

**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:

***RIBTOR MANUFACTURING & DISTRIBUTING CO. LTD., COMPLAINANT
(Represented by Altus Group Ltd.)***

and

The City Of Calgary, RESPONDENT

before:

***Board Chair P. COLGATE
Board Member E. BRUTON
Board Member B. JERCHEL***

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: 068117209

LOCATION ADDRESS: 318 11 AVENUE SE

FILE NUMBER: 67925

ASSESSMENT: \$8,840,000.00

This complaint was heard on 24th day of October, 2012 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:

- D. Genereux, Altus Group Ltd. – Representing Ribtor Manufacturing & Distributing Co. Ltd.

Appeared on behalf of the Respondent:

- E. Currie – Representing the City of Calgary

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

[1] The Board derives its authority to make this decision under Part 11 of the Municipal Government Act (the "Act"). The parties had no objections to the panel representing the Board as constituted to hear the matter.

[2] As there were no jurisdictional or procedural matters, the Board proceeded to hear the merits of the complaint.

Property Description:

[3] The subject property, known as the Ribtor Building, is a 1914 four storey office building located in the Beltline community at 318 11 Avenue SE. The structure, formerly classified as a warehouse until converted and renovated, has 58,098 square feet of assessable area, comprised of 47,385 square feet of office space and 10,713 square feet of storage space. There are five surface parking stalls.

[4] The subject property is assessed for \$8,840,000.00, using the Income Approach to valuation, with the following rates:

<u>Space</u>	<u>Market Rental Rate</u>
Parking Stalls	\$2,400.00 per parking stall
Office Space	\$16.00 per square foot
Storage Space	\$3.00 per square foot

[5] The Land Use designation is CC-X or City Centre Mixed Use.

Issues:

[6] Should the classification of the subject property be changed from Class A to Class C, with the resulting changes to the parameters of the assessment calculation?

Complainant's Requested Value: \$5,780,000.00

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

[7] In the interest of brevity, the Board will restrict its comments to those items the Board found relevant to the matters at hand. Furthermore, the Board's findings and decision reflect on the evidence presented and examined by the parties before the Board at the time of the hearing.

[8] Both the Complainant and the Respondent submitted background material in the form of aerial photographs, ground level photographs, site maps and City of Calgary Assessment Summary Reports and Income Approach Valuation Reports.

[9] Prior Assessment Review Board decisions and higher court decisions were placed before the Board in support of requested positions of the parties. While the Board respects the decisions rendered by those tribunals, it is also mindful of the fact that those decisions were made in respect of issues and evidence that may be dissimilar to the evidence presented to this Board. The Board will therefore give limited weight to those decisions, unless issues and evidence were shown to be timely, relevant and materially identical to the subject complaint.

Issue: What is the correct classification for the subject and the corresponding assessment parameters?

Complainant's Evidence:

[10] The Complainant argued the age and physical condition of the structure did not support the classification of a Class A office building. The Complainant noted the building was a wood frame structure with only one new elevator. The original freight elevator had been removed during the renovation of the building. The irregular shape and the placement of the single elevator on the east side of the building resulted in interior hallways running east and west and north and south to access the interior space.

[11] The Complainant noted the interior of the structure had exposed electrical and mechanical systems, unfinished interior brick walls and open beam ceilings. The Complainant stated there was only one elevator servicing the building from a perimeter location, rather than a central location within the structure.

[12] The Complainant presented the assessment parameters currently in place for the subject property, as well as the parameters for Class B and C structures. (C1, Pg. 7)

	Class A Rental Rates and Parameters	Class B Rental Rates and Parameters	Class C Rental Rates and Parameters	Class C Requested Capitalization Rate
Office Rental Rate (\$)	\$16.00	\$13.00	\$12.00	
Storage Rental Rate (\$)	\$3.00	\$3.00	\$3.00	
Vacancy and Credit Loss (%)	10.00%/2.00%	10.00%/2.00%	10.00%/2.00%	
Operating Costs (\$)	\$13.00	\$12.00	\$12.00	
Non-Recoveries (%)	1.00%	1.00%	1.00%	
Monthly Parking (\$)	\$200.00	\$200.00	\$200.00	
Capitalization Rate (%)	7.25%	7.75%	7.75%	8.25%

Bold – requested parameters for determination of assessment

[13] The Complainant took the Board on an extensive visual survey of Class A and Class B properties throughout the Beltline Community to emphasis the differences in the age, quality of finish, size for assessable area and elements of the comparables. The Complainant notes the use of better quality materials in the construction of the comparables, more elevators and escalators, larger lobbies, restaurants, ratio of windows to floor area and underground parking. (C1, Pg. 45-110)

