

IN THE MATTER OF A COMPLAINT filed with the Town of Okotoks Assessment Review Board (Board) pursuant to the *Municipal Government Act (MGA)*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000.

BETWEEN:

Okotoks Air Ranch Inc. - Complainant

- and -

Town of Okotoks - Respondent

BEFORE:

M. Weatherall, Presiding Officer

A. Eastham, Board Member

J. Gosse, Board Member

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

Roll Number	Legal Land Description	Assessment
0024873	-110205	\$4,200,000

This complaint was heard on the 25th day of July 2023 via video conference.

Appearing on behalf of the Complainant:

- W. Pringle, Bordeaux Developments Corporation
- B. Medd, Okotoks Air Ranch Inc. (observer)

Appearing on behalf of the Respondent:

- C. Van Staden, Town of Okotoks Assessor
- R. Beckner, Town of Okotoks Administrator (observer)

Attending for the Assessment Review Board (ARB):

- P. Huber, Clerk, Town of Okotoks

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Procedural Matters

1. The parties did not object to the composition of the Board.

Background

2. The subject property (subject) is an 11.2-acre parcel with a zoning of "Traditional Neighbourhood District". On December 31, 2022, the subject was a vacant lot, stripped, graded, and serviced to the property line.
3. Throughout this decision, the subject is also referred to as "Phase 15".
4. For the current assessment year, the subject is assessed at \$4,200,000 pursuant to the direct comparison approach to value.

Issues

5. Is the current assessment of the subject reflective of market value and fair and equitable?

Complainant's Position

6. The Complainant started their presentation by referring to an Opinion/Valuation for Property Tax Purposes Report as evidence that the subject assessment is inequitable. The Complainant asserted that a "discounted cash flow" approach is the most equitable method to calculate the subject assessment because it represents the anticipated future of the property and is the most significant factor a prospective buyer would consider. The anticipated future for the subject is very clear as the plan for Phase 15 was approved by Okotoks Town Council and in the Land Use Bylaw. The Complainant argued that the subject assessment should be based on the amount that a willing buyer would pay a willing seller. It is not the physical reality that should be assessed.
7. The Complainant presented a hypothetical direct comparison valuation approach between Phase 13 and Phase 15 to support their request that the subject be assessed at \$126,126 per acre for 11.1 acres for a total assessment of \$1,400,000. Using detailed revenue and cost estimates, the Phase 15 forecasted cash flow before land cost (discounted cash flow approach) of \$2,547,000 less a developer profit of \$1,147,000 would result in a net land value for Phase 15 of \$1,400,000.
8. Phase 15 has special costs not applicable to Phase 13, which result in estimated development costs for Phase 15 to 47.6% higher than the costs for Phase 13: a total difference of \$2,312,000.

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9. The owners of the subject plan to sell the subject in the near future with a projected list price of \$2,000,000. Depending on the market conditions, at the time of listing, the selling price will probably be between \$1,000,000 and \$2,000,000. The Complainant suggested that \$1,400,000, as a likely selling price, further supports the value calculated using the discounted cash flow approach.
10. In summary, the Complainant requested to Board to change the subject assessment to \$1,400,000 based on their discounted cash flow approach combined with the deduction of typical selling costs. This change would reflect the market value of the subject as at the valuation date of July 1, 2022.

Respondent's Position

11. The Complainant's request to use a discounted cash flow approach to value the subject should not be accepted because it is based on the anticipated future of the property rather than its condition on December 31, 2022. The Complainant's proposed calculation deducts the debt servicing costs and taxes while legislation requires the fee simple estate to be determined before these amounts are deducted.
12. The Respondent relied on four sales to support the subject assessment:

Address	Total Acres	Sale Date	Proposed Use	Total Sale Price	Price per acre	Comments
1. Ranchers BV NE Phase 14	2.69	Aug. 2022	5 building SC and Cstore	\$2,050,001	\$762,082	Commercial site; services available to the site
2. Ranchers BV NE	2.31	Sept. 2022	For 65 unit apt	\$1,499,999	\$649,351	Multifamily site; services available to the site
3. 1 Drake Landing BV	2.55	Jan. 2018	For 71 units	\$1,785,000	\$700,000	Multifamily site; services available to the site
4. Ranchers BV Phase 13	10.56	Aug. 2022	For 71 lots	\$3,930,000	\$372.159	Residential lots; services available to the site

