

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/07/2013

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:

Okotoks Air Ranch Inc. - COMPLAINANT

- and -

The Town of Okotoks - Respondent

BEFORE:

I. Weleschuk, Presiding Officer
D. Howard, Board Member
R. May, Board Member

This is a complaint(s) 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 in the 2013 Assessment Roll as follows:

Roll Number	Address	Assessment
0052340	2 Winters Way	\$1,941,000
0051940	2 Billy Haynes Tr.	\$ 342,000
0051930	32 Ranch Rd.	\$ 300,000

The complaint(s) was heard by the Composite Assessment Review Board on the 24th day of October, 2013 in the Town of Okotoks Council Chamber at 5 Elizabeth Street, Okotoks, Alberta.

Appearing on behalf of the Complainant:

- Altus Group Limited - D. Porteous, Agent
- Okotoks Air Ranch - B. Medd, Executive Vice President
- EBA Engineering - S. Sutherland, Director, Airports Group

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Appearing on behalf of the Respondent:

- P. Huskinson - Assessor, Town of Okotoks

Attending for the Assessment Review Board:

- D. Scott - ARB Clerk Assistant

Preliminary Matters:

Procedural or Jurisdictional Matters:

The Board notes the file includes a completed copy of the Assessment Review Board Complaint form and an Assessment Complaints 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.

After discussion with the parties, the Board opened the two complaint files associated with Roll No. 0051940 and 0051930 and heard the presentations from the Complainant and Respondent. During the presentations, it became clear that the quantum of the requested assessment was contained in the material associated with the complaint file regarding Roll No. 0052340. It was agreed to also open the file on Roll No. 0052340, hear the evidence on this file from both the Complainant and Respondent, then allow any further questions related to all three files, (there was no rebuttal disclosure) and proceed to closing statements. Because these three properties are owned by the same party, the evidence presented by the Complainant was a common disclosure, and the requested assessment for Roll No. 0051940 and 0051930 is based on the assessment for a component of Roll No. 0052340, the Board will issue one decision on all three of these complaints. Addressing the three complainants in one decision will allow for a more clear and concise decision.

Complainant's Disclosure Package:

At the commencement of the hearing, the Complainant stated that the evidence package was disclosed without the document having all the pages numbered. The Complainant stated that he had replacement packages that had page numbers and that having page numbers would allow for a more efficient hearing. The package was exactly as disclosed, with the addition of page numbers. The Respondent did not object to replacing the disclosed evidence package with the version with page numbers.

Replacement packages with page numbers were provided to the members of the Board, the Clerk and the Respondent, and entered into evidence as Exhibit C1.

Section 299 Request for Information:

The Complainant raised an issue related to Section 299/300 request for information

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(Exhibit C2). The Complainant requested information. The information was apparently provided via email with attachments by the Assessor (page 31-32, Exhibit C2). The Complainant stated that the information was not provided in a format that indicated the context of the information, or how the information related to specific issues that the Respondent was going to address. The Complainant did not request that the Board make any decision related to any portion of the Respondent's submissions, just that the Board was aware of the nature of the information provided and that it required significant work on the part of the Complainant to fully analyse and understand the information.

The Board agreed to take this comment under advisement and proceeded to hear the merit of the complaints. The Board understands that the Municipality complied with the Section 299/300 request. Section 299/300 is silent regarding the format or the presentation of the information provided by the Municipality. The Board notes that there was communication between the parties related to this exchange of information and that the format of the information requested should have been addressed by the parties at the time.

Property Description and Background:

The subject properties are part of a larger holding known as Okotoks Air Ranch located in the northeast quadrant of the Town of Okotoks. This development includes a private airport and associated facilities, with residential development around the airport. The land components are assessed using a sales comparison approach, with the improvements assessed using a cost approach (Marshall & Swift Cost).

2 Winters Way is a 31.42 acre parcel and contains the paved runway (north-south alignment), a paved taxiway and apron (east-west extension from the runway), and a 12,675 square foot (SF) hangar/office constructed in 1981 located in the northeast corner of the apron. The property boundaries contain a grassed area around the paved runway and an apron area which are related to setbacks imposed by airport regulations. This property is assessed as 30.72 acres of land including the paved runway and a portion of the apron which is considered "excess land" assessed at a rate of \$30,000 per acre, 0.70 acres of land under and around the hangar/office assessed at \$180,000 per acre, 266,900 SF of pavement assessed at \$2.51/SF and the 12,675 SF of hangar/office assessed at \$16.48/SF, for a total assessment of \$1,900,000.

2 Billy Haynes Trail is a 1.90 acre bare land parcel located immediately south of the paved apron portion of 2 Winters Way. The property is configured as a four-sided parcel with a "panhandle" off the northeast end of the property. This property is grassed, with apparently a slight swale running east-west across the property as part of the surface drainage for the area, with the panhandle portion part of a wetland associated with a drainage pond. This property is assessed at a rate of \$180,000 per acre for a total assessment of \$300,000.

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32 Ranch Road is a 1.66 acre property located immediately west of the paved apron on 2 Winters Way. This property contains the southern extension of the access road and vehicle parking, a row of mature trees in a north-south alignment across the parcel and grassed area west of the row of trees. The row of trees is in or adjacent to a swale that is part of the surface drainage for the area. The property is assessed at a rate of \$180,775 per acre resulting in an assessment of \$300,000.

Issues:

The Complaints are based on the 2013 assessment being incorrect, as the assessment is not equitable. A number of issues were raised by the Complainant, many of which were outside the scope or the mandate of the Board. The following specific issues related to the quantum of the assessment were raised by the Complainant:

- Is the assessment of 2 Winters Way correct?
- Is the assessment of 32 Ranch Rd. and 2 Billy Haynes Tr. equitable?

