

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER 0238/03/2010-M

IN THE MATTER OF A COMPLAINT filed with the Town of Okotoks Composite Assessment Review Board (CARB) pursuant to the *Municipal Government Act (Act)*, Chapter M-26.1, Section 460(4).

BETWEEN:

Woodridge Ford Lincoln Ltd. - Complainant

- and -

The Town of Okotoks - Respondent

BEFORE:

P. Petry, Presiding Officer
D. Howard, Member
R. May, Member

These are complaints 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 in the 2010 Assessment Roll as follows:

Roll Number	Address	Assessment
Roll Number: 0020170	8 Westland Road	\$1,089,000
Roll Number: 0020180	6 Westland Road	\$1,893,000
Roll Number: 0020190	4 Westland Road	\$1,346,000
Roll Number: 0020200	4 Westland Road	\$ 958,300

This complaint was heard on the 30th day of September, 2010 at the Town of Okotoks Council Chambers at 5 Elizabeth Street, Okotoks, Alberta.

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Appearing on behalf of the Complainant:

- Altus Group Limited (Agent for the Complainant) – B. Neeson

Appearing on behalf of the Respondent:

- Town of Okotoks Assessor - P. Huskinson

Attending for the ARB – L. Turnbull, ARB Clerk and D. Scott, Assistant

Property Description and Background:

The subject properties are all part of the Woodridge Ford Dealership located on the southwest corner of Southridge Drive and Big Rock Trail. Westland Road loops around all four parcels along their south or west boundaries. Three of the subject properties, as of December 31, 2009, were unimproved lands primarily used for vehicle display and storage. The fourth parcel, Roll Number 0020190 is improved with the dealership's sales and service building. Roll Numbers 0020180 and 0020170 have frontage on Southridge Drive, which is the name given to Highway 2A within this part of Okotoks. The Complainant submits that the subject lands are assessed over their market value considering other highway commercial sales.

Issues:

What is the correct, fair and equitable market value for the subject properties?

Other Issues on the Complaint Form:

Several other issues were raised in the Complaint filed with the Assessment Review Board (ARB) for 2010. The only issues that the parties brought forward in the hearing of this matter before the Composite Assessment Review Board (CARB) are those referred to above, therefore the CARB has not addressed any of the other issues initially raised on the complaint form.

Board's Findings in Respect of Each Matter or Issue:

The correct, fair and equitable market value for each roll number is as follows:

- Roll Number 0020170 - \$1,089,000
- Roll Number 0020180 - \$1,893,000
- Roll Number 0020190 - \$1,346,000
- Roll Number 0020200 - \$ 958,000

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SUMMARY of the PARTYS' POSITIONS

Complainant

The Complainant acknowledged at the outset of the hearing that no evidence has been disclosed to challenge the income approach applied to the improved parcel, Roll Number 0020190 and therefore confirmation of the assessed value by the CARB is expected. With respect to the land values for the other three Roll Numbers the Complainant brought forward three sales or property transfers to support their argument that the subject properties are assessed over their market value as of July 1, 2009. All three sales or transfers were for properties located in a new commercial shopping area along Highway 7 in southeast Okotoks. The first comparable is 9.1 acres located at 104 Southbank Boulevard and the Complainant provided a Land Title Certificate as well as an Affidavit Re: Value of Land. Both documents show that this property transferred to Riotrin Properties at a value of \$2,550,000 or \$280,219 per acre on September 15, 2009. The second comparable is 8.65 acres located at 105 Southbank Boulevard and documents were provided that show this parcel was registered to Riotrin Properties on June 15, 2009, however the value for the transaction is not indicated. The Complainant stated that the consideration paid for this property was \$2,081,040 or \$240,582 per acre. The third sale of 8.83 acres transferred between Tristar Communities Inc. and Home Depot Holdings Inc. on April 9, 2008 at a price of \$3,091,900 or \$350,159 per acre. The median value of these three transactions was shown to be \$280,219 per acre with a weighted average value of \$290,554 per acre. As these comparables are considerably larger than the subject parcels, the Complainant applied a 25% upward adjustment. This adjustment was applied to an approximate mid-point value of \$285,000 between the average and the median value. This produced a value of \$356,250 per acre that the Complainant recommended as the basis for valuing the subject properties.

