

November 12, 2013

AEC Property Tax Solutions  
1120 10201 Southport Rd SW  
Calgary AB T2W 4X9

Attention: Mr. Cameron Hall

Dear Mr. Hall:

Re: Composite Assessment Review Board Hearing on Roll Numbers  
0058260 & 0094110

Attached you will find the Okotoks Composite Assessment Review Board Order for the hearings held on October 29, 2013 regarding Roll Numbers 0058260 and 0094110.

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

Sincerely,



Dianne Scott  
Assessment Review Board Clerk Assistant  
[dscott@okotoks.ca](mailto:dscott@okotoks.ca)

c: Town of Okotoks Assessment Services  
Minister of Municipal Affairs

# **OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/08/2013-M**

**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**

Home Depot of Canada Corp. - Complainant

- and -

The Town of Okotoks - Respondent

## **BEFORE**

L. Yakimchuk, Presiding Officer  
L. Buchholz, Member  
J. Tiessen, Member

This is a complaint to the Town of Okotoks Composite Assessment Review Board (CARB) in respect of property assessment prepared by the Assessor of the Town of Okotoks and entered in the 2013 Assessment Roll as follows:

**Roll Number:** 0094110  
**Address:** 10 101 Southbank Bv.  
**Assessment:** \$12,167,500

This complaint was heard by the Composite Assessment Review Board on the 29<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:

- AEC International Inc. – C. Hall

Appearing on behalf of the Respondent:

- P. Huskinson, Assessor

Attending for the ARB:

D. Scott, Assistant ARB Clerk

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### **Preliminary Matters:**

[1] The Complainant asked that arguments and evidence from hearing #0238/0058260 (Walmart) be carried over to this hearing. Therefore, some of the evidence and arguments in both decisions will be the same or similar.

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

[2] The subject property is assessed as an owner occupied 83,935 square foot (sf) retail store built in 2008. It has been assessed at \$12/sf with 3.0% vacancy rate, \$5.75 operational costs, 2.0% non-recoverable costs and 7.75% capitalization (Cap) rate.

### **Issues:**

Issue One: The subject property has been assessed in excess of its fair and equitable value.

Issue Two: The rental rate applied to the subject property is unfair and should be \$10/sf or less.

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

[3] The Board finds that the subject property has been assessed in excess of its equitable value and that the rental rate should be \$11/sf, for a final assessed value of \$11,138,000.

### **Legislative Authority, Requirements and Considerations:**

#### **Jurisdiction of assessment review boards**

Municipal Government Act Section 460.1 states

(2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

For the purposes of this hearing, the CARB will consider MGA Section 293(1)

In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) is the regulation referred to in MGA Section 293(1)(b). The CARB decision will be guided by MRAT Section 2, which states that

An assessment of property based on market value

- (a) must be prepared using mass appraisal,
- (b) must be an estimate of the value of the fee simple estate in the property, and

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- (c) must reflect typical market conditions for properties similar to that property.

and MRAT Section 4(1), which states that

The valuation standard for a parcel of land is

- (a) market value, or
- (b) if the parcel is used for farming operations, agricultural use value.

### **Summary of Positions:**

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

[4] The Complainant, AEC as represented by C. Hall, provided a 2008 sale of a large format building with demising walls to accommodate a variety of tenants, which reflected a calculated rent rate of \$8.29. There was no documentation to confirm the sale reflected market value and there was no correction to accommodate the passage of time (C1 p9).

[5] The Complainant also presented a list of comparable property assessments (Home Depot, Walmart) from Edmonton and Calgary and Okotoks Costco which showed that rental rates for these properties were assessed between \$6.00/sf and \$11.00/sf (C1 p11).

[6] The Complainant argued that Target stores which were re-leased in 2012 showed a reduced rental rate from that of the previous leaseholders (Zellers). He suggested that this demonstrated a slump in the market for properties held by large format retailers (C1 p15).

[7] The Complainant stated that the Home Depot should be assessed at the same rate as the Costco in Okotoks, which is assessed at \$11/sf. He asked that the CARB reduce the assessed value of Home Depot to \$11/sf.

[8] In his Rebuttal the Complainant also presented photographs of several retail and retail/grocery stores in Okotoks, along with their assessed values and rent rates (C2 p21-28).

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

[9] The Respondent, P. Huskinson, Assessor for the Town of Okotoks, provided photographs of the exterior of the subject property. He provided a list of comparable typical retail rates for similar space in the Town of Okotoks. The size of the listed properties ranged from 42,213 sf to 164,632 sf and the assessed rental rates ranged from \$17.00/sf to \$11.00/sf.

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[10] In addition the Respondent pointed out several decisions from previous review boards which showed assessed rents from other jurisdictions ranging from \$11.75/sf to \$13.00/sf for "big box" stores in 2007 and 2008.

[11] The Respondent also presented a RioCan annual report which showed actual rental rates for Walmarts at \$13.33/sf.

[12] P. Huskinson, on behalf of Town of Okotoks, argued that the Complainant had not proven that the subject assessment was wrong, and that the RioCan rates for Walmarts supported the current assessment. He also argued that the sale presented by the Complainant had previously been shown to be non-market and was not used in assessment studies.

[13] The Respondent also argued that it is difficult to assess properties like Home Depot because there are so few of them in Okotoks to compare. He presented a list of retail and grocery property assessments in Okotoks, most of which were under 50,000 sf, with the exception of Walmart (assessed at \$12.40/sf), Home Depot (assessed at \$12/sf) and Costco (assessed at \$11/sf) (R1 p17).

### **Findings and Reasons:**

[14] The Board considered the documents and arguments presented by both parties. The evidence presented by both parties was not documented with sources, except for the RioCan annual report, which showed the \$13.30 rent attributed to Walmart was a Gross Rent, not a Net Rent.

[15] The photographs presented by the Respondent did not convince the Board that there was a significant difference between Home Depot, Walmart and Costco buildings.

[16] Both parties agreed that Walmart was assessed at \$12.30/sf, Home Depot at \$12.00/sf and Costco at \$11.00/sf. These three buildings are the only three "big box" retail buildings in the Town of Okotoks over 75,000 sf. The Board agreed they should be considered as comparables for each other.

[17] To be equitable, the Board agreed that the three buildings should be assessed at the same rent rate.

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**Board's Decision:**

[18] The Board reduces the assessment to \$11.00/sf.

[19] It is so ordered.

Dated at the Town of Okotoks in the Province of Alberta, this 12 day of  
November 2013.

(for)   
\_\_\_\_\_  
L. Yakimchuk  
Presiding Officer

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### **Appendix**

Documents presented at the hearing:

C1 – Complainant's Disclosure

R1 – Respondent's Disclosure

C2 – Complainant's Rebuttal

**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.*

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Office Use Only:  
CARB – Retail – Big Box Store – Income Approach - Rent