

**Assessment Review Board
403-938-8946**

October 1, 2013

ALTUS GROUP LIMITED
1200, 333 11th AV SW
CALGARY AB T2R 1L9

Attention: Mr. Andrew Izard

Dear Mr. Izard:

Re: **Composite** Assessment Review Board Hearing on Roll Number 0095036

Attached is the Okotoks Composite Assessment Review Board Order for the hearing held on September 16, 2013 regarding Roll Number 0095036.

Please do not hesitate to contact me if you require any further information.

Sincerely,

Dianne Scott
Assessment Review Board Clerk Assistant
dscott@okotoks.ca

c: Town of Okotoks Assessment Services
Minister of Municipal Affairs



OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #238/01/2013

IN THE MATTER OF A COMPLAINT filed with the Town of Okotoks Composite Assessment Review Board (CARB) pursuant to the Municipal Government Act (the Act), Chapter M-26 Section 460, Revised Statutes of Alberta (2000).

BETWEEN:

Costco Wholesale Canada Ltd – Complainant

- and -

The Town of Okotoks - Respondent

BEFORE:

Rob Irwin, Presiding Officer
Lyle Buchholz, Member
Jamie Tiessen, Member

This is a complaint to the Town of Okotoks Composite Assessment Review Board (CARB) in respect of property assessments prepared by the Assessor of the Town of Okotoks and entered into the 2012 Property Assessment Roll as follows:

Roll Number	Address	Assessment
0095036	202 104 Southbank Boulevard	\$22,803,900

The complaint was heard on the 16th day of September, 2013 at the Town of Okotoks Council Chamber at 5 Elizabeth Street, Okotoks, Alberta. The Board reconvened on the 23rd day of September, 2013 to render a decision.

Appearing on behalf of the Complainant:

- Altus Group Limited, Andrew Izard, Agent

Appearing on behalf of the Respondent:

- Paul Huskinson, Assessor, Town of Okotoks

Attending for the ARB:

- Dianne Scott, ARB Assistant, Town of Okotoks

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #238/01/2013

Procedural/Jurisdictional Matters:

The parties had no objection to the composition of the tribunal.

Background:

The property under appeal is reported as a 155,755 square foot Costco warehouse built in 2010 located at 200 104 Southbank Boulevard, Okotoks, Alberta. There is also an attached 4,710 square foot Costco liquor store, and a separate gas bar with 6 double pumps and a small kiosk on the site.

Preliminary Matters:

At the onset of the hearing, the Assessor for the Town of Okotoks raised a preliminary issue requesting that the Composite Assessment Review Board not accept the taxpayer's representatives' rebuttal.

Summary of Positions:

The Assessor indicated that the transfer of documents did not comply with "the Act" stating that the information exchanged was not in accordance with the disclosure of evidence timelines outlined in the legislation.

The Complainant advised the board this was the first time that they knew of this issue of information exchange. It was explained that they thought all was in order and asked the Composite Assessment Review Board to allow the rebuttal that the Complainant had been sent.

Board's Decision of the Preliminary Issue:

The Board decided to allow the Complainant's rebuttal to be presented.

The Board believed the intention of the legislation was to allow a fair hearing and was concerned that the Complainant's right to appeal should not be restricted by refusing to allow the entire evidence package that was prepared to be heard. It was noted that in this case that the delay in receipt may have been internal.

The Composite Assessment Review Board took guidance and direction for this opinion from:

MGA 464 (1)

Assessment review boards are not bound by the rules of evidence and have the power to determine the admissibility, relevance and weight of any evidence.

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #238/01/2013

Property Description:

On the Assessment Review Board complaint form, "the assessment amount" and an assessment class were indicated as the reasons for the appeal. At the hearing the Complainant argued:

- 1) Size of the subject property;
- 2) The assessed rental rate of \$11.00 sq. ft. is too high and should be \$8.00 sq. ft.;
- 3) The vestibule cart storage area should not be assessed;
- 4) The assessment of the gas bar was incorrect.

Assessment: \$22,803,900 13/160 C1

Revised Assessment 22,780,900

Initial Preliminary Requested Amount \$16,042,700

Alternate Request presented at hearing \$16,113,600

Summary of Positions:

Complainant's Position:

Issue 1:

The Complainant argued that the property details as assessed are incorrect. The size was not 155,755 sq. ft. but rather the assessment should reflect a total rentable sq. ft. that was calculated as 151,644 sq. ft. In support of this request a sheet titled "project data" was provided on page 37.

Issue 2:

The Complainant took the position that the current assessed value does not truly reflect the market conditions. It was claimed that the assessment was not fair or equitable. In support of that position, presentations were made questioning the \$11.00 sq. ft. rental rate being correct for Okotoks. It was explained that the rate utilized in Calgary was \$10.00. Considering that Okotoks was a smaller center it was claimed that the correct rate would be \$8.00 sq. ft. as requested by the Complainant. The Complainant further argued that the valuation standard for non-residential property is based on market value and it was unclear how the Assessor had calculated the \$11.00 sq. ft. rate.

