

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 Altus Group Ltd), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

K. Thompson, Board Chair

J. Rankin, MEMBER

J Mathias, MEMBER

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 2013 Assessment Roll as follows:

ROLL NUMBER: 022156806

LOCATION ADDRESS: 521 54 Av NW

FILE NUMBER: 71430

ASSESSMENT: \$684,500

This complaint was heard on 2nd and 3rd day of July, 2013 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- *A. Izard* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *T. Johnson* *Assessor, City of Calgary*

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

[1] No procedural or jurisdictional matters were raised. The Board therefore proceeded to hear the merits of the complaint.

Property Description:

[2] The subject property is a 6,566 square foot (sq. ft.) parcel of land improved with a 3,100 sq. ft. single story freestanding retail building located in the community of Thorncliffe at corner of 4 Street and 54 Avenue NW. The subject improvement was constructed in 1977 and is a vacant former TD Bank pad site. The improved property is assessed based in the Income Approach to value, using a rent rate of \$24 per sq. ft., typical vacancy of 7.5 %, operating costs of \$8.00 per sq. ft., non-recoverables of 1%, and Capitalization Rate of 7.0%. The 2013 assessment is \$684,500.

Issues:

- [3] **Issue 1:** Should the Capitalization Rate be increased from 7% to 7.5 % for this property?
- [4] **Issue 2:** Does the assessment adequately consider the unique attributes of this property's chronic vacancy or would a 25% vacancy allowance be more appropriate?

Complainant's Requested Value:

- a) \$ 455,500 reflecting Capitalization Rate of 7.5% and -25% vacancy allowance or
- b) \$ 488,000 reflecting -25% vacancy allowance only

Board's Decision:

- [5] The Board reduced the subject assessment to \$488,000
- 1) Issue 1: Capitalization Rate –The Capitalization Rate is confirmed at 7.0 %.
 - 2) Issue 2: Vacancy allowance – vacancy allowance of 25% is applied to the

property.

Position of the Parties

Complainant's Position:

[6] **Issue 1** - Capitalization Rate analysis – the City of Calgary did not include six valid, freestanding retail market transactions occurring in the assessment timeframe in their typical Capitalization Rate analysis for this property type. The inclusion of the six extra sales in this study (along with the three sales used in the City's analysis) would result in the Capitalization Rate being raised to 7.5% instead of 7.0%. Resulting values of free- standing retail properties would then more accurately reflect market.

- 1) The City did use three sales in the Free-Standing Retail Capitalization Rate analysis. The Complainant had no issue with any of these and included these in their study.

[7] Evidence was provided on each of the six sales as seen in the table following paragraph [13] below. The Complainant included RealNet information, 2013 assessment information, Land Title documents, and Corporate Searches on each of the six additional sales transactions.

[8] **Issue 2** – Chronic vacancy allowance - this property has been vacant for over seven years (possibly closer to ten years). The typical vacancy rate used by the Respondent does not adequately reflect the reduction in value experienced by this site.

[9] Evidence presented include: site map, pictures, lease sign in the window of the building, rent roll stating the property is vacant, email from the property manager stating the property has been vacant to her knowledge at least seven years (since she took over in that position).

[10] The Complainant also produced a number of Board Orders where additional vacancy allowance was given, including one for the subject property allowing a - 25% for chronic vacancy. The subject property is not well located and is a non-standard lot with limited parking. The Complainant stated that this site has limited potential for leasing because of the limited parking. Bylaw changes since the time the improvements were built require more parking stalls for many potential uses.

Respondent's Position:

[11] **Issue 1** - Capitalization Rate analysis – subsequent to the evidence exchange and prior to the hearing, the City did agree with one of the six sales provided by the Complainant and added it into their Capitalization Rate study for free-standing retail with no resulting change in the overall typical Capitalization Rate. The Respondent contested the other five sales for the reasons indicated below (see chart in paragraph [13]), and provided documentation, including the assessment property summary report, income calculation sheet, RealNet, corporate search, non residential sales questionnaire (where available), Assessment Request For Information (ARFI), land title documents.

[12] **Issue 2** – Chronic vacancy allowance – The Respondent explained that they removed chronic vacancy allowance as a standard practice several years ago, preferring to get at the cause of the vacancy as opposed to treating the symptom. The Respondent acknowledge that he had observed the lease sign in the window of the property however the subject was not listed on the Safeway leasing website. The Respondent questioned whether there was a genuine issue with the property's continued vacancy as opposed to management decisions. The

Respondent stated that Complainant had produced no proof to support its position that lack of parking would negatively impact the leasing potential.

