

CARB 0262 1072 2018

Complaint ID 1072

Roll No. 30002921785

COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: August 1, 2018

PRESIDING OFFICER: B. HISSEY

BOARD MEMBER: M. CHALACK

BOARD MEMBER: R. SCHNELL

BETWEEN:

ALTUS GROUP LTD. ON BEHALF OF
CP REIT ALBERTA PROPERTIES LIMITED.

Complainant

-and-

THE CITY OF RED DEER

Respondent

This decision pertains to a complaint submitted to the Central Alberta Regional Assessment Review Board in respect of a property assessment prepared by an Assessor of The City of Red Deer as follows:

ROLL NUMBER: 30002921785

MUNICIPAL ADDRESS: 15, 6350 67 Street

ASSESSMENT AMOUNT: \$ 8,860,500

The complaint was heard by the Composite Assessment Review Board on the 1st day of August 2018, at The City of Red Deer, in the province of Alberta.

Appeared on behalf of the Complainant:

Andrew Izard, Agent, Altus Group Limited

Appeared on behalf of the Respondent:

Jason Miller, Senior Analyst, City of Red Deer

Maureen Cleary, Senior Assessor, City of Red Deer

DECISION: The assessed value of the subject property is confirmed at \$ 8,860,500.

JURISDICTION

- [1] The Central Alberta Regional Assessment Review Board [“the Board”] has been established in accordance with section 455 of the *Municipal Government Act*, RSA 2000, c M-26 [“MGA”], and The City of Red Deer, Bylaw No. 3474/2011, *Regional Assessment Review Board Bylaw* (November 14, 2011).

PROPERTY DESCRIPTION AND BACKGROUND

- [2] The subject property commonly known as the Real Canadian Wholesale Club grocery store was originally developed in 1989. It is a 4.00 acre site with an owner occupied 53,129 square foot (sf) structure. The 2018 assessment has been calculated using the income approach.

PRELIMINARY MATTERS

- [3] The Board Chair confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [4] Neither party raised any objection to the panel hearing the complaint.
- [5] The Complainant and Respondent confirmed information before the board and requested that all evidence and argument presented be carried forward to hearings held from July 30th to August 2nd, 2018 for roll numbers 30002332085, 30002911735, 30002921785, 30002921815, 30000920245, 30003214635 and 300011622840. The Board agreed to the parties’ request.
- [6] No additional preliminary or procedural matters were raised by any party.
- [7] The Board confirmed the submissions of the parties and entered the following Exhibits into the record:
- A1 - Hearing Materials provided by Clerk (52 pages)
 - C1 - Complainant Disclosure (111 pages)
 - C2 - Complainant Cap Rate Appendix (109 pages)
 - C3a - Capitalization Rate Rebuttal Submission (120 pages)
 - C3b - Land Title Information (92 pages)
 - C4 - Complainant 3rd Party Reports Response (277 pages)
 - C5 - Legal Argument (331 pages)
 - C6 - Additional Submission (133 pages)
 - R1 - Respondents Disclosure (130 pages)

ISSUES

- [8] The Board considered the parties' positions and determined the following rates used to calculate market value by way of the Income Approach, are to be addressed within this decision:
- a) Should the vacancy rate of 3% be increased to 12%?
 - b) Should the capitalization rate (cap rate) of 6.75% be increased to a market cap rate of 7.5% or an equity cap rate of 7.75%?

POSITION OF THE COMPLAINANT

- [9] The Complainant presented an overview of the subject property with assessment information, aerial photographs, lease material, and site plans.
- [10] It was suggested that a purchase price should be reflective of what a buyer would pay currently not historically. This is why the income approach is used to provide the market value of income producing properties.
- [11] An evaluation of variables from the Income Approach calculation used to determine market value was provided to the Board. The Complainant presented information from disclosed exhibits that analysed comparable properties in support of a correction to the current assessment.
- [12] A 2018 Requested Retail Assessment was provided that adjusted several inputs to the current valuation. The Complainant proposed a 12% vacancy rate, a 7.5% cap rate or alternatively a 7.75% cap rate value.

