



## **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:**

***The Grocery People Ltd. (as represented by Altus Group Limited), COMPLAINANT***

**and**

***The City Of Calgary, RESPONDENT***

**before:**

***M. Axworthy, PRESIDING OFFICER***

***H. Ang, BOARD MEMBER***

***A. Wong, 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 2014 Assessment Roll as follows:

**ROLL NUMBER: 040025215**

**LOCATION ADDRESS: 7948 Bowness RD NW**

**FILE NUMBER: 74639**

**ASSESSMENT: \$3,100,000**

This complaint was heard on 22 day of July, 2014 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *M. Cameron, Agent*
- *K. Fong, Agent*
- *A. Izard, Agent*

Appeared on behalf of the Respondent:

- *R. Sidikou, Assessor*
- *S. Turner, Assessor*

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

- [1] No procedural or jurisdictional matters were raised.
- [2] Both the Complainant and the Respondent requested that all evidence, argument and rebuttal be cross-referenced to File 74156.

**Property Description:**

[3] The subject property is developed with a 11,639 square foot (SF) building comprising 10,659 SF of space classified as CRU space 6,001 to 14,000 and 980 SF of non-retail mezzanine space. It has a Subproperty use code of CM0210, Retail Shopping Centres-Strip located in the community of Bowness. The subject was constructed in 2006 and is classified as "B+" quality. It is assessed using the Income Approach to value with rental rates of \$2.00 and \$20.00 per SF, a vacancy rate of 5.50% and a cap rate of 6.25%.

**Issues:**

- [4] While a number of issues were identified on the Complaint Form, the following issues were argued at the hearing:
- a) The current assessment does not reflect the physical condition of the subject as of December 31, 2013 as a "B+" quality grocery store.
  - b) The assessed rental rate for CRU space of 6,001-14,000 rental rate of \$20.00 per SF is incorrect and should be reduced to \$13.00 per SF

**Complainant's Requested Value: \$1,980,000**

**Board's Decision:**

- [5] The Board reduced the assessment to \$1,980,000.

**Legislative Authority, Requirements and Considerations:**

[6] Under the Act Section 460.1(2) and 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 460.1 (1)(a).

[7] The Board reviewed the evidence provided and will limit its comments to the relevant facts pertaining to this case and materials which led to the decision.

**Issue: Should the subject be reclassified from CRU space 6,001-14,000 SF to a Grocery Store and the assessed rental rate of \$13.00 per SF for "B" quality Grocery Stores applied?**

**Position of the Parties****Complainant's Position:**

[8] The Complainant stated that the subject was incorrectly classified as CRU space and should be reclassified to a grocery store. The Complainant noted that the subject was built in 2006 as a grocery store and the property had never been used for anything other than a grocery store.

[9] In support of its argument, the Complainant provided photographs of the subject showing signage that depicted a grocery store and the interior of the store that showed that it had the characteristics and physical attributes of a grocery store such as refrigerators, freezers, walk-in coolers and fresh and packaged food items for sale to the public [C1, pp. 16-23]. The Complainant stated that the subject was the only grocery store in Bowness and that it served the nearby residential area.

[10] The Complainant stated that in the absence of a clear definition of grocery store from the Assessment Business Unit (ABU), it turned to the City of Calgary's Land Use Bylaw (LUB) 1P2007, for a definition [C1, pp. 40]. The Complainant stated that LUB includes grocery stores under the definition of "Supermarket" in Section 314, as follows:

"314 'Supermarket' means:

- (i) where fresh and packaged food is sold;
- (ii) where daily household necessities are sold;
- (iii) that will be contained entirely within a **building**;
- (iv) has a minimum **gross floor area** greater than 465.0 square metres; and
- (v) that may include a limited seating area no greater than 15 square metres for the consumption of food prepared on the premises;"

The Complainant argued that the subject clearly fell within the definition of a Supermarket, including the size criterion as the subject was over 465 square metres in size.

[11] The Complainant stated that it accepted The City's Grocery Leasing Analysis and with an assessed rental rate for "B" average stores of \$13.00 per square foot and asked that it be applied to the subject [C1, pp. 43].

**Respondent's Position:**

[12] The Respondent stated that the subject is 11,639 SF in size and should be assessed as CRU space of 6,001-14,000 SF as it was less than the 14,000 SF minimum used by The City for grocery stores.

[13] The Respondent stated that it would be inequitable to classify and assess the subject as a grocery store as other specialty food stores such as Planet Organic at 4625 Varsity DR NW (Shaganappi Village), Lambda Market at 1423 Centre ST NW and Blush Lane at 10 Aspen Stone BV SW were classified as CRU space.

[14] The Respondent provided a copy of its "B" Quality NW Retail Strip 6,001-14,000 SF and noted that one of the properties in the analysis was Planet Organic in Shaganappi Village [C1, p. 61].

[15] The Complainant acknowledged that the subject was located in a residential area.

**Board's Reasons for Decision:**

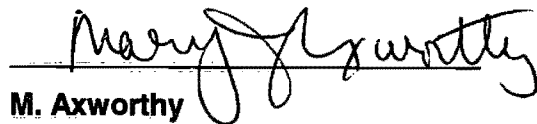
[16] The Board finds that the subject is a grocery store of "B" quality.

[17] The subject operates like a grocery store, contains all of the standard equipment that constitutes a grocery store such as refrigeration units and freezers, the sale of typical fresh and packaged food items etc.

[18] While the store is smaller than the 14,000 SF minimum used by The City to classify grocery stores, the photographic evidence provided by the Complainant clearly indicates that the subject is a typical grocery store that serves the adjacent residential area and should be assessed as such.

[19] The subject is reclassified from CRU space 6,001-14,000 to a grocery store of "B" quality. The assessed rental rate is reduced accordingly from \$20.00 per SF to \$13.00 per SF.

DATED AT THE CITY OF CALGARY THIS 13 DAY OF August 2014.

  
M. Axworthy  
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. C2	Complainant Rebuttal (Cross-referenced from File 74156)
2. R1	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.*

**For Administrative Use Only**

<b>Municipal Government Board use only: Decision Identifier Codes</b>				
Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Retail	Retail-Strip	Rental rate	