

## **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:**

***B. Horrocks, PRESIDING OFFICER***

***B. Bickford, BOARD MEMBER***

***B. Jerchel, BOARD 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:** 046281408

**LOCATION ADDRESS:** 1818 CENTRE ST NE

**FILE NUMBER:** 72515

**ASSESSMENT:** \$9,400,000

This complaint was heard on the 17th and 18<sup>th</sup> days of July, 2013 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- A. Iazard (Altus Group Ltd.) July 17
- B. Neeson (Altus Group Ltd.) July 18

Appeared on behalf of the Respondent:

- S. Turner (City of Calgary)

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

- [1] There were no concerns with the Board as constituted.
- [2] Both parties indicated they have visited the site.
- [3] The parties have discussed the file.
- [4] The Complainant stated there would be no cap rate argument as the materials were not disclosed. The Complainant requested that C-7 be carried forward from Hearing 72718 to this Hearing.

**Property Description:**

- [5] The subject property is a 2.39 acre parcel located in the Tuxedo Park community in NE Calgary. The parcel is improved with a 31,618 square foot (sq. ft.) Safeway Grocery Store with an additional 1,673 sq. ft. of mezzanine space, and a 4,902 sq. ft. building with office and CRU space. The subproperty Use is CM0206 Retail – Freestanding Big Box. The improvements were constructed in 1966 and 1972 and are considered to be A- Quality. The subject is assessed utilizing the Income Approach to value.

**Issues:**

- [6] The Assessment Review Board Complaint Form identified "an assessment amount" and "an assessment class" as the Matters For a Complaint. In addition, the Complaint Form contained 5 Grounds for Appeal. At the outset of the hearing, the Complainant advised there were two outstanding issues, namely: "the assessed vacancy allowance applied to the subject property's CRU and office space should be increased to 25% to reflect chronic vacancy" and "the assessed rental rate for 'Supermarket' space should be no higher than \$15.00/sq.ft."

**Complainant's Requested Value:** \$6,120,000 (Complaint Form)  
\$7,690,000 (Hearing)

**Board's Decision:**

- [7] The assessment is reduced to \$7,690,000.

**Legislative Authority, Requirements and Considerations:**

The Composite Assessment review Board (CARB) derives its authority from the Municipal Government Act (MGA) RSA 2000:

(2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection(1)(a).

MGA requires that

293(1) In preparing an assessment, the assessor must, in a fair and equitable manner, apply the valuation and other standards set out in the regulations, and follow the procedures set out in the regulations.

Matters Relating to Assessment and Taxation Regulation (MRAT) requires that

- 2 An assessment of property based on market value
  - (a) must be prepared using mass appraisal,
  - (b) must be an estimate of the value of the fee simple estate in the property, and
  - (c) must reflect typical market conditions for properties similar to that property.
- 4(1) The valuation standard for a parcel of land is market value, or if the parcel is used for farming operations, agricultural use value.

**Board's Decision in Respect of Each Matter or Issue:**

**Issue 1:** Is there a long term (chronic) vacancy in the subject property?

**Complainant's Position:**

[8] The Complainant's Disclosure is labelled C-1.

[9] The Complainant advised that the subject office/retail building, formerly occupied by the TD Bank, has been vacant for at least ten years. The Complainant submitted that historically the City recognized vacancy as chronic after a minimum of 3 consecutive years.

[10] The Complainant, starting at page 54, provided a number of Board Orders wherein assessments had been reduced based on a long term vacancy, to demonstrate that appeal panels have historically recognized long term vacancy.

[11] The Complainant, at page 68, provided CARB 2184/2011-P, noting that the subject had received a 25% vacancy allowance for this improvement from as far back as 2007. The Complainant requested a 25% vacancy allowance for the 4,902 sq. ft. building formerly occupied by the TD Bank.

**Respondent's Position:**

[12] The Respondent's Disclosure is labelled R-1.

[13] The Respondent submitted that the City no longer recognizes chronic vacancy. Furthermore, the subject has only been vacant for a period of two years since the surrounding properties underwent major renovations, during which time the subject was not listed for lease. The Respondent noted the subject has not been actively marketed as the only evidence it could find was a "for lease" sign posted in the window. As a result, the City has applied a standard vacancy allowance of 7.5%.

