

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

BETWEEN:

1570560 Alberta Ltd. - Complainant

- and -

Town of Okotoks - Respondent

BEFORE:

G. Sokolan, Presiding Officer

J. Gosse, Board Member

R. Pohl, 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 | Address | Assessment |
|--------------------|----------------------|-------------------|
| 0020180 | 100, 4 Westland Road | \$15,559,000 |

This complaint was heard on the 25th day of June 2024 via video conference.

Appearing on behalf of the Complainant:

- R. Bloom, MNP LLP
- B. Thauberger, MNP LLP (observer)

Appearing on behalf of the Respondent:

- C. Van Staden, Assessor

Attending for the Assessment Review Board:

- P. Huber, Clerk

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Procedural Matters

- [1] The parties stated they had no objections to the composition of the Board.
- [2] The Respondent requested the testimony, questions, and summary comments related to material on pages four (4) through 15 of Exhibit R-1 for Roll Number 0058275 be carried forward to this file which included:
- Proceedings Before Assessment Review Boards;
 - Possible Grounds for Complaint; and
 - Assessment Fairness and Equity.
- [3] The Complainant requested testimony, questions, and summary comments regarding its "Response to Equity" on page four (4) of Exhibit C-2 for Roll Number 0058275 be carried forward to this file.
- [4] The Board agreed with both requests.

Background

- [5] The property under complaint (subject) is the Ford Dealership located at #4 Westland Road in Okotoks. It is a 4.84 acre General Commercial (C-G) parcel that is improved with two buildings. The Ford Dealership building was constructed in 2013 containing 15,390 square feet (sf) of sales area, a 10,950 sf service area, 5,515 sf of office area, and 2,350 sf of storage. A second building, constructed in 1986, houses a Volkswagen (VW) dealership and includes 1,692 sf of sales area and a 4,825 sf service area. Additions were made to the building in 2023 comprising 1,692 sf of main floor and 413 sf of mezzanine area. The subject has been assessed using the Income Approach to valuation at \$15,559,000. Showroom areas in both buildings are assessed with a rent rate of \$33.00/sf, office and service area at \$23.00/sf and storage and the 2023 additions to the VW building are assessed at \$1.00/sf.

Issues

- [6] Would the subject property be more fairly assessed using the Cost Approach to valuation?

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Complainant's Position

- [7] The Complainant contended the subject is over assessed and the Respondent provided no market evidence to support the current assessment. Specifically, the subject is improved with two buildings, one which was constructed in 1986 (VW building) and the other in 2013 (Ford building). These have been assessed using the same rent rates for the same space type components within both buildings. No attempt was made to account for obvious differences between the buildings related to age, size, and condition.
- [8] The subject was assessed using the Income Approach to valuation, yet the Complainant contended there is no market evidence available to determine suitable values for the inputs to this valuation approach to support the assessment. Only one sale of a car dealership has occurred in the past three years, which was the Chrysler Dealership at 12 Southridge Drive.
- [9] The Complainant submitted a table provided by Co-Star, the Complainant's market data provider, indicating leasing activity in the municipality since June 2020. The 16 leases that were executed during this time did not include any for car dealerships. The Complainant concluded the Respondent's use of the Income Approach is relying on non-auto related data. Additionally, there are two buildings on the subject property that differ in age, quality, and size. These characteristics are paramount in determining market typical rental rates for assessment purposes.
- [10] The Complainant argued the Cost Approach is a more reasonable valuation approach to use under these circumstances. The Complainant submitted a detailed calculation, prepared using Core Logic – Swift Estimator (Marshall and Swift's online estimating tool) of the replacement value of the two buildings as of the valuation date of July 1, 2023. This dealt with the two buildings independently of each other.
- [11] The model calculated a depreciation rate of 7% for the Ford building, which was determined to be in very good quality, and 21% for the VW building, which was determined to be of average quality. Depreciation of the VW building accounted for the recent addition of main floor and mezzanine space in 2023.
- [12] The model requires a value for replacement of land. The Complainant examined ten land sales throughout the municipality occurring between October 2022 and

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September 2023. Subsequently, it narrowed the sample to five sales on sites zoned Neighbourhood Commercial and General Commercial, arriving at a value of \$825,000/acre, or \$3,993,000 for the 4.84 acre site. The subject is a General Commercial site, and the Complainant considers these two districts to be closely linked in terms of locations in Okotoks.

- [13] The replacement cost of the Ford building was calculated at \$8,439,626 (\$246.73/sf) and the VW building at \$1,243,418 (\$121.81/sf). When the value of replacement land was included, the reconciled replacement cost valuation for the subject came to \$13,676,000 or \$308.00/sf. The Complainant requested the Board amend the current assessment to reflect this value.

