

# **OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #238/06/2013**

**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:**

Sheep River Self Storage Inc. - Complainant

- and -

The Town of Okotoks - Respondent

## **BEFORE:**

I. Weleschuk, Presiding Officer  
D. Howard, Board Member  
D. Rasmussen, Board Member

This is a complaint 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 2013 Assessment Roll as follows:

<b>Roll Number</b>	<b>Address</b>	<b>Assessment</b>
0015690	210 Stockton Avenue	\$3,578,800
Recommended at hearing:		\$3,560,500

This complaint was heard by the Composite Assessment Review Board on the 21<sup>th</sup> day of October, 2013 at the Town of Okotoks Council Chamber at 5 Elizabeth Street, Okotoks, Alberta.

Appearing on behalf of the Complainant:

- A. Chechowskyj, Agent
- R. Moore, Owner, Sheep River Storage Inc.
- D. Coverdale, Controller, Sheep River Storage Inc.

Appearing on behalf of the Respondent:

- P. Huskinson, Assessor, Town of Okotoks

Attending for the Assessment Review Board:

- D. Scott, ARB Clerk Assistant

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### **Procedural or Jurisdictional Matters:**

The Board notes the file includes a completed copy of the Assessment Review Board Complaint form and an Assessment Complaint's Agent Authorization form.

Neither party objected to the members of the Board, as introduced, hearing the evidence and making a decision regarding this assessment complaint.

### **Preliminary Matters:**

At the commencement of the hearing, the Respondent stated that as a result of an on-site inspection attended by both parties, the issue of the size of the Manager's office and residence was resolved. This resulted in a recommended correction to the 2013 Assessment from \$3,578,800 to \$3,560,500, based on correcting the size of the Manager's office and residence from 2,295 square feet (SF) to 2,128 SF. The size of the Manager's office and residence was no longer an issue in this complaint.

The Respondent stated that the rebuttal evidence disclosed by the Complainant was not a proper rebuttal as it introduced new evidence and presented assessment evidence from outside the municipality. The Respondent cited Section 467(3)(c) which states that an Assessment Review Board must not alter an assessment that is fair and equitable taking into account assessments of similar properties in the same municipalities. The Respondent argued that assessment information from other municipalities is therefore irrelevant and must not be heard. As the rebuttal evidence was not yet before the Board, the Board took the comments under advisement and asked the Respondent to raise the issue when such information was being present.

The Complainant presented rebuttal evidence later in the hearing with no objection raised by the Respondent. At the conclusion of the Complainant's rebuttal evidence, the Respondent asked that the Board accept evidence in response to the Complainant's rebuttal evidence. Both parties agreed that this "Respondent rebuttal evidence" was disclosed late the previous week, therefore not in accordance with Section 9 of Matters Relating to Assessment Complaints Regulation (MRAC). The Complainant objected to the Respondent presenting its "rebuttal evidence" for this reason. The Respondent stated that this was not a fair process, but did not ask for a formal ruling from the Board.

The Board notes the Respondent did not object to any of the Complainant's rebuttal evidence, but then wanted an opportunity to introduce evidence that was not properly disclosed in accordance with "Matters Relating to Assessment Complaints" (MRAC). Section 9(2) of MRAC provides clear direction; "a Composite Assessment Review Board must not hear any evidence that has not been disclosed in accordance with section 8...". The only remedy available to the Board in this situation is to address an objection by the Respondent (at the time that the Respondent believes that improper evidence is presented by the Complainant) and determine if that evidence will or will not be heard (is or is not appropriate rebuttal evidence). The Board has no recourse to

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allow the Respondent an opportunity to introduce "rebuttal to the rebuttal", especially since the Complainant's rebuttal was not challenged when it was being presented. Allowing such an opportunity in the absence of extraordinary circumstances would result in prolonging a hearing indefinitely and be an abuse of the process. The Respondent's rebuttal evidence was not heard.

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

The subject property is a purpose built, self-storage facility located on four titled parcels totalling 2.0 acres located north of the Sheep River on the eastern side of Okotoks. It operates as Sheep River Self Storage Inc. The property consists of a Resident Manager's office and residence of 2,128 SF (as agreed to after an inspection), and a total of 30,074 SF of rental storage units located in nine buildings on the property. The property is paved and perimeter fenced. The year of construction for the storage facility is 2005. The 2013 assessment is prepared using an income approach, with the retail-storage and residence-office areas assigned a rental rate of \$12/SF, a vacancy allowance of 10% operating costs of \$5.25/SF, a non-recoverable allowance of 3% and capitalization rate of 9%. After correcting the size of the Manager's office/residence, the recommended 2013 assessment is \$3,560,500.

