

**CALGARY
COMPOSITE 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:

ROLL NUMBER:	041055807
LOCATION ADDRESS:	5048 – 16 AV NW
HEARING NUMBER:	59272
ASSESSMENT (2010):	\$6,710,000

This complaint was heard on 15TH day of June, 2010 at the office of the Assessment Review Board located at, 1212 – 31 Avenue NE, Calgary, Alberta, and Boardroom 3.

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

Appeared on behalf of the Respondent; *City of Calgary*: *E. Lee & B. Thomson*

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

- Prior to the hearing the jurisdictional matter filed by letter dated March 26, 2010 was withdrawn.

Description and Background of the Property under Complaint:

Both Parties requested the CARB consider a revised assessment amount and a revised requested assessment amounts. The Municipality concedes to a \$1.00 per square foot rental amount being applied to the mezzanine space and as a result a revised assessment amount of **\$6,700,000**. The Complaint concedes to the municipalities total supermarket size of 42,778 square feet and as a result amended their assessment requested amount to **\$6,355,000**.

The subject is a Safeway Grocery Store in the NW Calgary community of Montgomery. The store of 42,778 square feet is located on a 3.13 acres parcel with a Commercial – Community 1 land use designation.

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.

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

The Complainant advised that the only issue under complaint at the hearing would be: “> the assessed vacancy allowance applied to the subjects: the 1% applied to anchor space should be increased to 4%.

Issues:

1. 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 Parties requested that the evidence and arguments respecting the “1% applied to anchor space should be increased to 4%” be carried to this hearing from **File 59570**.

Board's Decision in Respect the Issue:

The parties and readers are directed to the findings, conclusions and decision reached within **FILE 59570**.

The CARB reviewed the evidence of both parties showing the location, layout, and configuration of the subject and observes a building with CRU space immediately adjoining the subject's parking area to the south. The Safeway store is part of community/neighbourhood shopping centre complexes.

The argument for an equitable vacancy allowance is lost when the subjects are not similar to the stand alone group of properties identified by the Complainant and noted as follows:

5 - CM0206 - Retail Store – Big Box	i.e. Rona, Superstore, Costco, Canadian Tire
2 - CM0201 – Retail Store – Stand alone	i.e. Safeway, CO-OP
2 - CM0323 – Retail – Ret Whse	i.e. Canadian Wholesale, Brick/united furniture
2 - CS2100 – Retail	i.e. CO-OP & Safeway in the beltline

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. The CARB gives consideration to the complex as a whole. The entire site has its access and exits to the entire parking layout. 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 the application of the Income Approach Methodology.

Board's Decision:

The assessment is revised to \$6,700,000

DATED AT THE CITY OF CALGARY THIS 19th 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.*