

TOWN OF HIGH RIVER

COMPOSITE ASSESSMENT REVIEW BOARD ORDER

IN THE MATTER OF COMPLAINTS filed with the Town of High River Composite Assessment Review Board pursuant to Part 11 of the *Municipal Government Act*, c. M-26 RSA 2000 (*Act*).

BETWEEN:

1081512 Alberta Ltd, Sobeyes Capital, Lansdowne Equity Ventures Ltd,
Montrose Commercial, and Canalta Real Estate Services Ltd,
represented by ALTUS GROUP INC

Complainant

AND:

TOWN OF HIGH RIVER

Respondent

BEFORE:

H. Kim, Presiding Officer

Secretariat:

K. Rusk, Clerk

A. MacInnes, Legislative Services Administrator

This is the decision of the Town of High River Composite Assessment Review Board (CARB) in respect of a preliminary matter related to complaints of property assessments prepared by the Assessor of the Town of High River and entered in the 2020 assessment roll as follows:

Name	Roll No	Address	Assessment
1081512 Alberta Ltd	1985000	211 Centre Street SW	1,091,500
Sobeyes Capital	2767000	98 Centre Street SE	3,320,400
Lansdowne Equity Ventures Ltd	363100	30 3 Ave SE	5,792,100
Montrose Commercial	8255000	1225 1 St SE	4,681,400
Canalta Real Estate Services Ltd	2843000	1512 13 Ave SE	4,944,600

The preliminary matter was heard on the 25 day of September, 2020, in the Town of High River Council Chambers located at 309b Macleod Trail SW, High River, Alberta.

Appeared on behalf of the Complainant: A. Iazard, Altus Group (by telephone)

Appeared on behalf of the Respondent: S. Dalrymple, Town of High River

BACKGROUND

[1] A one-member panel of the CARB was convened for a preliminary hearing to consider the request by the Complainant with respect to scheduling of the subject complaints. They are all for non-residential properties located in the Town and were originally scheduled for hearings on November 3, 5, 12, 16 and 24, 2020.

[2] There were originally 12 complaints filed and scheduled, but as of the due date of the disclosures for the preliminary hearing, four had been resolved. At the date of the preliminary hearing, a further three had been resolved, resulting in five complaints that were the subject of this preliminary hearing. They consist of four retail/commercial properties and one hotel.

[3] The Complainant had originally requested that the hearings be rescheduled to the week of November 30; however, there is only one space within the Town's municipal building (the Council Chambers) that can accommodate the in-person hearings intended for the hearings, and it was previously booked for most of that week, and only December 4 was available. The originally scheduled hearing dates continue to be available, as well as November 26 and 27, and December 7, 8, 10 and 11.

APPLICANT'S POSITION

[4] The Complainant received hearing notices for the complaints on behalf of their clients and were not contacted to verify availability. They had scheduling conflicts due to previously scheduled hearings in Spruce Grove (Nov 3), Camrose (Nov 4), Medicine Hat (Nov 4-5), Fort Saskatchewan (Nov 12), Rocky View County (Nov 16 to 17) and Rimbey (Nov 17). While the Complainant is available on Nov 24, there are hearings for Cochrane (Nov 25) and St. Albert (Nov 26) that affect preparation time. In response to questioning, the Complainant said while it might appear there were other people within the organization who could appear, there were only two agents that appear in the smaller and rural municipalities

[5] The Complainant provided court and MGB decisions regarding the circumstances which have been found to support an adjournment. Decisions regarding s. 468 of the Act suggest the language is permissive, not mandatory, specifically with respect to procedural fairness. The cases clearly indicate that the availability of counsel and witnesses is a fundamental principle of procedural fairness and would amount to exceptional circumstances that qualify for an adjournment.

[6] The Complainant stated that the hearings were scheduled inefficiently over many dates, and had originally proposed consolidating the hearings to the week of November 30; however, in view of the dates on which the hearing room was available, the Complainant agreed that they could be heard on November 24, 27 and December 4. The Complainant also questioned whether video or teleconference hearing could be considered as it is in other municipalities.

