

**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:

Artis Britannia Ltd.
(as represented by Fairtax Realty Advocates Inc.), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

L. Wood, PRESIDING OFFICER
R. Cochrane, MEMBER
E. Reuther, 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 2012 Assessment Roll as follows:

ROLL NUMBER:	067055103
LOCATION ADDRESS:	703 6 AV SW
HEARING NUMBER:	66539
ASSESSMENT:	\$16,570,000

This complaint was heard on 4th day of July, 2012 at the office of the Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 10.

Appeared on behalf of the Complainant:

- Mr. S. Storey Agent, Fairtax Realty Advocates Inc.
- Mr. B. Boccaccio Agent, Fairtax Realty Advocates Inc.

Appeared on behalf of the Respondent:

- Mr. H. Neumann Assessor, City of Calgary

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

[1] At the commencement of the hearing, the Complainant submitted the only issue before the Board was deferred maintenance and its relationship to the assessed office rate of \$12.00 psf. The Complainant stated he was in agreement with all of the remaining income parameters used to assess the subject property.

Property Description:

[2] The subject property is a 9 storey office building, located in the downtown, commonly known as the Britannia Building. It was originally constructed in 1958 with additional storeys added in 1978. It has a total of 131,521 sq. ft. (122,734 sq. ft. of office area and 8,787 sq. ft. of retail area) and is situated on 19,696 sq. ft. of land. It was assessed as a class B- building. It has 42 underground parking stalls.

Issue:

[3] Should the assessed office rate be reduced from \$12.00 to \$10.00 psf based on deferred maintenance?

Complainant's Requested Value:

[4] The Complainant is requesting an assessed value of \$13,814,262 for the subject property.

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

[5] The Complainant submitted the assessed office rate of \$12.00 psf should be reduced to \$10.00 psf as this would capture the \$821,000 in deferred maintenance for the subject property (Exhibit C1 page 66A). The Complainant submitted an Engineering Report for the subject property dated October 13, 2010 (Exhibit C1 pages 45 - 84). The Complainant indicated that this is a conservative estimate and the deferred maintenance is likely around \$1,207,000. The Complainant also noted additional costs to renovate the main lobby (\$157,823) as well as the elevator cab refurbishing (\$79,440) both anticipated to be completed in 2012 (Exhibit C1 page 66A). He indicated that a potential purchaser would not pay \$13,814,262 for the subject property in its current condition. Although the Complainant was in agreement with the 14% vacancy rate applied to the office area, he argued that the deferred maintenance is affecting the occupancy in the building. He noted that 1/3 of the building was vacant at the time of the

valuation (July 1, 2011).

[6] The Respondent submitted that the subject property's Rent Roll dated July 1, 2011 supports the \$12.00 psf assessed rate (Exhibit C1 pages 35 – 44). The Respondent submitted its most recent lease for 1,823 sq. ft. had commenced on July 1, 2010 for \$12.00 psf (Exhibit C1 page 37). The Respondent argued that there should not be an adjustment on rent due to deferred maintenance and noted that this was the same issue brought forward to the Board in 2011 (CARB 2419-2011-P)(Exhibit R1 pages 14 – 18). The Respondent submitted that this is an income producing property and is achieving typical rents as a Class B- office building. It has been assessed as similar class B- office buildings (Exhibit R1 page 35). The vacancy rate has fluctuated over the last few years. It was 16% vacant last year. The Respondent argued the deferred maintenance is normal in this instance. If an owner chooses to delay those expenses for 10 – 15 years, as in the present case, this does not mean he should be rewarded for doing so by reducing his assessment.

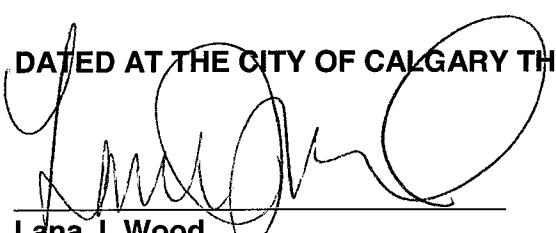
Board's Findings:

[7] The Board placed little weight on the Engineering Report dated October 13, 2010 as it is a "Draft" document and it was not signed. Moreover, none of the maintenance as outlined in that Report, primarily for upgrading and/or replacing the heating and air conditioning equipment, has been undertaken to date. The Complainant conceded that the deferred maintenance expense of \$821,000 was for normal upgrades. In addition, there was uncertainty as to whether or not the lobby has been renovated or the elevator refurbishing has been undertaken in 2012 as referenced in that Report. The Board finds the subject property is able to obtain typical market rents despite having deferred maintenance and there was no evidence to show the deferred maintenance has contributed to the current vacancy of 32.5% within the building. That vacancy could have been the result of a single tenant vacating the premises as conceded to by the Complainant during cross examination. There was no evidence to suggest this building suffers from chronic vacancy.

Board's Decision:

[8] The decision of the Board is to confirm the 2012 assessment of \$16,570,000 for the subject property.

DATED AT THE CITY OF CALGARY THIS 1st DAY OF Aug 2012.


Lana J. Wood
Presiding Officer

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

NO.	ITEM
1. C1	Complainant's Evidence
2. C2	Complainant's Recalculated Request
3. R1	Respondent's Evidence

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

Subject	Property Type	Property Sub - Type	Issue	Sub - Issue
CARB	Office	High Rise	Income Approach	Net Market Rent