Board's Reasons for Decision:

[13] **Issue 1 - Capitalization Rate analysis** – The Board considered all nine sales presented in the Capitalization Rate study. The Board placed little weight on four of the five additional sales (see (14) below). Three common sales (agreed to by both parties) plus the additional sale provided by the Complainant (1435 9 Av SE) and one other (126 16 Av NE) were used. When the input variables for the correct year of assessment were utilized it was determined that there was not sufficient clear cut evidence to vary the Capitalization Rate.

Address	Sale date	Area	YOC	Quality	2013 Assessment	Sale price	NOI Complainants position	Capitalization Rate % Complainant	NOI Respondent position	Capitalization Rate % Respondent
Original transactions used in Free Standing Retail Capitalization Rate Analysis – agreed by both parties										
1323 Centre St NW	11-Jan-12	15,469	1972	A-	5,040,000	\$4,775,000	\$352,891	7.39	352,891	7.39
6331 Bowness Rd NW	31-Aug-11	15,425	1977	C+	1,410,000	\$1,440,000	\$98,826	6.86	100,028	6.95
321 19 St NW	26-Jul-11	4,200	1945	A-	1,360,000	\$1,425,000	\$95,557	6.71	91,267	6.40
Brought forward by Complainant, agreed to by Respondent										
1435 9 Av SE	20-Dec-11	7,870	1950	A-	1,500,000	\$1,700,000	\$105,532	6.21	73,833	4.34
Additional sales transactions brought forward by Complainant not agreed to by Respondent										
2803 Centre St NW	11-Jan-11	4,020	1979	A-	1,430,000	\$1,400,000	\$101,383	7.24	Vacant, redeveloped to office *	
2639 17 Av SW	17-Apr-12	3,760	1947	C+	840,500	\$790,000	\$58,846	7.45	Signage income/non brokered	
3515 17 Av SE	28-Nov-11	11,700	1960	C-	1,160,000	\$1,040,000	\$81,664	7.85	Non arms length	
126 16 Av NE	7-Apr-11	10,132	1957	C	1,180,000	\$850,000	\$75,075	8.83	Abnormal vacancy	
1413 9 Av SE	2-Feb-11	4,684	1914	B-	1,470,000	\$1,200,000	\$104,762	8.73	Owner occ. Vendor take back	
							Avg Capitalization Rate	7.47%		6.27%
							Median Capitalization Rate	7.39%		6.68%
							Req typical	7.5%	typical	7.00%

[14] Two of the five additional sales were declared by the owner to be non-arm's length, one with vendor take-back financing. The board gives considerable weight to the owner's declaration. One sale was requesting a use change and being renovated from office to retail so was not considered appropriate for this analysis. One of the sales included significant signage income. While the Complainant argued that many properties have additional income sources such as signage, signage income for this property is considerably more than typical and is significant (20%) enough that it may have impacted the sale.

[15] The two sales considered by the Board were 1435 9 Av SE and 126 16 AV NE

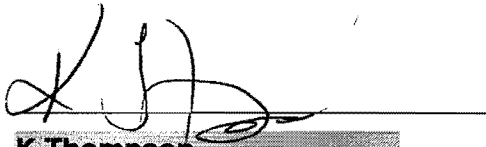
- 1) 1435 9 Av SE was presented by the Complainant and agreed to by the Respondent to be included in the study. The Board makes note that the Capitalization Rate derived from this sale is low and should be used with caution. (Development going on in the basement plans for extensive renovations to compete in the retail market, 50% vacant).
- 2) 126 16 Av NE was 75% vacant at time of sale. It was purchased for the owners use and may reflect atypical market value. Information indicated it was retail, office and basement. Including this sale in the results along with the other four sales being used continues to support the indicated typical

Capitalization Rate used by the Respondent.

[16] **Issue 2 - Vacancy** - this property has been and remains vacant since the TD bank branch closed many years ago. It has been vacant for at least seven years. Evidence was produced that there was at least an attempt to lease the property (pictures of the property did show a for lease sign in the window). The Board accepts that no information was given as to lease terms, nor was this property found on the Canada Safeway Ltd. website. However the subject is limited by its small irregular site with limited parking and poor access.

[17] The Board doesn't accept that this is a typical property given all the evidence. The property has been vacant in excess of seven years with some evidence of attempts to lease. There was no evidence presented by the Respondent that this had been recognised in the assessed value. A -25% allowance is not unreasonable in this instance.

DATED AT THE CITY OF CALGARY THIS 8th DAY OF August 2013.


K Thompson
Presiding Officer

APPENDIX "A"

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Disclosure
3. C3	Complainant Disclosure
4. C4	Complainant Rebuttal
5. C5a, C5b, C5c	Complainant Disclosure
6. R1	Respondent Disclosure
7. R2	Respondent Disclosure

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.*