

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/11/2010-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:

Canada Safeway, Complainant

- and -

The Town of Okotoks, Respondent

BEFORE:

P. Petry, 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:

| Roll Number | Address | Assessment |
|-----------------------------|--------------------------|--------------------|
| Roll Number: 0038100 | 610 Big Rock Lane | \$7,345,000 |

This complaint was heard on the 21st 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) – No one attended

Appearing on behalf of the Respondent:

- P. Huskinson

Attending for the ARB – Linda Turnbull, ARB Clerk and Diane Scott, Assistant

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/11/2010-M

No Attendance by Complainant

The Altus Group did not appear for attendance at the hearing of this matter. Section 463 of the Municipal Government Act (Act) requires that the CARB proceed with the hearing providing the parties have been notified. In this case the disclosure of the Complainant clearly showed the time and date of the hearing and therefore the CARB proceeded with the hearing on October 21, 2010.

Property Description and Background:

The subject property is a 42,213 sq. ft. Safeway store located along Southridge Drive (Highway 2A) which is the main retail/commercial strip in Okotoks. This is a mid-town location near downtown Okotoks and close to many other retail outlets. The primary issue in this complaint appears to be the rental rate used by the Assessor to develop the subject assessment.

Issues:

1. What is the correct, fair and equitable market rental rate for the subject property?
2. What is the correct size of the subject?

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

1. The correct, fair and equitable rental rate for the subject is \$15 per sq. ft.
2. The correct size of the subject is 42,213 square feet.

Summary of the Partys' Positions

Complainant:

The Complainant was not in attendance at the hearing of this complaint, therefore the CARB has attempted to understand its evidence without the benefit of explanation or argument. The complaint form shows two matters concerning the assessment notice, those being the amount of the assessment and the classification of the property. No explanation or evidence had been submitted respecting the matter of classification and therefore the CARB has not addressed this matter.

The Complainant submitted various documents showing the square footage of the subject property to be either 41,844 square feet or 41,899 square feet for the main floor and 355 square feet for a mezzanine. The Complainant used 41,899 square feet in

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/11/2010-M

their pro-forma and therefore the CARB accepts this to be the Complainant's proposal respecting the question of size.

The subject has been assessed using a lease rate of \$15 per square foot for the retail grocery area. The Complainant has compared the subject to the No Frills grocery store at 9 Sandstone Gate which has been assessed at a rate of \$14 per square foot. The Complainant also provided information on lease rates for grocery stores in Lethbridge, Medicine Hat and Calgary. These rates range from a low of \$10.28 per square foot to a high of \$15.84 per square foot. The Complainant provided a document titled "Altus Group's Stratification of Grocery Stores in Calgary" subtitle "\$14.00". The CARB presumed that this information was offered in support of the Complainant's proposed \$14.00 rate for the subject. This information showed a median base rate of \$13.50 per square foot and a weighted average of \$13.22 per square foot. In the final analysis the Complainant appears to rely on all of the parameters applied by the Assessor except the size which was changed to 41,899 and the lease rate which was changed to \$14.00 per square foot. The resulting recommendation was to reduce the assessment to \$6,773,300.

Respondent:

The Respondent indicated that while the Complainant has used 41,889 sq. ft. as the size of the subject, the Respondent visited the subject property July 22, 2009 and took the actual measurements of the store which produced a size of 42,213 sq. ft.

The Complainant has compared the \$15 rental for the subject store to the \$14 rental rate for the No Frills store at 9 Sandstone Gate. The No Frills location is also along Highway 2A but close to the northern edge of town. This store also has less finish than the subject property. These two factors justify the minimal \$1 differential in the rates applied in reaching their respective assessments. The Respondent indicated that the Sobeys store located south along the same strip has been assessed at a rate of \$16 per sq. ft. The Sobeys store is located within a "Common" area along with other big box retail, is relatively new and has better finish. The Respondent brought forward six comparable properties and explained the reasons for the differentials in the rental rates that have been applied. These differences may relate to finish, locational advantage, age or condition. The differentials in rates are based on the Assessor's knowledge and experience as the Town of Okotoks offers only a limited number of comparable properties and therefore an empirical analysis is often not possible. The Respondent suggested that little weight should be placed on comparisons with properties in other communities and asked that the CARB confirm the assessment of the subject property.

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/11/2010-M

Findings and Reasons:

The CARB considered the evidence relating to the size of the improvement and noted that the documents brought forward by the Complainant were likely prepared during the planning phase and therefore may not be representative of what was actually built. There may also be some differences between the parties in terms of the method of measurements used. Without some explanation on the information brought forward by the Complainant, the CARB was persuaded to adopt the Respondent's recent determination of size at 42,213 sq. ft.

The Complainant's evidence respecting rental rates was primarily from the Calgary market and showed only those properties and rates in support of a \$14 rate. The CARB places greater weight on comparables within Okotoks where the subject rate of \$15 is bracketed by a rate of \$14 for the No Frills store and the \$16 rate for the Sobeys store. Given the differences between the subject and these two comparable grocery stores the CARB is convinced that the \$15 rate for the subject is both correct and equitable.


Decision Summary

The decision of the CARB is to confirm the assessed value of the subject at \$7,345,000.

No cost to either party.

It is so ordered.

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



Paul G. Petry
Presiding Officer

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.

OKOTOKS COMPOSITE ASSESSMENT REVIEW BOARD ORDER #0238/11/2010-M

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*