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13. The Respondent provided the following narrative for the four sales:
 - a. Comparable 1 - requires a downward adjustment to make it comparable to the subject. It is similar in location to the subject and is vacant. No stripping or grading has taken place and it has a different land use than the subject.
 - b. Comparable 2 - requires a downward adjustment to make it comparable to the subject because it is a multi-family site.
 - c. Comparable 3 - requires a downward adjustment to make it comparable to the subject because it is designated as 71-unit townhouse complex.
 - d. Comparable 4 - is the most comparable sale to the subject. This sale was completed as a vacant land sale and was also vacant at December 31, 2022.
14. The Respondent referred to a map to point out the location of four large parcels of land sold between the years 2014 and 2019. These parcels are not comparable to the subject as they sold without servicing and without land use changes to permit development of housing and commercial uses. These costs will add to the value of the parcels. The sale price for these parcels ranged from \$105,000 to \$120,000 per acre with a size range of 117 acres to 152 acres. The Respondent argued that the subject's value is considerably more because of its development.
15. In summary, the Respondent emphasized the requirement for an assessment to be based on the physical characteristics of the subject as of December 31, 2022, and not the potential of the subject. The Phase 13 comparable (Comparable 4) is the best indicator of the subject's market value and its sale price of \$372.159 per acre supports the subject assessment at \$375,000 per acre. The Respondent requested the Board to confirm the subject assessment at \$4,200,000.

Rebuttal

16. In rebuttal, the Complainant argued that Phase 13 is not similar to the subject with respect to lot count, total front feet, typical lot size, and servicing cost. The Respondent's suggestion to dismiss these differences would mean that the Outline Plan approved by Town Council in 2015 should be ignored.

Decision

17. The Board makes no change to the current assessment of the subject.

Reasons

18. The Board determined that the valuation methodology employed in assessing the

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subject was fair and equitable and reflective of its market value.

19. In its review of the market sales comparables presented by the Respondent, the Board finds that three of the four sales (Comparable 1, 2, and 3) are not similar to the subject in size, and their proposed use as multi-family sites and a commercial site. The Board places most weight on the Phase 13 site (Comparable 4) and finds that it is most similar to the subject in size: 10.56 acres compared to the subject with 11.2 acres; same proposed use for residential lots; both properties have services available to the site; and both properties were vacant at December 31, 2022. The Board notes that the Phase 13 sale date of August 2022 is very close to the July 1, 2022, valuation date for the subject and is persuaded that the sale price of \$372,159 per acre supports the subject assessment of \$375,000 per acre.
20. The Board places little weight on the Respondent's four large parcels of land sold between the years 2014 and 2019 due to the difficulty in determining, based on the evidence presented, the status of servicing to the borders of the parcels.
21. The Board places less weight on the Complainant's discounted cash flow approach to value the subject because it is based on the anticipated future of the property rather than its condition on December 31, 2022. The Board relies on the Administrative Law and Assessment Training for Board Members which states, in part, on Page 90:

“For properties assessed on the market value standard, the estimates of market value can be derived using one more of the traditional approaches to value. **The approaches are recognized and accepted by the marketplace and the judicial system.**

1. Direct comparison approach to value.
2. Income approach to value.
3. Cost approach to value.

...

Legislation does not stipulate a particular approach to value that must be used. The focus of an ARB [Assessment Review Board] is to determine whether a property assessment reasonably reflects the market value of the property; not whether a particular approach to value was used.” [Emphasis added]

22. The Board also relies on Section 289(2) of the *MGA* to place less weight on the Complainant's discounted cash flow approach to value the subject because it is based on the anticipated future of the property rather than its condition on December 31, 2022. Section 289(2) states:

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“Each assessment must reflect

(a) The characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property...”

23. The Board finds that the Complainant did not provide sufficient and compelling evidence to persuade the Board to reduce the assessment to \$1,400,000.
24. The Board concludes that the current assessment is reflective of market value and is fair and equitable.

Dated at the Town of Okotoks in the Province of Alberta this 1st day of August 2023.



M. Weatherall
Presiding Officer

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APPENDIX "A"
DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:

NO.	ITEM
C-1 (62 pages)	Complainant's Disclosure
R-1 (41 pages)	Respondent's Disclosure
C-2 (7 pages)	Complainant's Rebuttal

LEGISLATION

MGA, RSA 2000, c M-26

s 1(1)(n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

s 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

s 467(3) 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,*
- (b) the procedures set out in the regulations, and*
- (c) the assessments of similar property or businesses in the same municipality.*

An application for Judicial Review may be made to the Court of King's Bench with respect to a decision of an assessment review board.

An application for Judicial Review must be filed with the Court of King's Bench and served not more than 60 days after the date of the decision, and notice of the application must be given to

- (a) the assessment review board*
- (b) the Complainant, other than an applicant for the judicial review*
- (c) an assessed person who is directly affected by the decision, other than the Complainant,*
- (d) the municipality, and*
- (e) the Minister.*