, or after a decision is rendered by the Board (or the complaint is withdrawn). The Act therefore prohibits the assessor from “correcting” errors on the assessment roll while a complaint is pending before the Board, and it denies the assessor the right to complain about its own assessment before the Board.
3. The City nevertheless submits that a municipality is entitled to ask the Board to correct an error and increase the assessment if a complaint is pending. It suggests the prohibition on corrections to the assessment roll in s. 305(5) is designed to avoid complaints about unilaterally corrected assessments being piled on to an underlying complaint. Instead, the hearing is confined: “. . . the municipality can simply explain at the hearing of the first complaint its reasons for wanting to revise the assessment, and the Board can change the assessment as it deems necessary” (majority reasons, para. 55). With respect, this rationale does not account for the complaint procedure set out in the Act. If the assessed person requests access to the assessment record and to a summary of the assessment under ss. 299 and 300 of the Act, and then makes a complaint about the assessment to the Board, the municipality is prohibited from raising or relying on any information at the hearing that was not provided to the assessed person pursuant to the s. 299 or s. 300 request: s. 9(4) *MRAC*. The Board is also prohibited from hearing any matter in support of an issue not identified on the assessed person or taxpayer’s complaint form (s. 9(1)), or any evidence that was not properly disclosed (s. 9(2)).
4. Far from being entitled to raise any error on the assessment roll before the Board and have that error corrected, the City is quite limited in the issues it can raise and rely on before the Board. Even if the municipality could ask the Board to correct errors for it, it could not ask the Board to correct *any* error it might discover in the assessment — the Board may correct only those errors that happen to be related to the issues identified on the taxpayer’s complaint form. It also cannot rely on any information relating to the assessment — even information that shows an error on the assessment roll that could be corrected but for the complaint — that it may have discovered after any s. 299 and s. 300 requests were fulfilled.
5. To interpret the Act as permitting the City to ask the Board to correct any errors it may discover while the complaint is pending makes portions of s. 305 and the associated regulations redundant. If the municipality could ask the Board to correct any error, and if the Board were to have an overarching obligation to ensure that all assessments are fair, equitable, and correct — a point which we will return to below — then there would be no reason why the legislature would grant the municipality under s. 305(5) the ability to correct an error after a decision of an assessment review board has been rendered: the error would already have been corrected by the Board. As s. 305(5) states:

**(5)** If a complaint has been made under section 460 or 488 about an assessed property, the assessor must not correct or change the assessment roll in respect of that property until a decision of an assessment review board or the Municipal Government Board, as the case may be, has been rendered or the complaint has been withdrawn.

In other words, if the Board does indeed have an obligation to ensure all assessments are correct, then any decision rendered by the Board affirming or altering an assessment must result in a correct assessment. A correct assessment does not, by definition, admit of any subsisting errors.

1. To conclude otherwise risks leaving meaningless the power of an assessor to correct errors on the assessment roll following a decision of the Board — which is expressly granted by s. 305(5).
   1. Reliance and a Chilling Effect on Complaints
2. Were the review board’s jurisdiction to extend beyond the parameters of the Company’s complaint, municipalities would by implication be allowed to tax on one basis, and then later defend their assessments on another. This would have the effect of undermining a taxpayer’s reliance on the City’s assessment notice, as well as on any information the taxpayer might obtain through a request for access to the City’s assessment record under s. 299 of the Act. As the Court of Appeal of Alberta noted in *Canadian Natural Resources Ltd.* *v.* *Wood Buffalo (Regional Municipality)*, 2014 ABCA 195, 575 A.R. 362:

The central purpose of taxpayer information rights is to provide taxpayers with information about the preparation of their tax assessments. In deciding whether to make a complaint and, if so, on what grounds, the taxpayer must know what it can rely upon. Reliance is defeated if the Municipality is permitted to defend a tax assessment on a basis different from that disclosed before the complaint was brought. Indeed, if a Municipality can defend an assessment on a basis different to that disclosed in a s. 299 response, a taxpayer will be prevented by s. 9(1) of *MRAC* from contesting the new basis for assessment (because the taxpayer’s complaint form will have stated the issues in reliance on the information disclosed in the s. 299 response). [Emphasis added; para. 20.]

