

CARB 0262 1021 2018

Complaint ID 1021

Roll No. 30002332085

COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: July 30, 2018

PRESIDING OFFICER: B. HISSEY

BOARD MEMBER: M. CHALACK

BOARD MEMBER: R. SCHNELL

BETWEEN:

ALTUS GROUP LTD. ON BEHALF OF
DEVELOPMENTS 2 TIMBERLANDS INC.

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: 30002332085

MUNICIPAL ADDRESS: 3000, 499 Timberlands DR

ASSESSMENT AMOUNT: \$ 8,783,300

The complaint was heard by the Composite Assessment Review Board on the 30th and 31st day of July 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 \$8,783,300.

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 is a newly constructed Co-op grocery store, located within a neighbourhood shopping center at 499 Timberlands Drive in Red Deer. The structure was built by the occupant on 1.296 acres (56,449 square feet) of leased land. The building is 39,658 square feet (sf) and has been assessed 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 (52 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)
 - R1 - Respondents Disclosure (128 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 5% be increased to 12%?
 - b) Should the capitalization rate (cap rate) of 6.5% be increased to 7.5%?
 - c) Should the rental rate of \$16.00 per square foot (psf) be reduced to \$12.00 psf?

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, and a \$12.00 psf rental rate for the subject property which resulted in a revised assessment of \$4,722,500.

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 5% 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% were all provided as support for the requested 7% 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 6.5% to 7.5%.

Rental Rate Issue

[22] The Complainant provided a Rental Analysis for Supermarket/Grocery Locations. This chart contained 3 comparables that determined a median and mean of \$11.91 psf for these properties. The Complainant requested a rental rate reduction to \$12.00 psf for the subject property.

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 verses 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 5.96%). These corrected inputs support the Respondents cap rate of 6.5%.

- [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 1958 vacant warehouse in poor condition, which is dissimilar to the subject, a 2016 custom built grocery facility. 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 5.96%. 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 6.5%.
- [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] 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 6.5% cap rate for the subject property.

Rental Rate Issue

- [37] The Respondent refuted the Rental Analysis for Supermarket/Grocery Locations provided by the Complainant. Two of the three comparables submitted were interpretations of rent information for the same property (Sobeys, Eastview Shopping Centre) with no factual evidence. The actual lease for the Sobeys grocery is \$16.50 psf, which supports the rate of \$16.00 psf applied to the assessment calculation for the subject property.
- [38] A chart of 10 properties was provided by the Respondent for rent verification to the board. The range of actual lease rates from \$12.10 psf to \$16.75 psf was offered as evidence. It was also

noted that a brand new custom build structure should warrant the upper end of the existing leases.

- [39] The Respondent stated that the land rent alone for subject property is \$12.10 psf. It does not make sense that in addition to the land component, a new custom built structure would warrant a lesser amount. The Respondent requested the Board confirm the \$16.00 psf rental rate component of the 2017 assessment.

REBUTTAL

- [40] 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.
- [41] 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.
- [42] During questioning the Respondent suggested that there was nothing to support how the NOI was derived for the comparables within the rebuttal document.
- [43] The Complainant requested an updated revised assessment using 12% vacancy, a rental rate of \$12.50 (based on a NOI of \$379,923.64), and a cap rate of 7.5%, this resulted in an amended requested assessment of \$5,065,600.00 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. Actual Supermarket/Grocery locations vacancy in the City of Red Deer was shown to be 0%.
- [46] The typical 5% 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 was an older warehouse structure very different compared to a new grocery facility.
- [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 Board confirms the application of a 6.5% cap rate in the assessment calculation.

Rental Rate Issue

- [51] The Board acknowledges the rental rate applied to the subject was at the upper end of the comparables provided by the Respondent, however, the subject is a new custom built structure and would be appropriately located at the top end of the range.
- [52] The Board put less weight on the rental comparables provided by the Complainant as two of the properties had calculated adjustments interpreted by the Complainant.
- [53] The Board finds a reduction to the rental rate for the subject would contradict market evidence as the land component alone was set at \$12.10 psf.
- [54] The rental rate of \$16.00 psf for the subject property is confirmed.

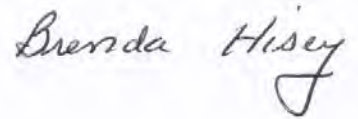
General

- [55] 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.
- [56] 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

[57] The Board finds that the 2017 assessment of \$8,783,300 is confirmed.

[58] 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)
2. C1 - Complainant Disclosure (52 pages)
3. C2 - Complainant Cap Rate Appendix (109 pages)
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