

**Assessment Review Board**  
**403-938-8905**

November 6, 2012

David Porteous  
Altus Group  
1200, 333 11<sup>th</sup> Avenue SW  
CALGARY, AB T2R 1L9  
E-mail: [CalgaryTax@AltusGroup.com](mailto:CalgaryTax@AltusGroup.com)

Dear Mr. Porteous:

Re: Composite Assessment Review Board Hearing on Roll Number 0095036

Attached please find the Okotoks Composite Assessment Review Board Order for the hearing held regarding the above-noted roll number.

Please do not hesitate to contact me if you require any further information.

Sincerely,



Linda Turnbull  
Assessment Review Board Clerk  
[lturnbull@okotoks.ca](mailto:lturnbull@okotoks.ca)

c: Town of Okotoks Assessment Services  
Minister of Municipal Affairs

# **OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/08/2012-J**

**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:**

Costco Wholesale Canada Ltd - Complainant

- and -

The Town of Okotoks - Respondent

## **BEFORE:**

Rob Irwin, Presiding Officer

Ron May, Member

Doug Howard, 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 2011 Assessment Roll as follows:

<b>Roll Number</b>	<b>Address</b>	<b>Assessment</b>
Roll Number 0095036	202 104 Southbank Boulevard	\$22,699,100

The complaint was heard on the 10<sup>th</sup> day of October, 2012 at the Town of Okotoks Council Chamber at 5 Elizabeth Street, Okotoks, Alberta.

Appearing on behalf of the Complainant:

- Altus Group Limited (Agent for the Complainant) – David Porteous

Appearing on behalf of the Respondent:

- Paul Huskinson, Assessor, Town of Okotoks

Attending for the ARB:

- Dianne Scott, ARB Assistant

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### **Preliminary Matters:**

The Respondent brought forward a preliminary issue regarding the complaint.

The Town of Okotoks sought to have the Board consider the complaint to be invalid as per Section 295(1). The Respondent requested that the complaint be dismissed for not complying with the requirements for providing information requested by the Assessor.

### **Issues:**

Did the property owner comply with the assessor's request for information as directed in Section 295?

### **Summary of Positions:**

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

The Respondent (Town of Okotoks) contended that the Board has heard this matter regarding standard of compliance and as a result dismissed it. He reviewed the following prior ARB and MGB decisions:

- Rocky View County 2012 CARB Decision No. 0269-2/2012
- Okotoks Composite Assessment Review Board Order #0238/02/2011-J.  
(This order was for the subject property.)

The Assessor explained that in these decisions the Boards did not allow the complaint to be heard because of non-compliance with Section 295 with respect to providing information to the Assessor.

Evidence provided to the Board illustrated a historical timeline of requests and reminders for information from the owner about the subject property. Evidence was presented outlining that on September 30, 2010, the Assessor for the Town of Okotoks requested information about the construction costs of the property in order to reflect local costs and local market conditions for preparation of the assessment.

Documents provided indicated that a reminder was sent by the Assessor via registered mail on December 23, 2010 requesting a reply by January 14, 2011. On January 7, 2011, a representative from Costco Wholesale Canada Ltd., Mr. E. Werschitz, contacted the Assessor via telephone acknowledging receipt of the letter and requesting an extension of the deadline date. The Assessor was also asked to send copies of the requests to the property owner's Canadian corporate address and not the Seattle corporate office. A response to Mr. Werschitz providing the information requested and extending the deadline date was sent the same day. A letter dated February 25, 2011 was sent by registered mail, requesting that the information be submitted by March 30, 2011.

The Assessor stated that no information was provided with respect to the request.

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### **Complainant's Position**

The Agent for the Complainant stated that the communications detailed by the Assessor were made prior to his involvement with the file. A September 16, 2011 Town of Okotoks non-residential annual property tenant form document was offered to the Board to consider as compliance with the request. It was requested that the Board deny the application to dismiss the appeal and allow the complaint to be heard.

### **Findings and Reasons:**

The Board found that the owner of the subject property did not comply with Section 295(1) of the MGA. This section states:

*A person must provide, on request by the assessor, any information necessary for the assessor to prepare an assessment or determine if property is to be assessed.*

The timeline of evidence presented by the parties and the decision of CARB Board Order #0238/02/2011-J were weighted highly in this decision.

The Board found it could not proceed with the merit hearing in accordance with Section 295 (4) of the Act, which states:

*No person may make a complaint in the year following the assessment year under section 460 or, in the case of linear property, under section 492(1) about an assessment if the person has failed to provide the information requested under subsection (1) within 60 days from the date of the request.*

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

In accordance with the Act, the Board decided it cannot hear this Complaint.

It is so ordered.

Dated at the Town of Okotoks in the Province of Alberta, this 5<sup>th</sup> day of November, 2012.



(for) Rob Irwin  
Presiding Officer

## **OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/08/2012-J**

**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.*