

IN THE MATTER OF A COMPLAINT filed with the Town of Okotoks Composite Assessment Review Board (CARB) pursuant to the *Municipal Government Act*, Chapter M-26.1 (Act), Section 460(4).

BETWEEN:

Westmount Development Corp. - Complainant

- and -

The Town of Okotoks - Respondent

BEFORE:

H. Kim, Presiding Officer
D. Howard, Member
R. May, Member

These are complaints to the Town of Okotoks CARB in respect of a property assessment prepared by the Assessor of the Town of Okotoks and entered in the 2011 Assessment Roll as follows:

Roll Number	0076010
Address	200 Southridge Drive
Assessment	\$7,842,000

This complaint was heard on the 26th day of October, 2011 at the Town of Okotoks Council Chamber at 5 Elizabeth Street, Okotoks, Alberta.

Appearing on behalf of the Complainant:

- Linnell Taylor Assessment Strategies – J. D. Sheridan

Appearing on behalf of the Respondent:

- P. Huskinson

Attending for the CARB:

- L. Turnbull, ARB Clerk

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Property Description and Background:

The subject property is a strip retail development known as Westmount Village, constructed in 2008 with total rentable area of 23,712 SF. It is assessed on the income approach based on a rental rate of \$32/SF for typical CRUs, \$18/SF for one atypical CRU space, and \$26/SF for space over 4,000 SF. 3% vacancy is applied, and vacancy shortfall based on operating cost of \$6.50/SF for typical CRUs and \$8/SF for restaurant space. The resultant net income is capitalized at 8.25% to arrive at the assessment under complaint.

Issue:

The specific issue on the complaint form was that the assessment is excessive and the supporting facts were that the rental rate of \$32/SF applied to most of the CRUs was incorrect, and that the contract rates should have been considered, and that operating costs should be \$7/SF.

CARB'S Findings in Respect of the Issue:

Complainant's Position

The Complainant presented the rent roll which showed leases starting December 2008 through May 2011, at rates ranging between \$16 and \$30/SF. One lease commenced at the valuation date of July 2010 for \$16/SF. The most recent leasing was the back-filling of space formerly occupied the Bedroom Shoppe and the rents achieved are lower than the typical contract rents due to the physical attributes of the space, which is in the corner with reduced visibility. Demising to allow for smaller spaces resulted in awkward shaped spaces. While the rents appear low compared to other rates, it is reasonable for the spaces.

Leasing activity in the valuation period for comparable centres was presented, and range from \$26 to 33/SF. One of the comparables, Westmount Centre, is a strip retail development immediately adjacent to the subject but with better exposure to Southridge Drive, and superior tenancies consisting of all national tenants. The \$32/SF and \$33/SF rates for the smaller CRUs are considered a high indicator for the subject property. The Complainant suggests that a market rate of \$28/SF for typical CRU space is appropriate for the subject. The larger spaces were leased during the valuation period, and the Complainant suggests that contract rent close to the effective date becomes equivalent to market rent.

The subject suffered atypical vacancy of 14.91% for the first half of the year, but on balance the 3% applied was accepted by the Complainant. Operating costs were in the range of \$6 to \$8/SF and a rate of \$7/SF was used in the Complainant's calculation. Applying the requested \$28/SF to the typical CRUs and the contract rents to the balance of the spaces, the requested assessment is \$6,800,000.

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Respondent's Position

The subject and Westmount Centre are separate parcels but together appear as one strip retail shopping centre. The Respondent disputes the Complainant's statement that the recent rental rates in Westmount Centre suggests that rents applied to the subject should be lower, they are very comparable, and the subject also has national tenants. The recent vacancy experienced is not chronic; it was the result of the closure of the regional business that occupied the space. There is very little vacancy in the new part of the Town.

The Respondent presented a revised Assessment Calculation Summary in which some of the sizes were corrected. The rate for the 4,485 SF space was set at \$20/SF instead of \$18/SF to reflect typical rates applied to large spaces with atypical shape and location, and the 3,290 SF of vacant space was set at \$28 instead of \$32/SF. With these adjustments, the recommended assessment is \$7,778,000.

Findings and Reasons:

The CARB agrees based on the photographs entered into evidence that the subject and the adjacent Westmount Centre appear as a single shopping centre and that the recent rates for smaller CRU space support the \$32 applied in the assessment.

The Complainant did not provide evidence to support the \$7/SF operating cost applied in the requested assessment; accordingly the operating costs of \$6.50 and \$8 applied in the revised Assessment Calculation Summary should be maintained.

With respect to the vacant space, some of which was leased after the effective date, the CARB finds that it should also be assessed at the \$20/SF rate applied to atypical larger spaces. The interior corner in a retail strip shopping centre of this type inevitably has less exposure relative to its leasable area. The relatively long time to lease the space in an environment of low vacancy, and the lease rate achieved when part of it did lease (\$20/SF post facto) supports the Complainant's position that this space is less desirable. Accordingly the CARB determined \$20/SF and not \$26/SF should be applied to the vacant space as of the valuation date.

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Board's Decision:

The complaint is allowed, in part, and the assessment is reduced to \$7,468,000.

It is so ordered.

Dated at the Town of Okotoks in the Province of Alberta, this 10th day of November, 2011.



H. Kim
Presiding Officer

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Appendix A – Documents presented at the Hearing and considered by the CARB

- C1 Complaint form
- C2 Complainant's Evidence Submission
- R3 Assessment Brief
- R4 MGB Order 021/33
- R5 Court decision - Westcoast Transmission Company Ltd. v. Assessor of Area 9 – Vancouver, BC Supreme Court decision 1987

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.*