### **Issues:**

The complaint is based on the quantum of the 2012 assessment being incorrect, as the assessment does not reflect the market value of the subject property. The following specific issues were raised by the Complainant.

- Is the 10% vacancy allowance used to prepare the assessment correct?
- Is the expense ratio calculated by the Assessor's software program correct?
- Is the 9% capitalization rate used to prepare the assessment correct?
- Does the \$111/SF assessment reflect market value?
- Is the Fortress Self Storage & RV property an appropriate equity comparable?

Complainant's Requested Value: \$2,400,000

### **Legislative Authority:**

Section 4(1) of Matters Relating to Assessment and Taxation Regulation (MRAT) states that the valuation standard for a parcel of land is "market value". Section 1(1)(n) defines "market value" as the amount that a property, as defined in Section 284(1)(r) of the Act might be expected to realize if it is sold on the open market by a willing seller to a willing buyer. Section 467(3) of the Act states that an assessment review board must not alter any assessment that is fair and equitable, taking into consideration (a) the valuation and other standards set out in the regulations. The issues raised in the complaint may refer to various aspects of the assessment or calculation of the assessed value and may be

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addressed by the Board. However, the ultimate test that the Board must apply is whether the assessed value reflects the market value of the assessed property.

In considering the evidence, the Board finds that it addresses the following broad topics:

- Does the income approach result in an assessment that reflects market value?
- What is the market value of the subject property, and what sales evidence supports this value?
- Is the assessment equitable?

The issues raised by the Complainant fall into these broader topics.

### **Issue 1: Does the income approach result in an assessment that reflects market value?**

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

The Complainant's position is that the rates used to prepare the assessment, specifically the rental rate for the office and rentable storage space, the vacancy allowance and the capitalization rate, are not correct. Furthermore, the Complainant attempted to demonstrate that the assessment model used by the Assessor is flawed and results in an incorrect result.

Regarding the rental rate, the Complainant presented Appendix A – Income Statements in Exhibit C1 to demonstrate that the subject facility was achieving rents in the order of \$14/SF. Based on this evidence, the Complainant argued that the correct rental rate is \$14/SF and not the \$12/SF used to prepare the assessment.

Regarding the vacancy rate, the Complainant presented Appendix A – Vacancy Rates in Exhibit C1 summarizing the performance of the subject property for 2010 to 2012, which showed that the average vacancy was 18.50%. The Complainant also presented a summary table in Exhibit C1, Tab "Comparables" with a column for reported vacancy from a number of storage facilities in the Calgary region, compiled via telephone interviews that demonstrated that the typical or industry vacancy rate is 20%.

Regarding the capitalization rate, the Complainant presented one sale (Space Place Self Storage, 4810 - 80 Av SE, Calgary) that occurred in May 2012 where detailed information was apparently provided by the operator of this facility, allowing the Complainant to calculate a capitalization rate of 7.75% (Exhibit C1, Tab "Comparables").

The Complainant referred to the assessment calculation provided by the Town of Okotoks and presented a "corrected calculation" (page 27, Exhibit C1) indicating an assessment of \$2,170,000 using the Complainant's capitalization rate of 7.75%.

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

The Respondent stated that there are only two self-storage facilities in the municipality, which causes a challenge in preparing an assessment. The Respondent indicated that the income approach was based on a market value of \$111/SF for the subject and working backwards using "typical" rates to derive a capitalization rate (page 17, Exhibit R1).

The Respondent argued that the 10% vacancy rate reflects the current vacancy at the subject. The Respondent did not present any evidence to support the rental rate of \$12/SF or 9% capitalization rate.

### **Findings and Reasons:**

The Board acknowledges the challenges in developing an assessment for unique properties in a Municipality, whether attempting to apply an income or direct sales approach to derive an assessment. Furthermore the Board acknowledges that the Assessor is directed to prepare an assessment using mass appraisal (Section 2, Matters Relating to Assessment and Taxation Regulation). The Board is charged with determining the market value of the property under complaint as of the valuation date for the assessment.

The Board notes that neither party presented compelling evidence to support any of the rates applied in their respective income approach calculations. As a result, the Board puts little weight on the results derived by both parties using the income approach.