Issue 3:

The Complainant questioned the assessment value of the vestibule or cart storage area and claimed that it should not be included in the assessment. It was represented that as the area was not included in the square footage leased, it should not be assessed.

Issue 4:

The Complainant argued that the assessment of the gas bar was incorrect. An analysis of gas bars was presented to the Assessment Review Board. When the Complainant

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #238/01/2013

utilized the mean rate from that chart to the calculations of an assessment the calculations supported the Complainant's requested amount. The Assessor's procedures of completing the assessment were questioned. It was stated that relying on a per pump application was made in error.

Respondent's Position:

Issue 1:

The Respondent has measured the property recently and calculated the size as 155,734 sq. ft. and that is the basis of the change reflected in the revised assessment.

Issue 2:

The Respondent stated that the assessment had been prepared in the same fashion as all similar properties in the Municipality.

The Respondent's argument then focused on the task of determining a value, when market activity and values are not available. In an effort to complete the assessment, the Assessor explained that they utilized data from a variety of sources to ensure the assessment was fair and equitable. New construction costs were factored into the equation if available, as was the Town's requests for information from owners.

The Respondent advised the Board that the local market was strong, serving a vibrant local and bedroom community that bordered on one of Canada's most dynamic growing cities. It was reported that a number of national chains were present in the Okotoks market.

Issue 3:

It was contended that the assessment was correct to include a value for the cart storage area as it was part of the subject property that was useful and necessary. A retail entity requires carts to serve customers. The area under question was designed and used by the business for business purposes.

Issue 4:

The Respondent presented arguments to support the inputs used in preparing the assessment. The methodology was tested on a recent sale and the process was being applied consistently throughout the Municipality.

Findings and Reasons:

The Composite Assessment Review Board would prefer to review an actual up-to-date, current measurement of the subject property to determine the actual size. This is the Complainant's responsibility if they wish the Board to consider correct size.

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #238/01/2013

Additionally, the Board finds the topic of measurements should be fairly simple in the future. The Town's Assessor may consider encouraging the Municipality to require post construction building drawings. This would confirm the appropriate square footage so that this issue is clear and does not have to be determined by hand measurements or by a Board finding; but rather, would be available to all and considered factual.

Issue 1:

The Complainant did not provide any support for the size of the property under appeal that compelled the Board to consider the Respondent's evidence incorrect. It would be suggested to confirm the size by having a professional measuring company measure the building or utilize post construction drawings. The Board agreed with the Assessor's evidence of personally measuring the property and use of 155,734 square feet in preparation of the recommended assessment.

Issue 2:

The Board did not agree with the Complainant's interpretation and application of comparable property calculations. While indicating a lack of Okotoks data, the Board was asked to accept an \$8.00 square foot value with no supporting evidence presented. The Assessment Review Board agreed with the Respondent that the Municipality had an attractive and active real estate market. The Assessment Review Board found that the local Okotoks market had little in common with the Calgary vacancy problem, which was included in the Complainant's evidence and calculations.

The assessment completed by the Respondent is a more reasonable interpretation of the data.

Issue 3:

Based on the evidence, the Assessment Review Board does not agree with the Complainant's position that the cart storage area or vestibule should not be assessed. The Board agreed that that area was an improvement, has utility, has value and was correctly considered.

Issue 4:

Based on the evidence presented and argued, the Assessment Review Board found the rate of gas bar operations to be wide and varied. The Assessment Review Board found that the Assessor took into consideration all like properties within the Municipality. A fair and equitable formula was applied to assessment of all gas bar operations including the subject of this appeal.

The Assessment Review Board did not find the Complainant's argument or evidence illustrated that an error had been made in completing the assessment or justified making a change to the assessment.

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #238/01/2013

Board's Decision:

The Appeal is denied.

Legislation:

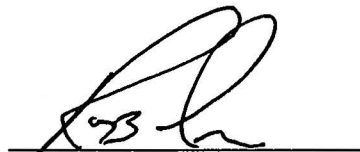
MGA 467(1)

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.

Based on the foregoing, the assessment for the subject property is set at \$22,780,900.

It is so ordered.

Dated at the Town of Okotoks, in the Province of Alberta, this 1st day of October, 2013.

A handwritten signature in black ink, appearing to read 'Rob Irwin', is written over a horizontal line.

Rob Irwin
Presiding Officer

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #238/01/2013

An appeal may be made to the Court of Queen's Bench in accordance with the Municipal Government Act as follows:

470(1) An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

470(2) Any of the following may appeal the decision of an assessment review board:

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

470(3) An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- (a) the assessment review board, and*
- (b) any other persons as the judge directs.*