

**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:	200613891
LOCATION ADDRESS:	100, 4915 – 130 AV SE
HEARING NUMBER:	59521
ASSESSMENT (2010):	\$11,250,000

This complaint was heard on 17TH 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 & A. Izard

Appeared on behalf of the Respondent; *City of Calgary*. D. Zhao & T. Woo, S. Turner

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- Prior to the hearing the jurisdictional matter filed by letter dated March 26, 2010 was withdrawn.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 parcel supports a 48,000 sq. ft. Safeway store with an adjacent 5,710 sq. ft. Safeway liquor outlet (CRU) within the community of Mackenzie Towne in SE Calgary. The grocery store's space is assessed at \$15.00 per sq. ft. and liquor outlets pace assessed at a rate of \$26.00 per sq. ft.

The subject property for assessment purposes has been grouped under a "sub-property use" coded as CM1403 and is described as Shopping Centre – Power. The Safeway store is considered as anchor space and a 1% vacancy allowance was applied to such space within the income approach analysis. The CRU has a 2% vacancy allowance applied to such space within the income approach analysis.

The Complainant advised that only 4 of the 12 points 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 CRU vacancy at 7%*

"> The assessed vacancy allowance applied to the subject property should be increased to reflect the current Anchor vacancy at 4%*

"> The assessed rental rate applied to the subject property grocery Anchor space within the subject property should be \$13/sf.

"> The Liquor store rental rate applied to the subject property as CRU space should be \$19/sf.

As to Power centre CRU Space vacancy allowance issue - 7% vs. 2%

This is the same issue as in **File 59175**:

The complainant provided a *Power Centre CRU Vacancy Study*. Within the study 7 power centres were identified, each has their total lease area, their anchor space, their CRU space and Vacant Area Identified. The complainant's total Leasable Area for all 7 power centres amounts to 5,909,486 sq ft. of space. The CRU space amounts to 2,653,061 sq. ft. of space. The Vacant space totals an amount to 183,902 sq. ft. thus; giving a weighted average of 6.93% - rounded to 7%. Within the Complainant's study the subject power centre yielded a vacancy of 6.9%

The Respondent provided their *Power Centre CRU Vacancy Study*. The Respondent's study reviewed the same 7 power centres. The Respondent used 2009 Assessment Request for Information (ARFI) data as the source for their study. The Respondent's total Leasable Area for all 7

power centres amounts to 7,175,351 sq. ft. of space. The CRU space amounts to 3,103,350 sq. ft. of space. The Vacant space totals an amount to 55,104 sq. ft. thus; giving a weighted average of 1.78% - rounded to 2%. The subject power centre indicated a 2.96% vacancy. The Respondent also provided a third party market report confirming their findings.

Reasons for the decision as to vacancy allowance issue - 7% or 2%:

There is a significant amount of difference between the parties' studies. The CARB weights the evidence established through the ARFI process. Annually a request is sent to property owners and managers for information regarding parking, leases, vacancy, tenancy, operating costs, etc. This is done under section 295 of the Municipal Government Act that has provisions for non-compliance.

As to the Anchor spaces vacancy allowance issue- 1% to 4%:

The Parties advised the CARB that the evidence and arguments respecting the equity issue would be the 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% in **FILE 59570**.

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.

As to market rental rate for the grocery store portion issues - \$15.00 or \$13.00 per sq. ft. and the CRU rental rate for the liquor store space issues - \$26.00 to \$19.00 per square foot:

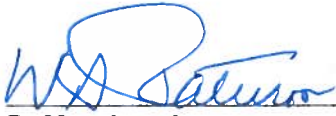
The CARB has considered the parties evidence submitted at this hearing and wants to repeat the CARB's findings from **File 59175**.

The CARB give more weight to the evidence established through the ARFI process. Annually a request is sent to property owners and managers for information regarding parking, leases, vacancy, tenancy, operating costs, etc. This is done under section 295 of the Municipal Government Act that has provisions for non-compliance.

However, the direct comparison of a similar liquor outlet in a power centre immediately south of the subject reveals the same space at \$19.00 per sq. ft. To adjust the subject's 5,710 sq. ft. of CRU space from \$26.00 to \$19.00 is warranted but the overall affect on the assessment of some 11 million dollars is miniscule.

Decision: The assessment for roll number 200613891 is confirmed at \$11,250,000.

DATED AT THE CITY OF CALGARY THIS 19th DAY OF July 2010.


for **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.*