Vacancy Rate Issue

- [13] To convince the Board of the incorrectness of the vacancy rate used in the assessment of the subject property, a chart containing fifteen Supermarket/Grocery properties in Red Deer was presented. It included a vacant building of 56,427 sf (former Safeway at Parkland Mall) at 6359 50 avenue. This determined an 11.76% vacancy for grocery properties in Red Deer. The requested revised adjustment for vacancy in the Income calculation for the subject property was rounded to 12%.
- [14] The Complainant further suggested an increased vacancy rate for the subject property was supported through an analysis provided from charts showing Red Deer property groups of Anchor Space Greater than 20,000 sf, Box Stores 20,000 sf to 100,000 sf and Box Stores greater than 100,000 sf. This review did not make a distinction regarding use for the purposes of vacancy. The Complainant suggested that any of these spaces could be developed for grocery sales. It was the contention of the Complainant that the best examples from this study were large format stores, which could be divided into smaller spaces. These Box Stores with greater than 100,000 sf had a

vacancy of 19.96%. Although this figure was not requested in the revised assessment, the Complainant indicated that it did support an upward adjustment to the vacancy rate currently applied to the subject property.

- [15] The Complainant stated that different vacancy rates were applied to properties throughout the City, but there was no consistent approach to establish how those values were determined. Therefore based on the comparables provided it would be appropriate to increase the vacancy rate from 3% to 12% for the subject property.

Capitalization Rate Issue

- [16] A Red Deer Retail Capitalization Appendix was presented to the Board which analysed three cap rate comparables. The Liberty Centre (Red Deer County, Gasoline Alley) at 7.7%, Piper Crossing Plaza (3215- 49 avenue) at 6.71%, and the former Telebyte Building (6816-50 avenue) with a cap rate of 7.81%. The mean cap rate for these comparables was 7.41%, and the median was 7.70%. This provided the basis for the request of a 7.5% cap rate on the subject property.
- [17] It was noted the best cap rate comparable was Liberty Centre which included a Staples store that anchored the shopping centre. This fully occupied property recently transferred on January 30, 2015. The Complainant noted that the applicable lease was set to expire within 2 years of the sale date and that most leases for these types of properties were in place for between 10 to 20 years. In order to estimate the market rent for the sale, the Complainant further looked at leasing activity in Red Deer City and County.
- [18] The leasing analysis within the Capitalization Appendix reviewed agreements for property groups of 3,001 sf to 6,000 sf, 6,001 sf to 20,000 sf and 20,001+sf. This investigation suggested a median lease rate of \$14.00 psf and a weighted mean of \$15.00 psf for retail box store leasing rates on buildings of 20,001+sf. This information supported the Liberty Centre lease values used in the cap rate calculations.
- [19] The Complainant next evaluated the Piper Crossing Plaza, with leasing comparables from the chart of Neighbourhood Centre and Strip Retail properties under 3,000 sf. The analysis revealed a typical median of approximately \$28.00 psf. That figure was used to calculate an applicable cap rate of 6.71% for that property.
- [20] The former Telebyte Building was also reviewed in detail with lease information, marketing brochures, land title documents and ultimately shown to have a higher cap rate than the assessed subject lands at 7.81%.
- [21] Based on the market transactions of these three comparables the Complainant proposed the cap rate for the subject property be increased from 6.75% to 7.5% or \$7,140,000.
- [22] The Complainant also requested the Board to review the adjacent property at 6350 67 Street for equity to determine if a further increase to the cap rate was warranted. This comparable has been evaluated with a 7.75% cap rate and is a similar retail property to the subject. It was suggested

that a 7.75% cap rate should be considered to provide the lesser tax between market and equity of \$6,683,100.

POSITION OF THE RESPONDENT

[23] The Respondent outlined assessment legislation and income-producing attributes for properties purchased for investment purposes. The basic assumption is that the present value for these assets is related to its future income potential.