Respondent's Position

- [14] The Respondent testified the 2023 sale of the Chrysler dealership was not an arms-length transaction, having occurred between two family members. The purchaser was the tenant of the property at the time of the sale. Land Titles transfer documents were provided to support the sales transaction.
- [15] The Respondent argued all six car dealerships in Okotoks are assessed the same, using the Income Approach to valuation with the same rent rates applied to the various space types within each. The subject assessment equates to \$350.00/sf.
- [16] The Respondent submitted a sample of three sales of car dealerships as sales comparables, including the sale of the Chrysler dealership. Submitted photos of the exterior of each and the interior of two of these comparables indicated they were also valid equity comparables of the subject.
- [17] Two sales of car dealerships, being the Nissan and Chrysler dealerships, occurred in 2018 for \$4,950,000 and \$4,700,000 respectively. The third, the GM dealership sold in 2012 for \$14,435,000. The Respondent argued the 2012 sale property was remortgaged in 2017 at a value of \$14,400,000 indicating it was still a valid comparable. This sample indicated median values of an assessable area of 14,674 sf, year of construction of 2003, a sale price of \$385.00/sf (unadjusted for the valuation date), and 2024 assessed value of \$4,768,000 (\$325/sf).
- [18] The Respondent argued that all non-residential properties in Okotoks are assessed using the Income Approach, as it is viewed as the most appropriate valuation

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method when assessing income producing or investment type properties, which describes the subject.

- [19] The Income Approach considers value based on the ability of the property to produce net rental income. In contrast, the Cost Approach considers value solely from the perspective of the seller and makes no consideration for the buyer's position.
- [20] The Respondent reminded the Board that section 7(1) of *Matters Relating to Assessment and Taxation Regulation, 2018 (MRAT)* directs assessors that the valuation standard for an assessment is market value, which is defined in the *MGA* as the amount that a property might be expected to realize if sold on the open market by a willing seller to a willing buyer.
- [21] The Respondent critiqued the Complainant's application of the Cost Approach, specifically questioning its choice of quality for the two buildings as a parameter. A quality rating (class) of C applies to masonry bearing walls while a class A indicates a fireproof structural steel frame exists in the building. The Respondent testified Class A should be applied to the Ford building, especially considering current fire codes, rather than a Class C, which the Complainant had chosen. The Respondent also questioned the accuracy of depreciation tables in a cost manual if they had not been verified against actual market prices.
- [22] The Respondent also questioned the Complainant's choice of properties used to establish the replacement land value for the subject. The Complainant's choices reflected land only values rather than the improved value of a property, which would be more comparable to the subject. Additionally, the Complainant included two post facto sales that occurred in September of 2023.
- [23] In summary, the Respondent concluded the current assessment is correct when valued on a mass appraisal market basis and requested the Board confirm the assessment at \$15,559,000.

Rebuttal

- [24] In rebuttal, the Complainant contended the subject is over assessed and the Respondent provided no market evidence to support the current assessment; hence, the Complainant was provided nothing to rebut.

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[25] The Complainant emphasized there is not enough market support for an Income Approach valuation to be reasonably applied as a determination of market value. Insufficient market evidence is available from either dealership sales or relevant leasing data. The Complainant continued to advocate that replacement cost valuation using the specific building parameters and available land sales should be relied upon to determine the market value of the subject property.

Decision

[26] For the reasons outlined below, no change was made to the assessment.

Reasons

[27] The Board found the Complainant provided insufficient market evidence to substantiate its claim the subject is over-assessed. Photos were provided for only four (4) of the 16 leases submitted by the Complainant to confirm its assertion none of the leases represented auto-related activities. While the Complainant was able to establish the Ford building differed substantially from the VW building, it could not quantify a suitable rental rate for the older VW building.

[28] While the Respondent indicated all car dealerships in the municipality were equitably assessed with the same rent rates, no market data was presented to substantiate this.

[29] The Board agreed with the Complainant that it is not reasonable for the Ford building and the VW building to be assessed at the same rent rates given obvious differences in the age, size, and quality of the two buildings. However, no market evidence was provided to allow the Board to determine what a typical market rent would be for the various space types of the VW building.

[30] The Board recognized the Cost Approach may provide a method through which the differences could be quantified. However, the Respondent cast doubt on the parameters used in the Complainant's Cost Approach analysis. The Board was not in a position to determine the validity of the Complainant's Cost Approach analysis and, as a result, the Board cannot rely on its results.

[31] Additionally, the Board is of the opinion that the market value of a sale transaction of a car dealership must reflect a balance of interests between the seller and the

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buyer. To equate such a transaction simply to the replacement cost of the improvements and land steps away from the definition of market value as envisioned in both *MRAT* and the *MGA*.

[32] In the absence of market evidence to confirm or dispute the current assessment, the Board accepted the current assessment and no change was made.

[33] The assessment remains at \$15,559,000.

Dated at the Town of Okotoks in the Province of Alberta this 24th day of July 2024.

---Original Signed---

G. Sokolan
Presiding Officer

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

| NO. | ITEM |
|----------------|--------------------------|
| C-1 (89 pages) | Complainant's Disclosure |
| R-1 (59 pages) | Respondent's Disclosure |
| C-2 (25 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*

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- (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.*