

**OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #238/02/2013**

**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:**

Prairie Fire (Okotoks) GP Ltd. - Complainant

- and -

The Town of Okotoks - Respondent

**BEFORE:**

Rob Irwin, Presiding Officer  
Lyle Buchholz, Member  
Doug Howard, Member

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

<b>Roll Number</b>	<b>Address</b>	<b>Assessment</b>
<b>0058275</b>	<b>300 201 Southridge Drive</b>	<b>\$17,880.100</b>

This complaint was heard by the Composite Assessment Review Board on the 26th day of September, 2013, at the Town of Okotoks Council Chamber at 5 Elizabeth Street, Okotoks, Alberta.

Appearing on behalf of the Complainant:

- MNP, Wesley Van Bruggen, Agent

Appearing on behalf of the Respondent:

- Paul Huskinson, Assessor, Town of Okotoks

Appearing for the ARB:

- Dianne Scott, ARB Clerk Assistant

## **OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #238/02/2013**

### **Preliminary Matters:**

The parties had no objection to the composition of the tribunal and there were no preliminary matters brought forward by either party. The merit hearing proceeded.

### **Property Description and Background:**

The subject of the appeal is 48,999 square feet of retail property containing various sizes of CRU's from less than 3000 square feet to over 8500 square feet. Occupants include M & M Foods, Starbucks, Quizno's, Marks and Reitman's.

Requested Assessment: \$15,115,600

### **Issues:**

On the Assessment Review Board complaint form, "the assessment amount" was indicated. At the hearing the Complainant specifically argued:

- Was the mezzanine rate correct,
- The lease rates should be reduced,
- The op costs should be increased.

### **Summary of Positions:**

#### **Complainant's Position:**

##### **Issue 1:**

The Complainant presented arguments to illustrate to the Board that the lease square footage of the subject property does not include the mezzanine area. The area was not included in the square footage lease; therefore, it should not be assessed.

##### **Issue 2:**

The Complainant reviewed a chart of requested assessment amounts per square feet of CRU space comparables.

<b>Size</b>	<b>Current Assessment</b>	<b>Request</b>
<3000 sf	\$32.00	\$27.50
3000-7000 sf	\$28.00	\$24.00
>7000 sf	\$24.00	\$20.00

The Composite Assessment Review Board was advised that renewal leases are now being considered at lower rates and that was occurring for two reasons. The tenant

## **OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #238/02/2013**

improvements of the original contracts have been collected and they would no longer factor into the lease rate and the subject property is surrounded by newly built CRU's.

### **Issue 3:**

The Complainant objected to the assessment containing vacancy shortfall rates of \$5.25 per square foot. It was claimed that when compared to the allowances made to similar spaces in other properties it was too low and reflected \$9.00 per square foot in the requested assessment.

### **Respondent's Position:**

#### **Issue 1:**

The Respondent implored that he has argued the mezzanine issue in numerous previous cases. The Municipal Government Board has consistently agreed with the assessors' practice of assessing the mezzanine area in Okotoks. Evidence was reviewed to illustrate for the Assessment Review Board, the quality and usage of various retailers mezzanine areas within the Town Okotoks.

#### **Issue 2:**

The Respondent noted that the Municipal Government Act requires that the assessment was to utilize market rates not actuals. The Assessor then presented a lease rate comparable chart showing support for CRU values used in the assessment under appeal. It was stated that the assessment had been prepared in the same fashion as all similar properties in the Municipality. Data was gathered and analyzed from a variety of sources to ensure the assessment was fair and equitable.

#### **Issue 3:**

It was contended that the op costs utilized were the result of calculations of actual reported costs and it was reported that taxpayers may attend to tasks in varying degrees of efficiency.

### **Findings and Reasons:**

#### **Issue 1:**

The Composite Assessment Review Board was not convinced by the Complainant's evidence or argument that the mezzanine had been assessed incorrectly. The mezzanine request has been appealed numerous times with the same conclusion by many Boards. The structures are improvements, have value and are assessed in the Municipality in the same fashion as all property of similar strata.

## **OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #238/02/2013**

### **Issue 2:**

The Composite Assessment Review Board reviewed the Complainant's lease rate comparables and found they contained step ups and renewals. The Board found that these are not true market rates and are not considered as representative of economic rents. The similarity of sold comparables was reviewed and location consideration reveals one may have an inferior location as it was not on the main shopping route. The second is located in an area that is missing a national tenant. Those differences were compelling.

### **Issue 3:**

The Composite Assessment Review Board was not convinced the op costs applied to the subject property were inappropriate and the Board was left to consider that an error was made with minimal reliable evidence presented.

The Composite 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.

### **Legislation:**

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.

### **Board Decision:**

The Appeal is denied.

Based on the foregoing, the assessment for the subject property is set at \$17,880,100.

It is so ordered.

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



Rob Irwin  
Presiding Officer

**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.*