

**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:

ROLL NUMBER:	046281408
LOCATION ADDRESS:	1818 CENTRE ST NE
LEGAL DESCRIPTION:	9210960; 10; 1A
HEARING NUMBER:	59282
ASSESSMENT (2010):	\$8,050,000

This complaint was heard on 16TH day of June, 2010 at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

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

Appeared on behalf of the Respondent; *City of Calgary*: D. Zhao & M. Ryan, 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- Prior to the hearing the jurisdictional matter filed by letter dated March 26, 2010 was withdrawn.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 Tuxedo Safeway, in the NE Calgary community of Tuxedo. The store's rentable area has been quantified at 31,618 square feet on the assessment record, no mezzanine. The complainant records the store with a rentable area of 29,945 square feet plus a mezzanine space of 1,673 square feet. The store is located on a 2.39 acres parcel with a Direct Control land use designation.

The subject property for assessment purposes was grouped under a "sub-property use" coded as CM0203 and is described as Retail Shopping Centre – Neighbourhood (NBHD). This code was amended at the hearing to CM201 - freestanding store and as such has a 4% vacancy allowance applied.

The owners are in the process of rebuilding and reconfiguring the subject site. In the process all the CRU space was demolished leaving only a former TD bank building on the subject's parcel along with the grocery store. All the demolished space was not reflected in the original assessment notice.

The recomputed assessment amount as presented by the Respondent is **\$6,210,000.**

Issues:

The Complainant advised that in addition to the mezzanine yes or no dispute the issues are:

"> The assessed vacancy allowance applied to the subject property should be increased to reflect the current market conditions for the remaining retail CRU space at 25% due to chronic vacancy for the last 10 years.

"> The assessed retail rate applied to the Grocery Store portion of the subject property should be \$9.00 per square foot.

As to the net leasable area Issue:

The complainant has submitted an engineered drawing with the building area and parking summary portion enlarged. The drawing indicates the Main floor with 29,945 sq. ft. and the mezzanine with 1,673 sq. ft.

The Respondent had one of their data collection personnel undertake an inspection of the subject property. An email provided the CARB confirmed that there was no mezzanine.

Reasons for the Decision relative to the net leasable area Issue:

Disputes of this nature are best dealt with by the parties in advance of a hearing. The Respondent's have done their due diligence by inspecting and verifying their data for the subject. The CARB will not be amending the assessment record.

As to a chronic vacancy allowance to the former TD bank space Issue:

The Complainant's request for an additional allowance of 25% is agued on the fact the space has a long history of vacancy since the TD bank vacated the space some ten years ago. It is the Complainant's claim the vacancy stems from the location of the property and there is a poor market for this type of CRU space.

The Respondent argues that it is by the owners own actions that the space is vacant, business decision such as, demolishing, renovating, and reconfiguring the site have been involved with the subject.

Reasons for the Decision relative to a chronic vacancy allowance to the former TD bank space:

The CARB views the CRU space under complaint as typical space. No evidence was submitted to show the attempts made to actively lease the subject space. It is reasonable in light of the business decision to rebuilt, renovate, etc. to not seek out a long-term tenant while the property is in transition. The typical allowance 4% as applied is reasonable.

3. As to the Grocery Store portion rental rate - \$9.00 per sq. ft. or \$13.00 per sq. ft.

The Complainant argues that the reduced rate reflects the demolishing and renovation disruption that the main grocery space is suffering while the reconstruction takes place.

The Respondent advised the rate of \$13.00 per sq. ft. is consistent with the revised amended business assessment. The Respondent provided the withdrawal notice received from Altus Group relative to a business assessment complaint file on the amended notice on the subject property. The subject grocery store has been placed in "Class B" grouping. This class is considered to be the typical and has the majority of store s within its class.

Decision relative to the Grocery Store portion rental

The CARB received no evidence that the subject store was experiencing a loss of income as a result of the owner decision to renovate. The store has remained open during the construction period. The CARB acknowledges that there could be inconveniences experienced during the subject period of transition.

Decision:

The assessment is revised to \$6,210,000.

DATED AT THE CITY OF CALGARY THIS 21st 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.*