### **Issue 2: What is the market value of the subject property and what sales evidence supports this value?**

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

The Complainant presented comparable sales in a table at Tab "Comparables" Exhibit C1. A sale located at 4810 - 80 Av SE, Calgary sold in May 2012 for \$81/SF and another Calgary property located at 4140 6 St NE sold in April 2013 for \$85/SF (latter acknowledged as post-facto the valuation date). A listing located in Cochrane was also presented with a listing price of \$110/SF, and involved a self-storage facility that was heated. This table also indicated that a January 2012 appraisal of the subject property resulted in a value of \$2,800,000 which translates into a per square foot rate of \$86.95. This appraisal report for the subject property is presented in its entirety (Appendix A – Appraisal Report, Exhibit C1) with an effective date of January 11, 2012, prepared by the Altus Group concluding that the value of the subject was \$98/SF.

The Complainant stated that the best comparable is the 4810 - 80 Av SE sale, which transferred at \$81/SF. Photographs were presented to support this position. The Complainant then argued that a 10% adjustment is appropriate to adjust for location, with Calgary storage facilities apparently worth 10% more than in Okotoks. This adjustment was derived from a comparison of the rental rates being achieved for typical



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units in Calgary storage facilities compared to Okotoks self storage facilities (subject and Fortress Self Storage & RV). By applying such an adjustment, it results in an indicated value of \$73/SF for the subject property. The rate of \$73/SF was applied to the total area (storage space and office/residence) to arrive at a value of \$2,350,500 which was rounded upward to the requested assessment of \$2,400,000.

In response to evidence presented by the Respondent, the Complainant argued that the sale prices were not time adjusted and the market changed over this period, therefore, it was not appropriate to use sale prices without a time adjustment. The Complainant also presented photographs and argued that a number of the comparable sales used by the Respondent were not comparable.

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

The Respondent presented a table of thirteen storage facility sales across the Calgary region (page 20, Exhibit R1). The sales occurred between March 2005 and April 2013 at prices ranging from \$81/SF to \$210/SF. These prices were not time adjusted.

The Respondent stated that the two most comparable sales are located at Highway 2A-Northridge Dr. and 338 - 32 St., north of the Town of Okotoks in the Municipal District of Foothills No. 31. They both sold in April 2007 for \$113/SF and \$134/SF respectively. The Respondent argued that these were very comparable sales to the subject.

The Respondent argued that the sale at 4810 - 80 Av SE, Calgary, which the Complainant contends is the most comparable sale, is a warehouse converted into a storage facility and not purpose built, therefore, not comparable.

In response to Board questions, the Respondent stated that the appraisal presented by the Complainant uses comparable sales data that is not local, therefore, the Respondent did not consider the appraisal as valid.

### **Findings and Reasons:**

The Board was presented with much argument related to the comparability of various storage facilities to the subject simply based on photographs. Little detail regarding the size of the facility, construction, design, functionality, etc., was presented to allow the Board to properly assess comparability.

Sales data for self-storage facilities in the region were presented by both parties. Time adjustments or time adjusted prices were not presented by either party.

The Board is not persuaded that a "location" adjustment of 10% is warranted between facilities located in Calgary and the subject.

The Respondent's value of \$111/SF is based on the two sales considered most comparable but no details were presented as to how the \$111/SF rate was specifically

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derived. The Complainant's best comparable sale is at \$81/SF while the Respondent's best comparable sales are \$113/SF and \$134/SF. The range of pricing captures the appraised value at \$98/SF (based on the rentable space) or \$86.95/SF (when the total \$2.8 million assessment is divided by the rentable storage space and office/residence space).

The Board finds the appraised value of \$2,800,000 the best indication of the value of the subject property as of the valuation date for the 2013 assessment.

### **Issue 3: Is the assessment equitable?**

There is only one other self-storage facility in the municipality, Fortress Self Storage and RV, and there was some dispute as to how comparable it is with the subject. The Respondent argued that it was assessed using the same income approach rates and calculation as the subject, the 2012 assessment was not appealed, therefore, this demonstrated equity.

While sales information for similar properties located in other municipalities may be comparable (especially if appropriately adjusted), assessment information for similar properties located outside the municipality are not relevant to demonstrate equity. Equity is clearly a matter between similar properties in the same municipality.

Neither party presented adequate equity evidence to allow the Board to make a finding on equity. However, if the assessment reflects market value, equity should not be an issue.

### **Board's Decision:**

The Board reduces the 2013 assessment to \$2,800,000 based on the January 2012 market value appraisal for the subject property presented by the Complainant. The Board finds this to be the most compelling evidence presented by either party. The comparable sales evidence presented by both parties supports this assessed value.

It is so ordered.

Dated at the Town of Okotoks in the Province of Alberta, this 31day of October 2013.



Ivan Weleschuk  
Presiding Officer

**APPENDIX "A"**

**DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal Disclosure
3. R1	Respondent Disclosure
4. R1-A	Respondent Disclosure – Addendum 1
5. R1-B	Respondent Disclosure – Addendum 2

**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.*