

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/03/2013

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 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 Town of Okotoks Composite Assessment Review Board in respect of property assessments prepared by the Assessor of the Town of Okotoks and entered into the 2013 Assessment Roll as follows:

Roll Number	Address	Assessment
0061300	700 201 Southridge Drive, Okotoks, AB	\$17,653.100
Requested Assessment		\$14,876,700

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 LLP, Wesley Van Bruggen, Agent

Appearing on behalf of the Respondent:

- Paul Huskinson, Assessor, Town of Okotoks

Attending for the ARB:

- Dianne Scott, ARB Clerk Assistant

Preliminary Matters:

The parties had no objection to the composition of the tribunal and no preliminary issues were raised by either party. The merit hearing proceeded.

Property Description and Background:

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

Summary of Positions:

Complainant's Position:

Issue 1: What is the correct size of the subject property?

It was argued that the mezzanine area square feet should not be included in the total square footage input of the assessment as it was distinct and viewed in the market differently.

Issue 2: Is the Mezzanine lease rate correct?

The Complainant requested that the Board reduce the lease rate of the mezzanine to \$1.00 per square foot. It was contended this is the rate in many other Alberta municipalities.

Issue 3: The Sobey's lease rate should be reduced.

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. The Complainant related that the actual lease rate for the property was \$15.25 and the assessed rate was \$17.00. As the subject was the entire market, that should be market value.

Issue 4: The CRU lease rate should be reduced.

The Complainant objected to the assessment using a \$32.00 lease rate as that was the same rate reported in a marketing brochure for a newly constructed CRU. It was argued that the older CRUs were receiving lower rents as they were older.

Respondent's Position:

Issue 1:

The Respondent advised that he has argued the mezzanine issue in previous cases. The MGB has consistently agreed with the Assessor's practice of including the square footage of the mezzanine in the assessment as correct.

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Issue 2:

The Respondent stated that the assessment had been prepared in the same fashion as all similar property in the Municipality and the mezzanine is assessed properly. Past MGB hearings detailing this issue were referred to.

Issue 3:

The Respondent noted that the assessment is legislated to utilize typical not actual leases.

Issue 4:

The Assessor produced a lease rate comparable chart which showed support for the CRU values used in the assessment under appeal.

The Assessor affirmed that the assessment had been prepared in the same fashion as all similar properties in the Municipality and the assessment was fair and equitable.

Findings and Reasons:

Issue 1:

The Board agreed with the Assessor's procedure of including the mezzanine square feet in the assessment.

Issue 2:

The Board found the mezzanine had utility and value and was an improvement. The Assessor's practice of including the square feet of the mezzanine in the assessment was upheld.

Issue 3:

The CARB did not agree with the Complainant that one sale made a reliable market value.

The CARB found the Assessment had been completed in accordance with the legislation and the Sobey's lease rate applied in the assessment calculations was acceptable.

Issue 4:

Based on the Complainant's evidence presented and argued, the Board found the claim that the rate of CRUs to be in error, unsupportable.

The CARB 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.

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Board's Decision:

The Appeal is denied.

Based on the foregoing, the assessment for the subject property is set at \$17,653,100.

It is so ordered.

Dated at The Town of Okotoks, in the Province of Alberta, this 9th 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

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.*