[7] The Complainant proposed scheduling the four retail/commercial properties on one day, to take advantage of common evidence and argument, with the ability to spill over onto the following day, while the hotel could be heard after the commercial properties.

RESPONDENT'S POSITION

[8] The Respondent was agreeable to moving the hearings to November 24, 27 and December 4. He preferred to set the hearings in November, as December is the end of the year and the roll has to be set for the following year. Hearing the complaints in December would affect his workload, as he is the only one who could represent the Town in the hearing.

[9] In the original hearing schedule, there had been two days that had three complaints scheduled per day. This was due to the number of complaints - it would be more normal to schedule two hearings per day. The Respondent objected to scheduling the four retail/commercial for the same day as proposed by the Complainant, stating that there were substantial differences between them and he would not be agreeable to carrying evidence forward from one complaint to the next. He preferred that they be scheduled two per day over two days, with the hotel on a different day.

DECISION

[10] The complaints are postponed to the hearing dates as follows, at 9 am each day, starting with the first item and continuing to the second item on the day stated. The disclosure deadlines are as listed, in accordance with Section 8(2) of Alberta Regulation 310/2009 Matters Relating to Assessment Complaints Regulation (MRAC):

Name	Roll No	Hearing Date	Complainant Disclosure	Respondent Disclosure	Complainant Rebuttal
1081512 Alberta Ltd	1985000	Nov 24, 2020	Oct 13, 2020	Nov 9, 2020	Nov 16, 2020
Sobeys Capital	2767000	Nov 24, 2020	Oct 13, 2020	Nov 9, 2020	Nov 16, 2020
Lansdowne	363100	Nov 27, 2020	Oct 15, 2020	Nov 12, 2020	Nov 19, 2020
Montrose Commercial	8255000	Nov 27, 2020	Oct 15, 2020	Nov 12, 2020	Nov 19, 2020
Canalta Real Estate	2843000	Dec 4, 2020	Oct 22, 2020	Nov 19, 2020	Nov 26, 2020

REASONS

[11] Section 15(1) of MRAC states:

15(1) Except in exceptional circumstances as determined by an assessment review board, an assessment review board may not grant a postponement or adjournment of a hearing.

[12] The CARB considers the unavailability of the Complainant's agent is an exceptional circumstance and it would be procedurally unfair not to change the hearings to dates when the Complainant could properly be represented. In view of the few remaining complainants and the agreement of the parties to the dates suggested, the CARB determined that granting a postponement was reasonable.

[13] With respect to the consolidation of a number of the complaints, the Respondent was not in agreement. The CARB recognizes that it might be more efficient to allow evidence to be carried forward in some circumstances, and the Complainant is not precluded from doing so in appropriate situations during the hearing for his presentation, and this would not fetter the Respondent in what he can present in defense of the assessment.

[14] Nevertheless, in view of the Respondent's reluctance to schedule four hearings on one

day to potentially be heard over two days, and the Complainant's agreement, it was decided that two hearings would be scheduled on each of the two days, with the hotel property to be heard on a subsequent day.

Dated at the Town of High River, in the Province of Alberta, this 29 day of September, 2020.



For: H. Kim, Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE CARB:**

NO.	ITEM
C1	Complainant Disclosure
R1	Respondent Disclosure

An application for judicial review of this decision may be made in accordance with the Municipal Government Act as follows:

- 470 (1) *Where a decision of an assessment review board is the subject of an application for judicial review, the application must be filed with the Court of Queen's Bench and served not more than 60 days after the date of the decision.*
- (2) *Notice of an application for judicial review must be given to*
- (a) the assessment review board that made the decision,*
 - (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) a municipality, if the decision that is the subject of the judicial review relates to property that is within the boundaries of that municipality, and*
- (e) the Minister.*