

**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>076011600</b>
<b>LOCATION ADDRESS:</b>	<b>3301 - 17 AV SE</b>
<b>HEARING NUMBER:</b>	<b>59456</b>
<b>ASSESSMENT (2010):</b>	<b>\$2,200,000</b>

This complaint was heard on 16<sup>TH</sup> 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

Appeared on behalf of the Respondent; *City of Calgary*: D. Zhao & B. Durhan, B. Thompson, M. Ryan

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- Prior to the hearing the jurisdictional matter filed by letter dated March 26, 2010 was withdrawn.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

The subject is a 1958 Safeway Grocery Store, known as Forest Lawn Plaza, in the SE Calgary community of Southview. The store has a net rentable area of 20,159 square feet is located on a 1.45 acres parcel with a Commercial – Community 2 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 Complainant advised that only 2 of the 10 points filed within the subject's Assessment Review Board Complaint form under *Section 5 – Reason(s) for Complaint* would be argued at this 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 Grocery Store portion of the subject property should be \$8.00 per square foot.*

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% 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  
Does the subject "Safeway Stores" serve as anchor space or as free standing retail stores?
2. Should the assessed retail rental rate applied to the Grocery Store portion of the subject property be reduced to \$8.00 per sq. ft?

**Board's Decision in Respect the 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. 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.

**Second Issue: Should the assessed retail rental rate applied to the 20,159 sq. ft. of grocery store space be reduced from its assessed rate of \$9.00 to \$8.00 per sq. ft?**

The Complainant submitted board order MGB 087/08 wherein the decision placed the subject along with one other property in a category with an \$8.00 NARV. The Complainant also provided a table wherein various grocery stores were identified and grouped into rental rate categories ranging from \$8.00 to 15.00. The subject is found in the Complainant's \$8.00 grouping. The data from four comparable leases were provided as support for the requested revision. One is a 2009 signed lease for 15 years on a store of 1961 vintage for 19,698 sq. ft. at a rate of \$9.00. Two "step-up term" leases one signed in 2007 the other in 2005 were submitted with rates of \$6.71 and \$4.00 respectively. The lease steps end December 2012 and September 2010 respectively. The fourth set of lease data involves a 1980's built grocery store of 41,682 sq. ft. with a 15 year lease signed in 1999 for \$9.00. The Complainant's argues that the subject is inferior in age, and is located in a less desirable community than each of the comparables and would command lower rental rate.

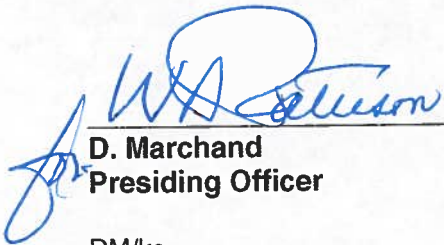
The Respondent provided 8 grocery store lease comparisons that were analysis in support of a \$9.00 category or Class C grocery stores, citing that they are typically older stores or have less desirable locations. The comparables range from 1961 to 1980 in year of construction. They range in size from 15,084 to 55,130 sq. ft. Three of the eight leases are current, signed in 2007, 2008, and 2009. The overall median for the 8 rental rate indicators is cited by the Respondent is \$8.95 per sq. ft.

**Findings and Reasons for the Decision:**

The CARB gives most weight to more current lease data. Both parties have submitted as a comparable the T&T supermarket at 999 36 street NE within the Pacific Place Mall. It is noted that the 1999 originally signed lease was renewed in 2009 for \$10.00 per sq. ft. from its previous rate of \$9.00 per sq. ft. rate. The CARB would consider the subject to be inferior to this comparable but sees it as a reasonable indicator of the subject's assessed rate.

**Decision:** The assessment for roll number 076011600 is confirmed at \$2,200,000.

DATED AT THE CITY OF CALGARY THIS 19<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.