

**CALGARY  
ASSESSMENT REVIEW BOARD  
DECISION WITH REASONS**

In the matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

**between:**

***Altus Group Ltd, COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***Don H Marchand, PRESIDING OFFICER***

***Peter Charuk, MEMBER***

***Allan Zindler, MEMBER***

This is a complaint to the Calgary Assessment Review Board in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

<b>ROLL NUMBER:</b>	<b>201197225</b>
<b>LOCATION ADDRESS:</b>	<b>850 – Saddletowne CL NE</b>
<b>HEARING NUMBER:</b>	<b>59570</b>
<b>ASSESSMENT (2010):</b>	<b>\$9,290,000</b>

This complaint was heard on 14 day of June, 2010 at the office of the Assessment Review Board located at Floor Number Floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant; *Altus Group Ltd.*: A. Izard & B. Neeson

Appeared on behalf of the Respondent; *City of Calgary*: E. Lee & D. Zhao

**Board's Decision in Respect of Procedural or Jurisdictional Matters:**

- The CARB was asked to accept a sheet of documental evidence that was submitted at a CARB hearing the previous week. The claim being that the document was part of public hearing and as such the document is now part of the public domain. The parties are aware of the document's content. The CARB ruled that the document was not part of the disclosure and did not meet the disclosure timelines for exchange. It was also noted that the previous week's decision of the CARB **had not been rendered**. The sheet of documental evidence submitted at a previous hearing was not accepted by this panel.

**Description and Background of the Property under Complaint:**

The subject is a Safeway Grocery Store in the NE Calgary community of Taradale. The store is located on a 4.10 acres parcel with a Direct Control (DC) land use designation.

The store's rentable area has been quantified at 50,860 square feet on the assessment record. The complainant records the store with a rentable area of 50,586 square feet; a difference of 274 square feet smaller.

The subject property for assessment purposes has been grouped under a "sub-property use" coded as CM0203 and is described as Retail Shopping Centre – Neighbourhood (NBHD). Coded as such the subject is treated as an anchor within the neighbourhood shopping centre. Within a CM0203 shopping centre a 1% vacancy allowance was applied to anchor space within the income approach analysis. The CRU space within the CM0203 coded property is assessed within the income approach analysis with a 2% vacancy allowance. The subject property has no CRU space.

Within the subject's Assessment Review Board Complaint form under *Section 5 – Reason(s) for Complaint* nine points were identified as the grounds of appeal.

The Complainant advised that only the ninth point: "> The assessed vacancy allowance applied to the subject property should be increased to reflect the current market conditions for Grocery Store anchors at 4%" would be argued at the hearing. This was paraphrased as an assessment equity argument.

The Parties advised the CARB that the evidence and arguments respecting this issue would be same for a number of "Safeway" complaints and requested that all the evidence and arguments be carried forward to each subsequent hearing where the equity issue of requesting the anchor space vacancy to be raised from 1% to 4% is contained. Reference: **FILE 59570**.

**Issues:**

1. The income approach analysis should be based on which rentable area; 50,860 sq. ft or 50,586 sq. ft.?
2. Should the subject's vacancy allowance used in the income approach analysis be revised from 1% to 4%?  
Or  
Does the "Safeway Store" act as an anchor or as a free standing retail store?

**The rentable area:**

A careful review of both parties evidence was undertaken. Evidence supporting a smaller size is indicated on page 9 and page 13 of the Complainant's submission wherein the Safeway store is labelled with a size amount of 50,567 square feet. The Respondent submission includes their Assessment Request for information (ARFI), supplementary checklist, and building information sheet each indicating a size of 50,860 square feet.

**First Issue's Decision:**

The CARB finds no compelling evidence to alter the size used in the assessments income analysis.

**Equity within the vacancy allowance applied to "Safeway store" space in the income approach analysis:**

The Complainant is requesting a 4% vacancy allowance based on direct equity with other similar property as set out in *The Matters Relating to Assessment and Taxation Regulation (220/2004)*.

*Section 2. An assessment.....*

*(c) must reflect typical market conditions for properties similar to that property*

The Complainant submits that the subject is held and functions and would trade in the same manner as any other free standing similarly held and used property. Within the identified neighbourhood shopping centre the safeway store is on its own titled property. There are no commercial rental units (CRU's) on the subject's parcel. The parking on the subject's site is to satisfy the safeway store's requirements.

In support of this equity argument several assessment income approach valuation detail sheets, complete with photographs of each, were reviewed with the Board. The vacancy allowance shown for all the comparables are greater than the 1% applied to the subject safeway and the typical rate applied is 4% vacancy allowance.