1. Not only is reliance undermined, taxpayers going forward face the real, unexpected and legislatively unintended risk that a review board may *increase* an assessment in response to their complaint. In *Immeubles B.P. Ltée v. Ville d’Anjou*, [1978] C.S. 422, Rothman J., then of the Quebec Superior Court, worried with regard to a similar complaint process that “ratepayers could find themselves penalized for having exercised their rights”, and that this “would almost certainly discourage some ratepayers from exercising” these rights (p. 425). A similar concern was voiced by Robertson J.A. in *Executive Director of Assessment (N.B.) v. Ganong Bros. Ltd.*, 2004 NBCA 46, 271 N.B.R. (2d) 43, who observed that the purpose of the taxpayer’s appeal was to “provide property owners with a meaningful right of appeal from an assessment that the Director is prepared to defend”, and not to “provide the Director with a weapon to discourage otherwise potentially valid appeals to the Appeal Board” (para. 129). We agree, and would add that to decide otherwise would make fewer potentially unfair and inequitable assessments subject to the scrutiny of assessment review boards. Again, this chilling effect undermines the policy choice of the Alberta legislature.
   1. Notice Periods Intended to Benefit Assessed Persons
2. Allowing the City to respond to a complaint by effectively submitting to the Board an entirely new assessment would undermine certain notice periods intended to benefit taxpayers. Each municipality must annually prepare assessment notices for all assessed property and send them to the assessed persons: s. 308 of theAct. Under normal circumstances, once an assessment notice has been prepared and sent to the assessed person, a complaint may be made within 60 days after that notice (or an amended assessment notice) is sent: s. 309(1)(c). The assessed person may make use of this period to request copies of the assessment record: s. 299(1) and (1.1).
3. In this case, the City did not amend its assessment roll, nor did it send the Company an amended notice of assessment. It would have been barred from doing so by s. 305(5) of the Act. Instead, the City simply presented its new assessment in the course of its submissions on the Company’s complaint. As a result, the Company was denied its 60-day period to consider whether and how to contest the City’s proposed assessment. The City was only bound by its disclosure requirements under the *MRAC*. These disclosure requirements only required the City to reveal its documentary evidence, a summary of its testimonial evidence, and its written argument 14 days before the hearing date: s. 8(2) *MRAC*.
4. By allowing the City to present a virtually new assessment to the Company only 14 days before the hearing, the Board denied the Company adequate time to prepare arguments that could respond to this new assessment. The Company’s ability to seek an adjournment if it needed more time to respond is beside the point: the legislature prescribed these notice periods to ensure fairness and objectivity in the complaints process, not to avoid adjournments. The Court must take care not to undermine the intended effect of these notice periods, thereby frustrating the clear and simple complaints procedure the Alberta legislature chose to enact. A taxpayer would never know whether his or her complaint would be heard based on the original assessment which the taxpayer chose to complain about, or a new assessment sprung on him or her 14 days before the hearing — a new assessment which, in turn, may necessitate an adjournment, delay, and increased costs as the taxpayer works to determine how he or she wishes to respond to it.
   1. Fair and Equitable Assessment
5. While fairness and equity are, of course, features of the legislative scheme, the Board itself does not have a free-standing obligation or right to ensure all assessments are fair and equitable. The Board is simply an adjudicator that is limited to responding to the matters raised in the taxpayer’s or assessed person’s complaint. Its jurisdiction is limited only to hearing and adjudicating complaints of taxpayers. It is true that the Board is prohibited from *altering* an assessment that it deems to be fair and equitable (s. 467(3) of the Act), but this does not mean that it must in every case determine the correct, fair and equitable value for the assessment. Its jurisdiction is limited to reviewing the matters indicated on the complaint form, not determining the fairness and correctness of each assessment *de novo*.
6. Fairness and equity in municipal assessments are achieved in the Actthrough the operation of the Act as a whole, not through the jurisdiction of review boards. The assessor itself has a duty to ensure that the assessment is fair and equitable (s. 293(1) of the Act). The municipality qua assessor has no right to complain about an assessment because, in exercising its yearly responsibility to assess property, it already has a statutory duty to produce a fair and equitable assessment. Instead, the municipality was given the ability to correct errors on the assessment roll (s. 305) and taxpayers and assessed persons were given a right to complain about assessments (s. 460).
7. Nor is, the Board responsible for ensuring that assessments are prepared according to the statutorily prescribed criteria. This responsibility lies with the Minister. The Alberta legislature did not create a scheme that would require the Board to allow unfair or inequitable assessments to remain on the assessment roll. If the Board’s jurisdiction precludes it from considering certain matters that go to the fairness or equity of an assessment, the Board may use its power to refer any assessment it deems to be unfair or inequitable to the Minister:

