

**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:

Riverbend Atrium Nominee Company (as represented by Altus Group), COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

W. Kipp, PRESIDING OFFICER

R. Deschaine, MEMBER

J. Pratt, 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 2011 Assessment Roll as follows:

ROLL NUMBER:	121 017 305
LOCATION ADDRESS:	200 Rivercrest Drive SE, Calgary AB
HEARING NUMBER:	64474
ASSESSMENT:	\$11,470,000

This complaint was heard on the 22nd day of September, 2011 at the office of the Assessment Review Board located at Floor No. 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 12.

Appeared on behalf of the Complainant:

- *G. Kerslake (Altus Group)*

Appeared on behalf of the Respondent:

- *A. Jerome (Assessment Business Unit)*

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

There were no procedural or jurisdictional matters to be decided by the Board.

Property Description:

"Riverbend Atrium", a two storey suburban office building constructed in 1981 and renovated in 2001. Total rentable floor area is 88,705 square feet, including 281 square feet of storage space. The building occupies a 168,138 square foot site within the residential community of Riverbend. There are 281 vehicle parking stalls in the surface parking lots that surround the building. This is the only office building in the community. There are single family residential developments to the east and south and a community shopping centre is to the west. Glenmore Trail, a major east-west traffic route through Calgary forms the north boundary of Riverbend and the subject property.

For 2011, the property was assessed as a Class "B" suburban office. The total assessment is \$12,110,994 (\$136.53 per square foot of building area). There is a portion of the building occupied by a tax exempt tenant so the net, taxable assessment that is the amount under complaint is \$11,470,000.

Issues:

The Assessment Review Board Complaint form, filed March 4, 2011, had check marks in boxes 3 (Assessment amount) and 4 (Assessment class) in Section 4. An attachment to the form set out seven grounds for the appeal as required in Section 5.

At the hearing, the Complainant pursued one issue: "Is the property over-assessed due to the market net rental rate for office space being too high?"

Complainant's Requested Value: \$8,950,000 (Taxable portion)

Party Positions on the Issues:**Complainant's Position:**

The Complainant argues that the subject office building is not competitive with other Class "B" suburban offices due to its location within a residential community. There are no comparable properties east of the Bow River so it was necessary to look to other south-southeast Calgary areas for comparable properties.

The office space is assessed at \$15.00 per square foot. The Complainant requests that the assessment be reduced by reducing the office rental rate to \$12.00 per square foot. There is no argument over any of the other factors in the income approach formula (\$3.00 per square foot rent rate on storage space; 10.0% vacancy rate; \$12.50 per square foot operating cost rate; 2.0% non-recoverable expense allowance; and, 8.75% capitalization rate).

In support of the rent rate reduction, the Complainant provides data for 25 lease transactions with 2009-2010 start dates in southeast and southwest Calgary Class "A-" and "B" properties. All of these properties have locations that are superior to that of the subject. Rent rates range from \$10.00 to \$15.00 per square foot. From the data, the average rate is \$12.39, the median is \$12.00 and the weighted mean is \$12.16 per square foot. This supports the request for the reduced assessment.

Respondent's Position:

The Respondent argues that the property is fairly and equitably assessed. The analysis of office property leasing shows that location of the property is not a factor. Suburban offices do not require exposure. Riverbend Atrium does have exposure to the Glenmore Trail arterial roadway even though there is no direct access from that roadway.

Twenty one 2009-2010 lease transactions in southeast and southwest Class "B" office properties are detailed. Rent rates range from \$10.00 to \$18.00 per square foot with the median at \$15.00, the mean at \$14.80 and the weighted mean at \$14.91. This supports the \$15.00 per square foot rent rate applied in making the assessment. There were two leases from the subject property in the list, however, the Respondent asked that they be removed because of uncertainty over the validity of that data.

Complainant's Rebuttal:

The Complainant sorted the lease data from the Respondent's evidence by date and by property address. This analysis showed that some of the properties the Respondent considers to be comparable are actually superior to the subject. In fact, the rent rates from the reported leases are greater than the rent rate applied in assessing those properties.

A December 2010 rent roll for the subject property shows a number of vacant spaces in the building. For those spaces, the landlord states that the market rent rate should be \$12.00 per square foot.

Board's Decision:

The 2011 taxable assessment is confirmed at \$11,470,000.

Reasons for the Decision:

The decision to be made revolved completely around the comparability of the properties from which the parties drew their office lease rates.

Looking at the Complainant's comparables, the Board finds that several of them are not comparable to the subject. For example, Macleod Place is a two building highrise (9 storeys) property in an intensively developed commercial corridor. The properties in the southwest area are found not to be comparable as well. Southwest Calgary Class "B" offices are assessed at a lower rent rate (\$14.00 versus \$15.00 in southeast buildings). There is a reason for that and that is reflected in the lower rental data in Complainant's evidence.

Although the start date is one month after the effective valuation date, a lease to EBA Engineering Consultants in Riverbend Atrium is at a rental rate of \$14.50 per square foot with escalations to take the rate to \$18.25 over the nine year term. There is little doubt that this lease was being negotiated around the valuation date and the Board finds that it has value as rent rate evidence.

Lease data provided by the Respondent is found to provide the best indication of the rent rate for application in the subject assessment. This is supported by the EBA lease in the subject property.

DATED AT THE CITY OF CALGARY THIS 19 DAY OF October 2011.



W. Kipp
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure
3. C2	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.*

For Administrative Use:

Appeal Type	Property Type	Property Sub-Type	Issue	Sub-Issue
CARB	Office	Stand Alone Low Rise	Income Approach	Net Market Rent