A summary of the complainant's submitted comparables, each with a 4% or greater vacancy allowance, are as follows:

9 - CM0206 - Retail Store – Big Box	i.e. Rona, Superstore, Home Outfitters, Canadian Tire
6 - CM0201 – Retail Store – Stand alone	i.e. Safeway, Michael's, Sears Home, CO-OP
2 - CM0323 – Retail – Ret Whse	i.e. Canadian Wholesale, Brick/united furniture
3 – CS2100 – Retail	i.e. CO-OP & Safeway in the beltline and Old Eaton's
1 – CM0210 - Retail Store – Strip	i.e. Lambda Super Market

The Complainant's request is for an assessment amount of **\$8,790,000** based on increasing the subject's vacancy allowance from 1% to 4%.

The Respondent points out that none of the complainant's comparable properties are within the community/neighbourhood shopping centre group of properties.

The Respondent argues the subject, with its own separate title, still operates as an anchor within a Neighbourhood Community Centre. This is evidenced by the site plan which shows the Neighbourhood Community Centre and identifies 6 CRU buildings and a gas bar surrounding the perimeter and adjacent to the Safeway store parking lot layout.

The Respondent's following capitalization rate summary chart shows how they concluded the 8% capitalization rate was arrived at based on the application of a 1 - 2% vacancy allowances. The Respondent's also showed how the capitalization rate would be lower by a full percentage in a "what if scenario" with increased vacancy rate allowances. The 8% capitalization rate is agreed to by the parties.

**Neighbourhood Community Centre Capitalization Rate Summary:**

Potential Gross income	Vacancy	Non-recoverable	Operating cost	Net operating income	Capitalization rate
\$2,150,233	1% - 3%	1%	\$4 - \$20.00	\$2,048,692	6.50%
\$595,440	1%	1%	\$8.50	\$581,060	8.37%
\$1,549,942	2%	1%	\$8.50	\$1,493,781	6.36%
\$1,602,156	2%	1%	\$8.50	\$1,541,738	8.00%
Median					7.25%
<b>Assessed</b>					<b>8.00%</b>

**A "what if scenario" with increased vacancy rate allowances.**

Potential Gross income	Vacancy	Non-recoverable	Operating cost	Net operating income	Capitalization rate
\$2,150,233	4% - 11%	1%	\$4 - \$20.00	\$1,830,235	5.81%
\$595,440	4%	1%	\$8.50	\$555,784	8.00%
\$1,549,942	11%	1%	\$8.50	\$1,310,806	5.58%
\$1,602,156	11%	1%	\$8.50	\$1,341,954	6.96%
Median					6.39%
<b>Assessed</b>					<b>7.00%</b>

The Respondent drew the CARB's attention to final paragraphs of MGB 134/08 (page 16 of 21) and MGB 048/03 (page 40 of 52)

*..... within the Capitalized Income Approach and that all factors are interdependent and cannot be changed in isolation.*

And

*The income approach determines value based upon many factors that depend upon and influence each other. A change in the value of one of these factors may or may not require an adjustment to other factors.*

As a test of the "what if scenario" with an increased vacancy rate allowances to 4% and the lower indicated capitalization rate to 7% the Respondent recomputed the income approach that produced a indicted value of \$10,110,000 for the subject versus the current \$9,290,000 assessment valuation.

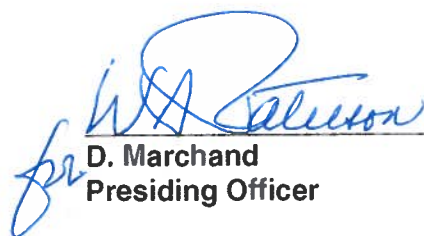
**Second Issue's Decision:**

The subject Safeway Store is coded as a Neighbourhood, Community Retail Shopping Centre – (CM0203) with an 8% capitalization rate. And as such, the subject is treated as anchor space. All the Complainant's comparables are all coded other than shopping centres. The CARB gives consideration to the complex as a whole. The entire site has its access and exits, to the entire parking layout. There is a complementary architectural design, style, and the finish to the surrounding CRU buildings, and the gas bar. The CARB is satisfied that the subject is more a part of a shopping centre complex than a standalone building.

To adjust the subject's vacancy rate without having regards to interdependent factors or in isolation of other adjustments that may or may not be required is contrary to application of the Income Approach Methodology.

**Overall Decision:** The assessment is confirmed at \$9,920,000

DATED AT THE CITY OF CALGARY THIS 15<sup>th</sup> DAY OF July 2010.

  
D. Marchand  
Presiding Officer

DM/kc

*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.*

*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).*

*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.*