Roll Number	Address	Property Name	Class	Age (YOC)	Size (Sq. Ft)	Height (Storeys)
068117209	318 11 Ave SE	Ribtor Building (West)	A	1912 or 1914	58,098	4
200206910	334 11 Ave SE	Ribtor Building (East)	A	2008	49,847	4
068139005	105 12 Ave SE	Kahanoff Centre	B	1981	105,126	11
067232504	999 8 St SW	999 Building	B	1978	111,725	7
068134394	340 12 Ave SW	Central Park Plaza	B	1981	121,937	15
067094706	1015 4 St SW	Wheatsheaf Building	B	1978	114,583	12
067095307	550 11 Ave SW	Pattison Square	B	1982	97,340	11
201635919	1520 4 St SW	TGS Place	B	1974	106,419	10
068132703	333 11 Ave SW	333 11	B	1980	211,079	15
068134600	1122 4 St SW	Hopewell Place	B	1981	124,645	13
067139998	1333 8 St SW	Dorchester Square	B	1982	101,362	11
067103507	906 12 Ave SW	Dominion Place	B	1980	137,882	9
			MEDIAN	1981	113,154	11

[14] The Complainant reviewed Marshall and Swift, a recognized company in the valuation of property, which has classification criteria for the different classes of structures: (C1. Pg. 112-117)

Class A – fireproofed structural steel frames with reinforced concrete or masonry floors and roofs

Class B – reinforced concrete frames and concrete or masonry floors and roofs

Class C – masonry or concrete exterior walls, and wood or steel roof and floor structures

Class D – generally wood frame, floor and roof structure.

[15] The Complainant noted that the life expectancy of a wood construction Class D warehouse is thirty (30) years, whereas a Class D average office is forty-five (45) years. The Complainant argued the renovations change the occupancy and the expected life of the structure but not the quality.

[16] Based upon the hierarchy of capitalization rates in the Downtown and Beltline, the Complainant requested an increase in the capitalization rate from 7.75% to 8.25%. The Complainant argued there is generally a 0.50% spread in the capitalization rates between the

Classes in both the Downtown and Beltline, except for the spread between Class B and Class C in the Beltline. (C1, Pg.130)

CAPITALIZATION	RATES (%)		
	Downtown	Beltline	Requested
Class AA	6.25%	6.75%	
Class A	6.75%	7.25%	
Class B	7.50%	7.75%	
Class C	8.00%	7.75%	8.25%

Respondent's Evidence:

[17] The Respondent argued that the subject property had been correctly classified as a Class A office and presented comparable structures similarly classified. The subject property had been extensively renovated since 2003. The Respondent submitted a printout for the property at 318 11 Avenue SE which identified permits released since 2003 which accounted for \$4,092,000.00 in permit value. (R1, Pg 9)

[18] A lease advertisement from Colliers International, dated March 01, 2010, identified the subject property as "fully restored with all mechanical, electrical, windows and doors in new condition". (R1, Pg. 11-12) The publication also stated the "character Beltline building" had "all the conveniences of a modern, Class 'A' office building".

[19] A copy of the "2012 Beltline Office A Class Rent Study" was submitted by the Respondent to show the determination of the rental rate at \$16.00 per square foot. (R1, Pg. 43) A list of 10 leases was presented with a resulting mean of \$15.72, a median of \$15.00 and a weighted mean of \$20.62. The City of Calgary set the assessed rental rate conservatively at \$16.00, recognizing the weighted mean was skewed by one lease for 53,588 square feet at \$23.74 with a one year term.

Roll	Address	Name	Leased Area (sq.ft.)	Commencement Date	Term (years)	Rental Rate (\$)
200705143	322 11 Av SW	Vintage Towers	5035	09/01/2010	5	\$14.00
068117209	318 11 Av SE	Ribtor West	5305	10/15/2010	5	\$12.00
068117209	318 11 Av SE	Ribtor West	3872	11/01/2010	5	\$13.50
067188201	880 16 Av SW	Mount Royal Village	1619	11/15/2010	5	\$17.00
068117209	318 11 Av SE	Ribtor West	2194	01/01/2011	5	\$13.00
068118702	402 11 Av SE	Pilkington Building	53588	02/01/2011	1	\$23.74
200705134	322 11 Av SW	Vintage Towers	2302	02/01/2011	5	\$17.00
067188201	1550 8 St SW	Mount Royal	1172	02/15/2011	5	\$16.00

		Village				
200705143	322 11 Av SW	Vintage Towers	2500	03/01/2011	6	\$14.00
201499514	225 11 AV SE	Keynote 2	2153	03/01/2011	2	\$17.00
					Mean	\$15.72
					Median	\$15.00
					Weighted Mean	\$20.62
					Assessed Rental Rate	\$16.00

[20] The Respondent noted and supplied the information for three leases situated in Ribtor West, the subject property. (R1, Pg. 44-45)

[21] In response to the Complainant's capitalization rate argument the Respondent noted that no analysis of market sales had been submitted to support the requested change or to support the argument that a hierarchy was justified in the capitalization rates by class. The Respondent submitted a table for the 2012 Beltline Capitalization Rates and the 2011 Published Capitalization rates from CB Richard Ellis and Colliers International: (R1, Pg 47)

	City of Calgary	CB Richard Ellis - Downtown & Suburban	Colliers International – Downtown & Suburban
Class AA	6.75%		
Class A	7.25%	6.25% - 6.75% 6.25% - 7.00%	6.00% - 6.50% 6.25% - 7.00%
Class B	7.75%	7.75% - 8.25% 7.25% - 8.00%	7.25% - 8.25% 7.25% - 8.00%
Class C	7.75%		

[22] The Respondent argued neither the City of Calgary analysis nor third party reports supported the Complainant's request for a capitalization rate of 8.25%.

