

**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:	200196616
LOCATION ADDRESS:	5607 – 4 ST NW
HEARING NUMBER:	59472
ASSESSMENT (2010):	\$9,650,000

This complaint was heard on 15TH 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.*: D. Genereux & B. Neeson

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

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- Prior to the hearing the jurisdictional matter filed by letter dated March 26, 2010 was withdrawn.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

The subject is a Safeway Grocery Store, known as Thorncliffe Village, in the NW Calgary community of Thorncliffe. The store of 46,726 square feet is located on a 2.95 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. The CRU space within the CM0203 coded property is assessed within the income approach analysis with a 2% vacancy allowance.

The Complainant advised that 5 of the 13 points (points 8, 9, 11, 12, and 13) as filed within the subject's Assessment Review Board Complaint form under *Section 5 – Reason(s) for Complaint* would be argued at the hearing:

“> The assessed vacancy allowance applied to the subject property should be increased to reflect the current market conditions for CRU retail spaces at 11%*” (* edited from 5% to 11% at the hearing)

“> The assessed vacancy allowance applied to the subject property should be increased to reflect the current market conditions for Grocery Store anchors at 4%”

“> The assessed retail rate applied to the CRU 1000 – 2500 sq. ft. within the subject property should be \$18.

“> The assessed retail rate applied to the CRU 2501 – 6000 sq. ft. within the subject property should be \$17.

“> The Liquor Store assessed retail rates are incorrect. The rental rate should be no greater than \$19 per sq. ft.

The Parties advised the CARB that the evidence and arguments respecting the equity 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% and the CRU space vacancy to be raised from 2% to 11% is contained in **FILE 59570**.

Issues:

1. Should the subject's vacancy allowance used in the income approach analysis be revised from 1% to 4% for the anchor space?
Or
Do the subjects "Safeway Stores" serve as anchor space or as free standing retail stores?
2. Should the subject's vacancy allowance used in the income approach analysis be revised from 2% to 11% for the CRU space?
3. Should the assessed retail rate applied to the CRU 1000 – 2500 sq. ft. within the subject property be reduced to \$18 per sq. ft?
4. Should the assessed retail rate applied to the CRU 2501 – 6000 sq. ft. within the subject property be reduced to \$17 per sq. ft?
5. Should the Liquor Store assessed retail rate be no greater than \$19 per sq. ft?

Board's Decision in Respect the first two Issues:

First issue: Anchor space or free standing store - increasing the vacancy allowance from 1% or 4%.

The CARB reviewed the evidence showing the location, layout, and configuration of each subject. The Safeway stores are clearly part of community/neighbourhood shopping centre complexes. They have separate title within the shopping centre complexes and they have CRU space on title. The parties and readers are directed to the findings, conclusions and decision reached within **FILE 59570**.

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. They are coded: - CM0206 - Retail Store – Big Box, CM0201 – Retail Store – Stand alone, CM0323 – Retail – Ret Whse, CS2100 – Retail, or CM0210 - Retail Store – Strip. None of the Complainant's comparables are considered to be part of a CM0203 Retail Shopping Centre – Neighbourhood (NBHD) properties.

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. 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 the application of the Income Approach Methodology.

Second issue: The vacancy allowance for the CRU Space within CM0203 Retail Shopping Centre – Neighbourhood (NBHD) properties – increasing the vacancy allowance from 2% or 11%.

The parties and readers are directed to the findings, conclusions and decision reached within **FILE 59570 and FILE 57623**.

The Complainant submitted summary sheet titled: Community – Neighbourhood shopping Centre *CRU Vacancy Study* for the CARB's consideration. The study identified the address of 12 community and 34 neighbourhood centres with each of their leasable area, the anchor area, the CRU area and the amount of vacant CRU area. The total vacant CRU space was identified as 365,569 square feet. This amount in relationship to the total of 3,441,755 square feet of available CRU space indicates a weighted average 10.62%; hence the request for CRU vacancy allowance request of 11%.

Both parties submitted for the CARB review and direction supporting text book meanings, together with the advantages and disadvantages for the various measures of central tendency: *median, mean, weighted mean and the geometric mean*.

The only measure put forth by the Complainant is the 11% indicator computed by the use of a weighted averaging; arguing that it is the pure relationship between the total amount of vacant CRU space and the total amount of CRU space available.

Both parties undertook vacancy rate studies specific to CRU space within community and neighbourhood centres. The CARB gives more weight to the Respondent's study. Respondent's study is broader in scope. It measures community from neighbourhood centres. Its analysis is reported within the various quadrants of the municipality. It gives consideration to the different measures of central tendency and the results were reviewed as to their reasonableness with other reporting agencies.

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.

Third issue: Should the assessed retail rate applied to the CRU 1000 – 2500 sq. ft. within the subject property be reduced from its assessed rate of \$24 to \$17 per sq. ft?

Fourth issue: Should the assessed retail rate applied to the CRU 2501 – 6000 sq. ft. within the subject property be reduced from its assessed rate of \$23 to \$18 per sq. ft?

Fifth issue: Should the Liquor Store assessed retail rate be no greater than \$19 per sq. ft and thus reduce the assessment from its assessed rate of \$23 to \$19 per sq. ft?

The CARB considered issues 3, 4, and 5 together and reviewed the evidence as it related to each issue.

Both parties submitted comparable rental evidence in support of their relative positions. The Complainant submitted two equity comparables, one in Country Fair Plaza wherein a CRU space of 2,225 sq. ft. is assessed at 18.00 per square foot the other in the CO-OP Beddington Shopping Centre wherein a CRU space of 2,538 sq. ft. is assessed at 17.00 per square foot.

The Complainant also submitted a table summarizing some 18 liquor store with their assessment rental rates. They are from various locations and quadrants of the City. The assessed rental rates range from \$16 to \$24 per sq. ft., the median size being 5,715 sq. ft. with a median rental rate of \$19. The Complainants argued that these equity comparables support their request as "*equity trumps*."

The Respondent advised the CARB that their analysis was concluded after a review of several

Assessment Request for information (ARFI) returns. The treatment of liquor store space is the same as any other CRU space. There is no separate category of space specific to liquor stores. The Respondent provided 5 equity comparables with 5 and 7 year terms signed in 2007 and 2008. They range in size from 1,108 sq. ft. to 1,406 sq. ft. They are from the NW quadrant with lease rates of \$24 to \$26 per sq. ft.; the average being \$25 per sq. ft. Also provided were 5 equity comparables (with 1 and 5 year terms) in the range of 2,801 sq. ft. to 7,062 sq. ft. from the NW quadrant with lease rates of \$22 to \$25 per sq. ft.

Reasons for the Decision for the third, fourth and fifth issues:

The Complainants' evidence is given more weight by the CARB in this hearing. The comparables are from a similar and competing shopping centre within close proximity to the subject centre. The size of rental space is also similar for all three spaces under complainant. Recalculating the assessment with the rental rate adjustments warranted reduces the Net Operating Income (NOI) from \$772,663 to \$718,498.

Decision:

The assessment is revised to \$8,981,000

DATED AT THE CITY OF CALGARY THIS 19 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.