

**OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/07/2010-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:**

1528670 Ontario Ltd., Complainant

- and -

The Town of Okotoks, Respondent

**BEFORE:**

R. Irwin, 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 assessments prepared by the Assessor of the Town of Okotoks and entered in the 2010 Assessment Roll as follows:

<b>Roll Number</b>	<b>Address</b>	<b>Assessment</b>
<b>Roll Number: 0058240</b>	<b>100 201 Southridge Drive</b>	<b>\$10,543,000</b>

This complaint was heard on the 13<sup>th</sup> day of October, 2010 at the Town of Okotoks Council Chambers at 5 Elizabeth Street, Okotoks, Alberta.

Appearing on behalf of the Complainant:

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

Appearing on behalf of the Respondent:

- P. Huskinson

**Preliminary Matters:**

There were no preliminary matters. The merit hearing proceeded.

## **OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/07/2010-M**

### **Property Description:**

The subject property is a Canadian Tire Retail Store located at 100,201 Southridge Dr. Okotoks. The size of each area is listed below:

39,950 sq ft Retail  
7,840 sq ft Mezzanine Storage  
1140 sq ft Mezzanine Office  
6300 sq ft Auto Service  
4250 sq ft Garden Centre  
2112 sq ft Gas Bar/ Car Wash

.....  
59,480 square feet total

The property is assessed at \$10,543,000

### **Issues:**

- Mezzanine Rate
- Garden Centre Rate

### **Complainant's Requested Value:**

The request on the complaint form was \$7,947,800. This was revised to \$9,451,000 in the evidence and at the hearing.

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

#### **Mezzanine Rate**

The Complainant requested a reduction in the mezzanine rates (Office \$12.00 to \$1.00 and Storage \$8.00 to \$1.00) and the Garden Centre rate (\$7.00 to \$1.00). The Complainant submitted evidence that the "gross leasable area" definition in the subject lease in Okotoks excluded the Mezzanine and Garden Centre areas and therefore requested that the Mezzanine and Garden Centre should not be assessed. The Complainant presented a list of 32 comparable properties located in the City of Calgary that all had a mezzanine space and illustrated that all of them were assessed at \$1.00.

The Respondent replied that the Town of Okotoks had a fair, equitable and consistent process of assessing mezzanine space for all properties that had a mezzanine and/or garden centre in Okotoks that complied with Section 293 of the Act. The Respondent noted that the Municipal Government Act defines an improvement in 284(1)(j) as

- (i) A structure
- (ii) Any thing attached or secured to a structure, that would be transferred without special mention by a transfer or sale of the structure.

## OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/07/2010-M

The Board agreed that how other municipalities conducted assessments or assessed Mezzanine and Garden Centre space was not relevant. The Board also agreed that the Mezzanine and Garden Centre were improvements and would be transferred or sold without special mention. Evidence indicated that all similar property in Okotoks was assessed fairly.

The subject property's Mezzanine and Garden Centre area has been assessed correctly.

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

After considering all the facts, evidence and argument, the ARB decided that the Assessment is confirmed at \$10,543,000.

It is so ordered.

Dated at the Town of Okotoks in the Province of Alberta, this 2<sup>nd</sup> day of November 2010.

(for)   
\_\_\_\_\_  
R. Irwin  
Presiding Officer

*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.*

*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).*

*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.*