Complainant's Requested Value:

2 Winters Way	\$872,400
2 Billy Haynes Tr.	\$ 38,000
32 Ranch Rd.	\$ 33,200

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 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.

Consideration of the Issues:

Issue 1: Is the assessment of 2 Winters Way correct?

Complainant's Position:

The Complainant did not dispute any of the inputs used to prepare the 2013 assessment. The Complainant's position is that the paved area requires maintenance

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and upgrading to the pavement, at a cost estimated at \$670,000. This estimate is provided via an email dated May 4, 2012 (page 65, Exhibit C1).

The Complainant presented the assessment for the Springbank Airport, located in Rocky View County, and argued that the assessment was much less especially when considering that the Springbank Airport is larger and has considerably more improvements on the site.

Respondent's Position:

The Respondent stated that no comparable sales evidence is presented in the Respondent's disclosure (Exhibit R2) because no sales evidence was presented by the Complainant.

The Respondent stated that the \$180,000 per acre land rate is based on a previous Composite Assessment Review Board decision (0238/2011-M) on the other two subject properties. Current sales support this rate and in fact indicate that the market value is somewhat greater than \$180,000 per acre. The \$180,000 per acre rate is applied to the 0.7 acres of land associated with the hangar/office. The 0.7 acres is based on typical site coverage for industrial properties, and a function of the size of the hangar/office. The \$30,000 per acre rate is used to value "non-developable" land in the Municipality associated with privately owned greenspace, etc. The rationale of applying this rate to the airport and apron area is that due to the use and restrictions associated with the runway, the land cannot be developed for any other use, therefore, it is considered equivalent to "excess" land for assessment purposes. The value of the pavement and the hangar/office is based on their depreciated cost, as derived using Marshall & Swift Cost Manuals.

Board's Findings in respect of Each Matter or Issue:

The Board acknowledges the challenges in operating the airport; however, the matter at hand is to determine the market value of the property for assessment purposes. The Complainant did not dispute rates used to calculate the assessment, nor provide any evidence as to what the appropriate rates should be.

The argument that the assessment should be reduced by \$670,000 (the cost of upgrading and repairing the pavement) does not relate to the value of the property but is an operating cost.

The assessment of the Springbank Airport is not considered a valid equity comparable, as it is located in another Municipality and has some portions exempt from taxation.

The Board finds no basis on which to alter the 2013 assessment, as no evidence was presented demonstrate that the 2013 assessment was incorrect or inequitable.

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Issue 2: Is the assessment of 32 Ranch Rd. and 2 Billy Haynes Tr. equitable?

Complainant's Position:

The Complainant argued that the value of these two bare land properties was \$30,000 per acre, based on the \$30,000 per acre rate assigned to the "excess land" portion in the assessment of 2 Winters Way.

B. Medd provided information on the operations of the property. The current need is for more airplane parking on the property. Mr. Medd stated that only a portion of 2 Billy Haynes Trail is suitable for parking airplanes, because of the swale which makes taxiing the planes across this dip problematic. Mr. Medd stated that due to the row of trees on 32 Ranch Rd. it could not be used to park airplanes. Mr. Medd opined that due to objections from the residential property owners around the airport, it was unlikely that any commercial or industrial development could occur on the subject lands.

Mr. Sutherland provided information on restrictions associated with airports and how these impact potential development around an airport.

In argument, the Complainant took the position that the two subject properties could not be developed; therefore, their value was that of "excess land" and should be assessed as such. This would achieve equity with the adjacent property (2 Winters Way).

Respondent's Position:

The Respondent noted that the zoning for these two subject properties was Aerodrome District (AD), the same as 2 Winters Way. Therefore, there was no zoning restriction on development of the two subject properties for various commercial uses. The Respondent also stated that there has been no application for development on either of the two subject lands, therefore suggesting that no development would occur is mere speculation. The swale on each property associated with the surface drainage could be addressed as part of the development application, and there is no evidence presented that the swale reduced the area available for development.

The Respondent stated that because of the wetland area in the "panhandle" of 2 Billy Haynes Trail, the \$180,000 per acre rate applied was adjusted to reflect that the wetland area on this parcel was not developable.

The Respondent presented CARB Decision 0238/2011-M, that determined the value of the subject properties were \$180,000 per acre and CARB Decision 0238/06/2012-M that essentially heard the same evidence and argument related to the 2012 assessment complaint (Addendum 3 and 4 respectively, Exhibit R1). As no new evidence was presented by the Complainant, the Respondent argued the Board should confirm the assessment, as was the case in CARB Decision 0238/06/2012-M.

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Findings and Reasons:

The Board was presented with much argument related to development limitations on the two subject properties, but little evidence. The Board is not persuaded that the subject properties can not be developed. The Board notes that there are homes built between the airstrip and 2 Billy Haynes Trail.

Neither party presented any sales evidence. The Complainant did not demonstrate that the base rate of \$180,000 per acre did not reflect market value.

The equity issue fails, since the Complainant did not persuade the Board that the subject properties were "excess land" or undevelopable land or in any way similar to the runway area on 2 Winters Way.

Board's Decision:

The Board confirms the 2013 assessment for all three roll numbers considered in this hearing, as follows:

2 Winters Way	\$1,941,000
2 Billy Haynes Tr.	\$ 342,000
32 Ranch Rd.	\$ 300,000

It is so ordered.

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



Ivan Weleschuk
Presiding Officer

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APPENDIX "A"

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD:

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure – Preliminary Issue
3. R1	Respondent Disclosure (2 Billy Haynes Tr. & 32 Ranch Rd.)
4. R2	Respondent Disclosure (2 Winters Way)

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.*