The Complainant argued that the per square foot value of the subject assessments are all different ranging from \$22 per sq. ft. to \$25. per sq. ft. At the very least this inequity should be corrected to \$22 per sq. ft. for the three land parcels. The Complainant requested that the CARB accept the \$356,250 per acre value as market value for the three land only parcels and suggested that the resulting values would also be equitable considering assessments of other similar properties.

Respondent

The Respondent argued that the CARB should not place weight on the two transactions brought forward by the Complainant involving Riotrin Properties as they are between non-arms length parties and therefore are not valid market value indicators. The Respondent provided corporate search documents showing that a Mr. Rahim Lakhoo is

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a Director of both Riotrin Properties Okotoks Inc., the purchasers, and Tristar Communities Inc., the vendors. This shows that a non-arms length relationship exists between the vendors and purchasers and therefore transactions between them should not be given any weight. The Respondent also argued that the two Riotrin transactions and the sale to Home Depot are in a new area in the extreme southeast where values are very different than those closer to the core along Southridge Drive or Highway 2A which is the main commercial strip running through Okotoks. The Respondent provided eight sale comparisons in support of the subject assessments ranging from \$497,500 per acre to \$1,176,120. The sales closer to the subject, along Southridge Drive, show values which exceed the assessed value per sq. ft. of the subjects and therefore support the assessments. The reason that the assessed per sq. ft. values vary for the subjects, relates to their respective exposure and size influences. The Respondent pointed out that other similar properties along Southridge Drive have been assessed at comparable rates to the rates used for the subject. The Respondent argued that the subject properties have been assessed correctly and equitably considering the market and the assessments of other similar properties.

Findings and Reasons:

The CARB has reviewed the evidence available respecting the question of whether the transactions involving Riotrin Properties were arms length. While the Board would have preferred to have had a more complete evidentiary basis for its decision in this matter, the common directorship of Mr. Lakhoo does call into question the relationship between the vendors and purchasers involved. Also, the Complainant did not present the actual sales agreements for these transactions and therefore the Board was not able to determine if other considerations may have been included. The CARB agrees with the Respondent that the two Riotrin transactions and the Home Depot sale relied upon by the Complainant appear to be in a very different market zone than that of the subjects. Sales values along Southridge Drive or Highway 2A, which is a more central and almost fully developed area, are more than triple the sales values of properties in the new southeast commercial area. The CARB finds that the comparables used by the Complaint in this case are not sufficiently similar to the subject because of their size and location to be reflective of market value for the subjects. The Complainant's argument respecting equity was not supported by evidence of comparable properties and therefore also fails.

Costs

The Respondent argued in the closing summation that the Complainant's case lacked merit, the complainant's representative had not prepared the materials presented and no rebuttal was filed. The respondent further stated, the complainant relied on dissimilar comparisons, lacked proper evidence and was a waste of everyone's time. For these

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reasons the Respondent stated, the Town of Okotoks is requesting, the CARB award costs against the Complainants.

The Complainant indicated that there is no requirement that rebuttal evidence be entered and this is only done where the primary evidence is deemed to be insufficient. Also it is common depending on commitments of the parties that the individual presenting the case for either the Complainant or the Respondent may not be the person who prepared the evidence. In this case the Complainant has brought forward three comparables it believes support its requested assessment. The Respondent appears to rely more on an opinion of value than any value derived through calculation based on their data. It is up to the Board to decide the matter based on the evidence before them. There is no reasonable case for costs arising from this complaint and the Board was urged not to consider the Respondent's request.

Finding Regarding Costs

The CARB agrees with the Complainant respecting the question of costs. The Complainant brought forward a prima facie case challenging the assessed value of the subject properties. Its comparable sales are generally more recent than those offered by the Respondent and are within the same zoning as sales relied upon by the Respondent. There is no requirement to bring forward rebuttal evidence and there is no requirement that the person presenting the evidence be the same person who developed the material. The Board found that the Complainant ultimately did not make out its case; however the CARB finds that there is no reason to award costs in this case.

Decision Summary

The decision of the CARB is to confirm the assessed value of all four of the properties that are the subjects of this complaint.

No cost to either party.

It is so ordered.

Dated at the Town of Okotoks in the Province of Alberta, this 21st day of October 2010.



Paul G. Petry
Presiding Officer

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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*