

**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, Revised Statutes of Alberta 2000 (the Act).

between:

Canada Safeway Limited (as represented by AltusGroup), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

***Board Chair, J. Zezulka
Board Member, J. Kerrison
Board Member, D. Pollard***

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2012 Assessment Roll as follows:

ROLL NUMBER: 067246504

LOCATION ADDRESS: 813 - 11 Avenue SW

HEARING NUMBER: 66354

ASSESSMENT: 11,840,000

This complaint was heard on the 17 day of September, 2012, at the office of the Assessment Review Board located at Floor Number Four, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom Six.

Appeared on behalf of the Complainant:

- K. Fong
- D. Main

Appeared on behalf of the Respondent:

- L. Wong

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

- (1) There were no procedural or jurisdictional issues raised by either party.

Property Description:

(6) The subject is the Canada Safeway store located in the Beltline community of SW Calgary. The area of the building is 38,808 square feet (s.f.), including a staff room mezzanine of 558 s.f. The date of construction is 1996. The building is classed as a class 'A' supermarket. The site area is 2.34 acres.

Appeal Objectives

(7) The Board notes that the Complainant has adopted a floor area of 38,758, including the mezzanine. No reason for the discrepancy was forthcoming from either party.

(8) The property is currently being assessed using the income approach. The Complainant does not dispute the valuation method.

(9) The primary issue in the complaint is the quantum of rent applied to the retail section. According to the Complainant, the rent applied by the City is excessive, resulting in an assessment that is too high relative to the market value, and is inequitable with similar facilities. The rent currently being applied for the purposes of assessment is \$23.00 per s.f. for the retail section. The complainant argues that a more appropriate rent would be \$17.00 per s.f..

(10) There is no dispute about the rent applied to the mezzanine space.

Complainant's Requested Value: \$8,450,000

Evidence / Argument

(10) In support of the equity argument, the Complainant submitted the supermarket lease comparables prepared by the City of Calgary Assessment Business Unit for 2012. The table submitted is the guide used by the City in assessing rents to the various class of supermarkets within the entire City. The table breaks out four classes of supermarket, with the following rents

to be applied;

Beltline;	\$23.00 per s.f.
Class A	\$17.00 per s.f.
Class B	\$13.00 per s.f.
Class C	\$9.00 per s.f.

(11) The \$23.00 Beltline rate is derived from one comparable, being the Sunterra Market at 1100 - 1 Street SE.

(12) The \$17.00 class A rate is derived from 21 properties throughout the City.

(13) The Complainant argues that the subject has more in common with the Class 'A' buildings throughout the City, than it does with the Sunterra market, and should therefore be assessed using the same rental rate.

(14) The Complainant also argues that the Sunterra comparable is only one lease, and that a single sample is insufficient evidence upon which to base an entire class of property in a mass appraisal atmosphere.

(14) The Respondent maintains that the subject, Sunterra Market, and one other supermarket are in a class of their own because of the Beltline location, and therefore the \$23.00 rate should apply. Both Beltline supermarkets are owner occupied, and therefore no lease data exists.

(15) As mentioned, the subject is a freestanding building used solely for the purpose of selling groceries. Sunterra, on the other hand, is a boutique style grocery store with an Espresso bar, and the fully licensed Market Bar and Lounge. The Market Bar features a full restaurant menu, and beer and wine menu. The facilities occupy 32,225 s.f. of the main floor of a high rise condominium building.

Board's Findings

(16) Notwithstanding the locational similarities between the subject and the Sunterra market, the Board does not find that there is any comparability between the two.

(17) This Board agrees that a single lease is not sufficient evidence upon which to base an entire (albeit three properties) class of properties.

(18) The Complainant's evidence, consisting of a broad sampling of supermarket leases throughout the City, is more compelling.

(18) This Board is also persuaded by the notion of fairness and equity. In this regard, the following from *Stade v. Assessor #23 – Kamloops* provided some guidance;

"Questioning the relationship between assessment and the properties estimated market value is a market value argument, with accuracy the measure of success. Equity instead relates to consistency and fairness of assessment. Consistency requires that similar properties be assessed similarly and that differences be accounted for consistently. Fairness means similar treatment under the law, which typically means that if one group of taxpayers is afforded a privilege, such as underpaying taxes, then everyone should be afforded a similar privilege."

(19) The subject is occupied as a supermarket, in a similar fashion as the income based Comparables submitted in evidence. This Board is persuaded that equity can only be maintained if the subject is assessed on the basis of a class "A" supermarket, on the same basis as the comparables.

(20) Using the income approach, and adopting a rent of \$17.00 per s.f., , this Board calculates the revised assessment to be \$8,450,000, truncated.

(21) The assessment is reduced to \$8,450,000.00.

DATED AT THE CITY OF CALGARY THIS 23rd DAY OF October, 2012.



Jerry Zezulka
Presiding Officer

APPENDIX "A"

**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
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| 1. | C1 Evidence Submission of the Complainant |
| 2. | R1 Evidence Submission of the Respondent |

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.

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Decision No. 1826/2012 - P			Roll No. 067246504	
<u>Subject</u>	<u>Type</u>	<u>Issue</u>	<u>Detail</u>	<u>Issue</u>
CARB	Supermarket	Income / Equity	Rent	Assessed rent