[23] The Respondent presented five (5) properties assessed for 2012 as Class A Offices. (R1, Pg. 49) Also submitted were reports from Altus InSite and Colliers International which identified the subject and the comparable at 402 11 Ave SE as Class A offices.

Roll Number	Address	Property Name	City Class	Altus InSite Class	Colliers International Class	Age (YOC)	Size (Sq. Ft)	Height (Storeys)
068117209	318 11 Ave SE	Ribtor Building (West)	A	A		1912 or 1914	58,098	4
200206910	334 11 Ave SE	Ribtor Building (East)	A			2008	49,847	4
068117605	409 10 Ave SE		A			1941	28,476	2
068118702	402 11 Ave SE	Pilkington Building/Critical Mass	A	A	A	1913	53,589	4
068114800	132 11 Ave SE	Critical Mass	A			1913	84,982	4

Complainant's Rebuttal:

[24] In rebuttal to the Respondent's submission, the Complainant submitted information with respect to the difference in quality between the subject building and the Respondent's comparables, referencing the materials used in the finish of the property at 132 11 Avenue SE and the construction technique, for 409 10 Avenue SE and 339 10 Avenue SE, of concrete construction.

[25] The Complainant entered a recent decision, CARB 1508/2012-P, which also dealt with a warehouse conversion to office space. In the decision, the Board reduced the quality of the building to a Class B with the accompanying changes to the parameters used in the assessment.

Findings of the Board:

[26] The Board was not convinced by the Complainant's request to change the quality classification to a Class C based upon the evidence submitted. The Complainant presented numerous comparables of Class B quality, but none of a Class C quality.

[27] The Board agreed there is a difference in the quality of finish, construction techniques, and size between the subject and the comparables presented by the Complainant. However, the Complainant submitted no comparables of similar structures until the rebuttal document. The decision submitted in the rebuttal document showed a CARB decision had reduced the quality for a converted warehouse to office structure from a Class A to a Class B for the property at 402 11 Avenue SE. The Complainant said this was a better building as it was concrete construction and submitted photographs of the exterior. This Board, however, was not privy to all the evidence that went into the decision and therefore gave it a limited weight during its deliberations.

[28] The Respondent submitted a number of comparable structures that were identified as warehouse conversion to office structures. It was stated they were classified in a similar fashion as the subject property as a Class A quality.

[29] The Board accepted the equity of classification for the similar structures presented by the Respondent, based upon a subjective approach to the classification. The Board found it is reasonable to accept that sub-strata of structures within the population may be separated out and classified in a similar fashion, as is the case with the warehouses converted to modern

offices. These structures are unique in character and had created a new niche in the office market.

[30] The Board, however, does not accept the application of the rates as applied by the City of Calgary. The City of Calgary has taken a unique collection of structures, different from those structures accepted as the norm for the quality classification, and essentially lumped them in with the Class A office buildings of newer and visually better quality. This Board feels the group of warehouse conversions should be separated from the purpose built Class A structures and reviewed based upon their own functional utility and rental rates.

[31] The Board found no argument was placed before it as to the rental rates being generated by the subject property, and noted the rents generated were on the low end of leases submitted by the Respondent.

[32] The Board, in its review of the evidence presented by both parties, recognizes the warehouses converted to offices as a unique group. The Board in making its decision looked at the differences between the modern Class B offices and the subject property and determined there is a perceived functional obsolescence that should be addressed. The construction of the building that restricts its utility; the interference due to the numerous posts in the structure's framework; the inability to develop the basement space; and the services in the structure must be addressed.

[33] The decision of the Board, while maintaining the Class A designation, recognized the assessment value must be adjusted to a level lower than the assessment applied to the modern, purpose built Class A office buildings.

[34] When determining the revised assessment value, the Board looked to the decision of CARB 1508/2012-P that through a different approach reduced the assessment level. In the interest of maintaining equitable assessment levels, the Board reviewed the assessments before and after the decision and determined the percentage of change to the assessment.

[35] It is the decision of the Board to apply an obsolescence of -20% to the calculation of the assessment in recognition of the perceived deficiencies.

Board's Decision:

[36] Based upon the reasons given, the Board reduced the assessment at \$7,070,000.00.

DATED AT THE CITY OF CALGARY THIS 29th DAY OF November 2012.


PHILIP COLGATE
Presiding Officer

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

NO.	ITEM
1. C1	Complainant Disclosure
2. C2	Complainant Rebuttal
3. R1	Respondent Disclosure
4.	Decisions of other Boards

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	-Low Rise	Income Approach	-Equity Comparables -Depreciation