

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/04/2013

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:

Suncor Energy Inc. (Petro-Canada), Complainant

- and -

Town of Okotoks, Respondent

BEFORE:

Rob Irwin, Presiding Officer
Ron May, Member
Jamie Tiessen, Member

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

Roll Number	Address	Assessment
0002280	111 Elizabeth Street	\$ 1,672,900

Assessment \$1,672,900

Preliminary Requested Assessment \$1,137,500

Revised Requested Assessment \$1,120,000

This complainant was heard by the Composite Assessment Review Board on the 1st day of October, 2013 at the Town of Okotoks Council Chamber at 5 Elizabeth Street, Okotoks, Alberta.

Appeared on behalf of the Complainant:

- Mark Cathro, Suncor Energy Services
- Donna Nielson, Suncor Energy Services

Appeared on behalf of the Respondent:

- Paul Huskinson, Assessor, Town of Okotoks

Appearing for the ARB:

- Dianne Scott, ARB Clerk Assistant

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Preliminary Matters:

The parties had no objection to the composition of the tribunal. There were no preliminary issues brought forward by either party.

Property Description and Background:

The property under appeal is 7-11 Canada Inc., convenience retail, and Petro-Canada Inc., gas retail, located at 111 Elizabeth Street. The retail store is 2050 square feet, built in 1977, and the gas retail has 4 double pumps.

Issues:

At the hearing the Complainant presented evidence and argument pertaining to the following issues:

1. Market value is incorrect,
2. Subject equity is over assessed,
3. Assessment adjustment amount.

Summary of Positions:

Complainant's Position:

The Complainant stated that the subject property was over assessed and presented one sales comparable to emphasize that point. The sale of the property at 40 Southridge Drive was reviewed. It depicted a 7,000 square foot building that included a convenience store and car wash facility that was built in 2003. The chart that was presented indicated a 2013 assessment of \$2,796,400 versus the actual sale price of \$1,755,000. The Complainant indicated this was considered an arms length sale indicative of market value.

The Complainant presented a chart of 2 comparable properties and concluded that based on this information the subject was not being assessed equitably. The subject was an older structure and had higher site coverage. The comparables also had newer buildings and larger lots than the subject. The Complainant proceeded to take the concluded average assessment per square foot and apply it to the subject calculating a value of \$1,123,796 which supported the requested assessment.

The Complainant presented evidence of reported Suncor actual construction costs of pumps and a canopy at the subject in a similar location. It was requested that the Composite Assessment Review Board accept the actual costs of construction of \$345,725 as assessment adjustments and not the assessed value of \$900,000.

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Respondent's Position:

The Respondent outlined the procedures and methodology employed in completing the assessment and assured the Composite Assessment Review Board that a thorough analysis of the market had been completed in the preparation of the assessment on the subject property. The comparable sale offered by the Complainant was challenged as information received by the Assessor indicated the sale did not include any assets of the retail gas business.

The Respondent advised the Composite Assessment Review Board that equity is only relevant within the Town of Okotoks and the methodology employed by the Assessor has merit. The Respondent did not consider the Complainant's comparables valid and emphasized that they had either un-similar land uses and/or locations. The Respondent claimed that the comparables were dissimilar in fuel tank capacity and quality of the actual pumps.

The Complainant outlined the huge differences in the gas station business and concluded that there were wide and varied business models, ownership and operational situations. The Assessor attempted to streamline the process and consistently apply values fairly and equitably in the assessments of all similar properties. The Assessor cited Board Orders and believed that the use of typical market factors to develop assessment values will result in equity among similar properties.

Findings and Reasons:

The Composite Assessment Review Board found that the comparable property at 40 South Ridge Drive, offered by the Complainant, had conflicting data. Therefore, that information was unable to be relied on and it was weighed accordingly.

The Board found the Complainant did not speak to or validate the property's quality of improvements or sources of construction estimates in their analysis or calculations.

The Composite Assessment Review Board noted the Assessors efforts to compile accurate data. There was concern with the Complainant's explanation of why the landowner did not comply or reply to the request for information from the Assessor other than "they lease the operational component out".

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.

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Board Decision:

The Appeal is denied.

Dated at the Town of Okotoks, in the Province of Alberta, this 23 day of October, 2013.

A handwritten signature in blue ink, consisting of stylized initials, is written over a solid horizontal line.

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.*