

October 24, 2012

David Porteous
Altus Group
1200, 333 11th Avenue SW
CALGARY, AB T2R 1L9
E-mail: CalgaryTax@AltusGroup.com

Dear Mr. Porteous:

Re: Composite Assessment Review Board Hearing on Roll Number 0038100

Attached please find the Okotoks Composite Assessment Review Board Order for the hearing held regarding the above-noted roll number.

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

Sincerely,



Linda Turnbull
Assessment Review Board Clerk
lturnbull@okotoks.ca

c: Town of Okotoks Assessment Services
Minister of Municipal Affairs

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/03/2012-M

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

BETWEEN:

Canada Safeway Limited - Complainant

- and -

The Town of Okotoks - Respondent

BEFORE:

M. Chilibeck, Presiding Officer

R. May, Member

J. Tiessen, Member

This is a complaint to the Town of Okotoks Composite Assessment Review Board (CARB) in respect of property assessment prepared by the Assessor of the Town of Okotoks and entered in the 2011 Assessment Roll as follows:

Roll Number	Address	Assessment
0038100	610 Big Rock Lane	\$7,558,800

This complaint was heard by the CARB on the 25th day of September, 2012 at the Town of Okotoks Council Chamber at 5 Elizabeth Street, Okotoks, Alberta.

Appearing on behalf of the Complainant:

- D. Porteous, Agent, Altus Group Limited

Appearing on behalf of the Respondent:

- P. Huskinson, Assessor, Town of Okotoks

Attending for the ARB:

- L. Turnbull, ARB Clerk
- D. Scott, Assistant

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Jurisdiction/Preliminary Matters:

Neither party raised an objection to any Board member hearing the subject complaint. No procedural or jurisdictional matters were raised by either party. No preliminary matters were raised by either party.

Property Description:

The subject property is a one storey commercial retail property located on Southridge Drive (Highway 2A) which is the major retail/commercial strip in south Okotoks. The subject's location, central highway commercial, is approximately midway between downtown Okotoks and the south boundary of the Town of Okotoks. The building was constructed in 1998 and contains 42,213 square feet of area. It is occupied by Canada Safeway Limited.

Background:

The subject property is assessed using the capitalized income method wherein with other factors a rental rate of \$15 per square foot was applied.

The Complainant disputes the assessed rental rate.

Complainant's Requested Value:

As per complaint:	\$6,337,000.
As per evidence disclosure:	\$6,272,500.
Amended at the hearing:	\$6,468,500.

Issue:

The Complainant identified two matters under complaint on the Assessment Review Board Complaint and several reasons for the complaints. At the hearing the Complainant advised that only the matter of an assessment amount is under complaint and only one reason/issue will be addressed at this hearing.

1. The assessed rental rate should be decreased to \$13 per square foot of rentable area.

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Board's Findings in Respect of the Issue:

1. Rental Rate

Complainant's Position:

The Complainant advised that the assessed rental rate should be reduced from \$15 to \$13 to be equitable with the assessment of a similar retail comparable property, Loblaws-No Frills grocery store, located in the north highway commercial district in north Okotoks. The Complainant asserted the comparable is similar to the subject in quality as both the subject and the comparable were constructed within two years of each other, similar in quality of finish and there is no difference in location.

In support of the claim for a \$13 rent rate, the Complainant provided a 2012 Equity Analysis chart of grocery stores in the City of Calgary showing the assessed rental rates for nine stores, eight of which are assessed at \$7 and one at \$11 per square foot. Two of the eight are Canada Safeway stores.

Also, a chart of Calgary Supermarket Leases – 2012 was provided by the Complainant who argued that the "B" category fits the subject property (average) and that the median lease rate of \$13 supports the rental rate requested for the subject property.

Respondent's Position:

The Respondent provided six comparable properties that range in assessed rental rate from \$12 to \$18 per square foot in support of the subject's assessed rate of \$15. Three comparables are grocery stores: Loblaws-No Frills, Sobeys and Wal-Mart which are assessed at a rental rate of \$14, \$16 and \$16 respectively. It was argued that the subject assessed rental rate of \$15 is equitable to the comparables because Loblaws-No Frills has less finish than the subject and its location is inferior to the subject. The Sobeys and Wal-Mart stores are newer than the subject and have superior finish than the subject.

The Respondent made reference to the Complainant's chart of Calgary Supermarket Leases – 2012 and drew the Board's attention to various lease rates for class A and B leases that range from \$17 to \$26.45 per square foot. The Respondent urged the Board to place no weight on this information as there is no analysis of this data for the Board to relate to the Okotoks market. Also, equity must be maintained within the Town of Okotoks according to Section 467 of the Municipal Government Act. The Board "must not alter an assessment that is fair and equitable, taking into consideration the assessments of similar property in the same municipality."

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Also, the Respondent advised the Board the Complainant accepted the assessed rental rate of \$14 per square foot for the Loblaws No-Frills store and as a result withdrew the 2012 complaint. The Complainant's request for a rental rate of \$1 per square foot less than the Loblaws No-Frills store defies logic in light of the fact that the Complainant considers it similar to the subject.

Findings and Reasons:

The Board placed no weight on the Complainant's comparables from the City of Calgary. The Municipal Government Act requires the Board not to alter an assessment that is fair and equitable to the assessments of similar properties in the same municipality, in this case the Town of Okotoks. The Board interprets that this means the equity of assessments between similar properties are relevant only within the Town of Okotoks.


The Respondent provided comparables of retail stores in Okotoks, three of which are grocery stores, which support the assessed rent rate of the subject. The Board placed considerable weight on these three comparables and was persuaded by the Respondent's argument the differences in age, location and finish between the subject and the comparables justify the subject's assessed rate of \$15 and therefore is fair and equitable. The Complainant provided no compelling evidence to refute the Respondent's argument otherwise.

Board's Decision:

The Board's decision is to confirm the subject's assessed value at \$7,558,800.

It is so ordered.

Dated at the Town of Okotoks in the Province of Alberta, this 24th day of October, 2012.

For - 

M. Chilibeck
Presiding Officer

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APPENDIX "A"

Documents Presented at the Hearing
And considered by the Board

<u>NO.</u>	<u>ITEM</u>
1. C1	Complainant's Disclosure of Evidence
2. R1	Respondent's Disclosure of Evidence
3. R2	Respondent's Addendum 1
4. R3	Respondent's Addendum 2
5. R4	Respondent's Addendum 3
6. R5	Respondent's Addendum 4
7. R6	Respondent's Addendum 5
8. R7	Respondent's Addendum 6

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.*

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Decision No. 0238/03/2012		Roll No. 0038100		
<u>Appeal Type</u>	<u>Property Type</u>	<u>Property Sub-Type</u>	<u>Issue</u>	<u>Sub-Issue</u>
CARB	Retail	Stand Alone	Income Method	Net Market Rent