**476.1** An assessment review board may refer any assessment that it considers unfair and inequitable to the Minister and the Minister may deal with it under sections 324 and 571.

1. If the Board chooses to refer an inequitable or unfair assessment to the Minister, the Minister is empowered to inquire into the preparation of the assessment (s. 571 of the Act). If the Minister concludes that the assessment is not fair or equitable, the Minister may order that the assessment be quashed and a new assessment prepared:

**324(1)** If, after an inspection under section 571 or an audit under the regulations is completed, the Minister is of the opinion that an assessment

* + - * 1. has not been prepared in accordance with the rules and procedures set out in this Part and the regulations,
        2. is not fair and equitable, taking into consideration assessments of similar property, or
        3. does not meet the standards required by the regulations,

the Minister may quash the assessment and direct that a new assessment be prepared.

* + - 1. On quashing an assessment, the Minister must provide directions as to the manner and times in which
         1. the new assessment is to be prepared,
         2. the new assessment is to be placed on the assessment roll, and
         3. amended assessment notices are to be sent to the assessed persons.
      2. The Minister must specify the effective date of a new assessment prepared under this section.

1. It is therefore the Minister who has a freestanding obligation to ensure that all assessments are fair and equitable and that they conform to the statutory criteria. The Board has no such authority.
   1. Application
2. In this case, the Company identified the “issues of complaint” on the prescribed complaint form as follows: “The assessed value of this property is greater than its actual market value.” It requested information pursuant to ss. 299 and 300 relating to the preparation of the original assessment, and indicated on its complaint form that this information was provided. The Company therefore prepared its complaint according to the original assessment and the information disclosed to it about that assessment.
3. In response to the complaint, the City indicated to the Company that it intended to alter the classification maintained in the original assessment and seek an increase in the assessed value from the Board. This was disclosed to the Company 14 days before the date set for hearing, well after the Company received information relating to the preparation of the original assessment, and well after the Company prepared its complaint based on that original assessment.
4. The original classification of the property formed the basis of the Company’s complaint. The Company characterized the mall as a “lower-tier community shopping centre”, located in “one of the lowest purchasing power neighbourhoods in greater Edmonton”. Vacancy rates in the mall were high, causing a decline in the value of the mall. The ultimate basis of the Company’s complaint was that the mall was “assessed at value comparable to that applied to better property”, based on the original classification of the property.
5. Further, given that the basis of the complaint was that the assessed value of the mall exceeded its market value given its classification as a “lower-tier community shopping centre”, the Board was limited to considering the matter as framed on the complaint form: s. 9(1) *MRAC*. Because the Board considered information that it was statutorily prohibited from considering, the Board’s decision to increase the assessed value based on the City’s submissions must be quashed.
6. Conclusion
7. The appropriate standard of review is correctness. Applying that standard, we conclude that the Board erred in increasing the assessment in this case. We would therefore dismiss the appeal and affirm the decisions of the Court of Queen’s Bench and Court of Appeal. The matter should be remitted to the Board for a hearing *de novo*. We would award costs to the Company in this Court and the courts below, payable by the City only. Costs should be awarded against the Board in the courts below only.

*Appeal allowed with costs,* McLachlin C.J. *and* Moldaver*,* Côté *and* Brown JJ. *dissenting.*

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Solicitors for the respondent: Wilson Laycraft, Calgary; Gowling WLG (Canada), Ottawa.

Solicitor for the intervener the Attorney General of British Columbia: Attorney General of British Columbia, Vancouver.

Solicitors for the intervener the Assessment Review Board for the City of Edmonton: Emery Jamieson, Edmonton.

Solicitors for the intervener the British Columbia Assessment Authority: Crease Harman, Victoria.