Vacancy Rate Issue

[24] Information was provided by the Respondent that identified the “vacant” grocery at Parkland Mall used in the Complainants Vacancy Analysis, to be under renovation to accommodate Commercial Retail Units. The space had been advertised by Colliers International for Sublease as a “Large Format Retail” opportunity. As of the condition date this area was in mid-renovation and cannot be considered a vacant grocery space. To further support this claim a news article (Red Deer Express) dated December 5, 2017 was provided to the Board.

[25] With the removal of the space identified as vacant at Parkland Mall from the Complainants Vacancy Analysis, the Respondent contends the actual vacancy in Red Deer for Supermarket/Grocery locations was 0%.

[26] To further support the assessment vacancy input a chart of all 13 Supermarket/Grocery locations in Red Deer was presented to the Board, it also showed a 0% vacancy for that classification.

[27] A standard application of 3% vacancy has been applied to normalize the income pro-forma for Supermarket/Grocery locations within Red Deer. The Respondent suggested this was accepted assessment practice and followed legislative requirements.

Capitalization Rate Issue

[28] The Respondent reviewed the cap rate process which provides a conversion of income into an expression of capital value, it is derived from the sale price versus Net Operating Income (NOI).

[29] Evidence provided by the Complainant to challenge the cap rate for the subject property was reviewed. It was the contention of the Respondent that the three transactions provided by the Complainant for Retail Centre Capitalization Rate Analysis, were all based on hypothetical (not factual information). Typical NOI's were not applied in any of the three comparables used in the analysis. Each of these comparables were further evaluated in detail.

[30] The Liberty Centre is located in a different municipality. Additionally, the actual income used in the Complainants calculation was not normalized for vacancy, operating cost recovery, or recoverables. If the correct sale price (\$7,100,000) and actual NOI (\$457,091) were used, a cap rate of 6.44% is realized. It is important to note that the income applied to the calculation

represents full occupancy without any normalization (if normalized the calculation would provide a cap rate of 5.95%). These corrected inputs support the Respondents cap rate of 6.75%.

- [31] Leasing information for the Liberty Centre was also contested as the agreements were dated, and documents provided by the Respondent showed escalating rents which were not in place at the time of sale.
- [32] The Respondent did not agree with the use of the Telebyte building for comparison purpose. It was described as a 9,661 sf vacant warehouse in poor condition built in 1958, which is dissimilar to a 1989, 53,129 sf grocery store. The Respondent suggested it should not be included in any comparison review for the subject property.
- [33] The third comparable was Piper Crossing (3215-49 avenue) which is a retail/medical multi tenanted development. Again, a very different use than the subject property and not stratified in the same way by the assessment authority. The lease information was also compared inconsistently, mixing actuals with typical information. Avison Young brokers have listed the actual cap rate for this property in their sales brochure as 6.33%. If this figure were normalized it would additionally reduce the third party cap rate calculation, in support of the current assessment.
- [34] To further evaluate the Piper Crossing property the Respondent provided a normalized NOI of \$505,717 then divided the sale price of \$8,500,000 to determine a cap rate of 5.95%. If the Respondent would have used the July 1, 2017 income from the rate payer report, stating a NOI of \$536,432, and the sale price of \$8,500,000 it would result in a cap rate of 6.31%. The Respondent confirmed this is not how a cap rate is calculated, but was used to simply show that an owner reported income supported the assessed cap rate of 6.75%.
- [35] The Respondent included third party market survey reports as supporting documents for the two nearest major urban centers (Edmonton and Calgary). These reports were from reputable industry sources and confirmed the cap rate analysis provided by the City.
- [36] To address the request for an equity cap rate similar to the adjacent property, the Respondent detailed the smaller size (21,655 sf) and use as a Casino to substantiate the differences from the subject property.
- [37] The Respondent also produced a chart of fourteen cap rate comparables showing an average cap rate of 6.31% and a median of 6.27%. It was noted that the inclusion of 2017 sales yields a cap rate average of 5.98% and median of 5.95%. All evidence that supports the use of a 6.75% cap rate for the subject property.
- [38] It was requested the Board confirm the current assessment of \$8,860,500.