**Board Findings:**

[14] The Board finds the noted building has been vacant for an extended period of time as evidenced by the decision CARB 2184/2011-P and the date stamped (May 10, 2004) picture on page 23 of R-1. The Board accepts the Complainant's request for a 25% vacancy allowance to be applied against the 4,902 sq.ft. former bank space.

**Issue 2:** What is the net market rental rate for 'A' Quality grocery stores, for assessment purposes?

**Complainant's Position:**

[15] The Complainant's Disclosure is labelled C-1.

[16] The Complainant, at page 29, provided a table titled Grocery Leasing Analysis "A= Prime/Good Location – Newer or Renovated Stores". The table contains information on 7 leases with lease start dates during the period 2009 to 2011. The lease rates range from \$8.40 to \$26.45/sq.ft., with a median lease rate of \$15.00/sq.ft. The Complainant requested a rate of \$15.00/sq.ft.

[17] The Complainant, at page 5(C-8), submitted a table titled 2013 Supermarket Rental Rate Analysis as prepared by the City of Calgary, noting there are 4 leases for 'A' Quality supermarkets. The lease rates range from \$8.40 to \$26.45/sq.ft. with a median lease rate of \$18.75/sq.ft., while the assessed lease rate is \$18.00/sq.ft.

[18] The Complainant, in comparing the information contained in the table on page 29(C-1) to the table on page 5(C-8) noted that there are 4 leases that are common recognizing that 1600 85 ST SW and 374 Aspen Glen Landing SW are the same property. The Complainant noted the lease rate for Aspen Landing is reported as \$18.50/sq.ft. in the City's table while it is reported as \$16.72/sq.ft. in the Complainant's evidence. The Complainant also noted the City has added the lease for 100 Anderson Road SE to their 'A' Quality Analysis Revised.

**Respondent's Position:**

[19] The Respondent's Disclosure is labelled R-1.

[20] The Respondent, at page 327, submitted a table titled 2013 Supermarket Rental Rate Analysis Revised, noting there are 4 leases common to the Complainant's evidence and that 100 Anderson Road SE has been added to the analysis. In addition it acknowledged that the lease rate for 374 Aspen Glen Landing SW (\$18.50/sq.ft.) is reported as \$16.72/sq.ft. in the Complainant's evidence.

[21] The Respondent, at page 330, provided the Tenant rent roll for 70 Shawville BV SE, noting the lease start date is 1991. The Respondent submitted that lease should be excluded from the analysis because it is dated.

[22] The Respondent, at pages 331 through 341, provided information on the lease at 1221 Canyon Meadows Drive SE noting it is assessed at the rate of \$15.00/sq.ft. and should be included in the 'B' analysis and not in 'A'.

[23] The Respondent, at page 343, provided the Tenant Rent Roll for the lease in Aspen Landing noting the entire area of 53,916 sq. ft. is leased at the rate of \$18.50/sq.ft.

[24] The Respondent, at page 346, provided an excerpt from the Tenant Rent Roll for the lease at 9737 MacLeod trail SW (Southland Crossing) showing the lease start date is May 15, 1989, and submitting it is dated and should not be used in the analysis.

[25] The Respondent, at page 349, provided an excerpt from the Tenant Rent Roll for 100 Anderson Road SE submitting it is a lease renewal at the rate of \$15.00/sq.ft. and has been included in its' analysis.

**Board's Findings:**

[26] With respect to 70 Shawville Blvd. SE, the Board finds that it is apparent from the rent rolls submitted for 2010 and 2011 (pages 16 & 17 of C-8) that something happened. There is a new rate and a new end date which would suggest a negotiation took place and the lease can be included in the analysis.

[27] With respect to 1221 Canyon Meadows Drive SE, the Board finds from the evidence submitted from both parties that the property is an 'A' Quality grocery store and can be included in the analysis. The Property assessment Summary Report (R-1, page 332) shows the grocery store as an 'A' Quality surrounded by other 'A' Quality improvements, and yet is assessed at the rate for 'B' Quality (\$15.00/sq.ft.). In addition the City has used the noted grocery store in its 'B' Quality analysis. The Complainant successfully argued that the physical characteristics of the grocery store meet the City's criteria used to define an 'A' Quality building.