REBUTTAL

- [39] The Complainant provided documents that refuted the use of Third Party Information. It was suggested that third party evidence should not be treated as benchmark information, and are purpose driven with very little probative value. It was suggested that the Respondent had used this type of information to incorrectly support the current assessment.

- [40] The Complainant also provided evidence from Alberta Municipal Affairs that outlined the method of reporting sales for audit purposes, highlighting the three year sales period used for valuation. It was suggested that due to the specific valuation dates (July 1, of the assessment year) some information may be included or excluded for leases that calculate income for properties outside these timelines. The Complainant suggested that not all sales represent market value without a thorough review of leases in place at the time of the transaction.
- [41] During questioning the Respondent suggested that there was nothing to support how the NOI was derived for the comparables within the rebuttal document.
- [42] The Complainant requested a revised assessment using 12% vacancy, and a cap rate of 7.5%, which would provide a \$7,140,000 valuation for the subject property.
- [43] Alternately, the Complainant requested 12% vacancy and an equity cap rate of 7.75%, resulting in a revised assessment of \$6,683,100 for the subject property.

BOARD FINDINGS and DECISION

Vacancy Rate Issue

- [44] The Board was not convinced that the Complainants Vacancy Rate Analysis which did not stratify properties was an appropriate method for the determination of specific vacancy rate information for Supermarket/Grocery locations.
- [45] The Board finds the use of the former Safeway (Parkland Mall) to prove vacancy incorrect. Information provided identified this space as under construction, and marketed as retail. The actual Supermarket/Grocery locations vacancy in the City of Red Deer was shown to be 0%.
- [46] The typical 3% vacancy allowance is deemed appropriate by the Board.

Capitalization Rate Issue

- [47] The Board confirms the Respondent has followed legislative requirements that mandate stratification of properties when assessing market value. The Board found the fourteen cap rate comparables provided by the Respondent similar to the subject property and indicated an average cap rate of 6.3% for the group.
- [48] The Board put little weight on the comparables used by the Complainant for the analysis of the cap rate. The Liberty Centre was located in a different municipality, and the Board understood there were comparable properties within the City of Red Deer. Piper Crossing was a smaller retail development with dissimilar characteristics to the subject property. And lastly, the former Telebyte Building is 9,661 sf, 1958 warehouse structure; the subject is a 1989, 53,129 sf grocery store.
- [49] The three cap rate comparables presented by the Complainant also used unsubstantiated NOI's, and adjusted lease information which could not be confirmed by the Board.

[50] The equity cap rate comparable presented by the Complainant was dissimilar to the subject property in size and building type.

[51] The Board confirms the application of a 6.75% cap rate in the assessment calculation.

General

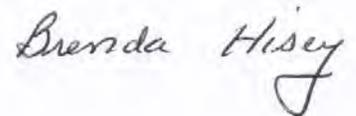
[52] The Board confirmed the use of Third Party information can be problematic when data cannot be scrutinised or evaluated by all parties, therefore material from these sources was given little weight.

[53] Section 467(3) of the Municipal Government Act, RSA 2000, c M-26 states that an assessment review board must not alter any assessment that is fair and equitable. Proving the incorrectness of an assessment is the responsibility of the individual alleging it. The Board was not presented with sufficiently compelling evidence on which a change to the assessment could be based.

DECISION SUMMARY

[54] The 2017 assessment of \$8,860,500 is confirmed.

[55] Dated at the Central Alberta Regional Assessment Review Board, in the city of Red Deer, in the Province of Alberta this 30 day of August, 2018 and signed by the Presiding Officer on behalf of all the panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



Brenda Hisey
Presiding Officer

This decision can be appealed to the Court of Queen's Bench. If you wish to appeal this decision you must follow the procedure found in section 470 of the MGA which requires an application for judicial review to be filed and served within 60 days of being notified of the decision. Additional information may also be found at www.albertacourts.ab.ca.

APPENDIX

Documents presented at the Hearing and considered by the Board.

NO.

ITEM

1. A1 - Hearing Materials provided by Clerk (52 pages)
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