[28] With respect to 1600 85 St. SW (Aspen Landing), the Board finds the rate to be used in the analysis is \$18.50/sq.ft. Both parties included the noted property in their analysis. However, the Respondent identified the rental rate as \$18.50/sq.ft while the Complainant utilized a rental rate of \$16.72/sq.ft. The Respondent, at page 343(R-1), provided the December 31, 2012 Rent Roll showing the rental rate of \$18.50/sq.ft. The Complainant, at page 34(C-8), provided the rent roll as of April 1, 2013 (beyond the assessment year), noting the "blended rate" is \$16.72/sq.ft. when the 5,186 sq.ft. of the property shown as paying \$0 rent is taken into consideration. No evidence was provided to explain the reason for a significant space receiving free rent.

[29] With respect to 9737 MacLeod Trail SW, the Board finds there is either an extension or renewal of a lease and therefore the lease can be used in the analysis. The Complainant, at page 44(C-8) provided an Assessment Request For Information (ARFI) return dated May 30, 2008 noting the lease start date was May 15, 1989. The Complainant on page 45(C-8) provided an excerpt from the Shopping Centre Lease Agreement noting the lease ends in 2009. The Complainant, at page 46(C-8) provided the Tenant Rent Roll as of July 01, 2010 noting the lease term is until May 14, 2014 and the annual rent is \$13.50/sq.ft. The Respondent, at pages 346 and 347(R-1), provided the 2011 and 2012 ARFI returns both noting the lease term ends May 14, 2014.

[30] With respect to 100 Anderson Road SE, the Complainant agreed the lease as included in the Respondent's Revised analysis could be used with a rental rate of \$15.00/sq.ft. The Respondent at pages 349 & 350(R-1), confirmed the rental rate to be the same (\$15.00/sq.ft.).

**Board's Decision:**

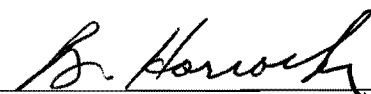
[31] There are now 8 leases that should be used in the 'A' analysis, as shown below:

Address	Shopping Centre	Area (sf)	Rental rate
3625 Shaganappi Trail NW	Market Mall	43,026	\$8.40
70 Shawville Blvd. SE	Shawnessy Village	51,978	\$10.47
1221 Canyon Meadows Drive SE	Deer Valley Marketplace	55,130	\$15.00
163 Quarry Park Blvd. SE	The Market at Quarry Park	45,358	\$26.45
356 Cranston Road SE	Cranston Market	41,334	\$19.00
1600 85 Street SW	Aspen Landing	53,916	\$18.50
9737 MacLeod Trail SW	Southland Crossing	45,505	\$13.50
100 Anderson Road SE	SouthCentre Mall	76,326	\$15.00

[32] The lease rates range from \$8.40 to \$26.45/sq.ft. The weighted mean lease rate is calculated to be \$15.69/sq.ft., the mean lease rate is \$15.79/sq.ft. and the median lease rate is \$15.00/sq.ft. The net market rental rate for 'A' Quality grocery stores is reduced to \$15.00/sq.ft.

[33] Inserting the rental rate of \$15.00/sq.ft. for the 'A' Quality grocery store and applying the 25% vacancy allowance to the 4,902 sq.ft. former bank space in the Income Approach to value calculation yields a net operating income (NOI) of \$538,840 which when capitalized at 7.00% results in a market value of \$7,697,722. The 2013 assessment is reduced to \$7,690,000.

DATED AT THE CITY OF CALGARY THIS 7<sup>th</sup> DAY OF August 2013.



**B. Horrocks**

**Presiding Officer**

**APPENDIX "A"****DOCUMENTS PRESENTED AT THE HEARING  
AND CONSIDERED BY THE BOARD:**

<b>NO.</b>	<b>ITEM</b>
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C7(72718)	Complainant Disclosure
4. C8	Complainant Evidence Appendix
5. C9	Complainant Rebuttal

*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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<b>Property Type</b>	<b>Property Sub-Type</b>	<b>Issue</b>	<b>Sub-Issue</b>
Retail	Neighbourhood Mall	Income approach	Vacancy & rent rate