

CARB 0262 1054 2018

Complaint ID 1054

Roll No. 30001622840

COMPOSITE ASSESSMENT REVIEW BOARD DECISION

HEARING DATE: August 2, 2018

PRESIDING OFFICER: B. HISSEY

BOARD MEMBER: M. CHALACK

BOARD MEMBER: R. SCHNELL

BETWEEN:

ALTUS GROUP LTD. ON BEHALF OF
GERRY STRONGMAN HOLDINGS LTD.

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: 30001622840
MUNICIPAL ADDRESS: 4908 43 Street
ASSESSMENT AMOUNT: \$ 1,026,000

The complaint was heard by the Composite Assessment Review Board on August 2nd 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 \$ 1,026,000.

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 0.37 acre (16,117 square foot) parcel of land that encompasses two stand-alone buildings separated by a parking lot.
- I. The first building (Pizza 73) is a 1,185 square foot (sf) restaurant that has a five year lease in place for \$19.00 per square foot (psf) signed in June 16, 2016.
 - II. The second building (Lucky’s Pawn Shop) is a 4,216 sf retail building that has a four year lease for \$13.00 psf signed in January 1, 2017.
- [3] The Complainant is not contesting the first building (1,185 sf) rental rates as it has been assessed using \$18.00 psf.

PRELIMINARY MATTERS

- [4] The Board Chair confirmed that no Board Member raised any conflicts of interest with regard to matters before them.
- [5] Neither party raised any objection to the panel hearing the complaint.
- [6] 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.
- [7] No additional preliminary or procedural matters were raised by any party.
- [8] 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 (69 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 (78 pages)

ISSUES

- [9] 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 rental rate of \$14.00 per square foot (psf) be reduced to \$11.50 psf?
 - b) Should the capitalization rate (cap rate) of 7.0% be increased to 7.75%?

POSITION OF THE COMPLAINANT

- [10] The Complainant presented an overview of the subject property with assessment information, aerial photographs, lease material, and site plans.
- [11] 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.
- [12] 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.
- [13] A 2018 Requested Retail Assessment was provided that adjusted several inputs to the current valuation. The Complainant proposed a 7.75% cap rate, and an \$11.50 psf rental rate (on 4,216 sf) for the subject property which resulted in a revised assessment of \$804,100.

Rental Rate Issue

- [14] The Complainant is not contesting the 1,185 sf building (Pizza 73) assessed at \$18.00 psf. The rent reduction of \$11.50 was requested for the 4,216 sf retail building (Lucky's Pawn Shop) currently assessed at \$14.00 psf.
- [15] The Complainant provided a lease analysis for three similar retail properties in Red Deer. The buildings had areas of 3,218 sf to 5,955 sf with lease rates of \$8.00 psf to \$14.50 psf. The mean for these comparables was \$11.83 psf; the Complainant suggested an adjusted rental rate of \$11.50 psf for the 4,216 sf retail building on the subject property.
- [16] Alternately the Complainant proposed actual rental rates for the subject property be used to calculate a revised assessment. The current rents for the subject property are \$13.00 psf (Lucky Pawn) and \$19.00 psf (Pizza 73). If the proposed cap rate of 7.75% were applied to these rents an \$893,250 valuation would be realized for the subject property.

Capitalization Rate Issue

- [17] 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 7.75% cap rate on the subject property.
- [18] The Respondent provided information on the 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.
- [19] 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.
- [20] 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.
- [21] 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%. These three comparables provide a mean of 7.41% and a median of 7.70% and support a cap rate increase.
- [22] The Complainant also provided two equity properties at 6826 50 Avenue and 6870 50 Avenue with 7.75% cap rates. It was the Complainants contention that the equitable 7.75% cap rate would be appropriate 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.

Rental Rate Issue

- [24] The Respondent reviewed the lease evidence provided by the Complainant in support of a proposed rent adjustment. It was noted that one of the three leases used included in their chart was the subject property, incorrectly labeled as Easy Financial. Of the remaining two comparables

both were located in a 12 unit strip mall called "Lion Plaza". The Respondent stated the City was unable to verify the lease information for that property as the owner had not responded to the annual Request for Information form for the past several years. The Lions Plaza was considered inferior to the subject by the Respondent, due to an inferior location. It was noted that although these were not good comparables, the median shown on the chart was \$13.00, well above the \$11.50 being requested.

[25] To support the assessment the Respondent provided a list of three comparables that showed a median of \$15.00 psf and an average of \$14.34 psf. These properties were all similar to the subject and confirm an appropriate typical rent rate of \$14.00 psf has been used to calculate the assessment.

[26] The Respondent stated that using typical rents then adjusting for vacancy, operating costs, and non-recoverables the subject property showed a lower net operating income than is actually realized.

Capitalization Rate Issue

[27] 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).

[28] 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.

[29] 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%.

[30] 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.

[31] 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.

[32] 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.

- [33] 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 6.5%.
- [34] 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.
- [35] 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 7% cap rate for the subject property.

REBUTTAL

- [36] 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.
- [37] 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.
- [38] During questioning the Respondent suggested that there was nothing to support how the NOI was derived for the comparables within the rebuttal document.

BOARD FINDINGS and DECISION

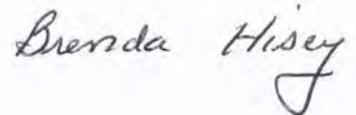
- [39] The Board finds that the methodology of mixing actual potential gross income rates with typical adjustment factors does not meet the legislative requirements as described in Matters Relating to Assessment and Taxation Regulation, Alta Reg 203/2017, section 5. This segment provides that assessments based on market value must reflect typical market conditions. The use of actual rent rates and typical income values does not produce reliable assessments.
- [40] The Board understands the requested \$11.50 psf rental rate would be \$1.50 psf less than the current actual rent for that building. A typical rent of \$14.00 psf normalized under the Income Approach methodology provides an appropriate valuation for the subject property.
- [41] The Board put most weight on the cap rate chart provided by the Respondent. A group of fourteen retail properties with similar characteristics to the subject were analyzed. These comparables

realized an average cap rate of 6.31% and a median value of 6.27% supporting the current 7.0% value.

- [42] 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, a different building type and size compared to the subject property.
- [43] The three cap rate comparables presented by the Complainant used unsubstantiated NOI's, and adjusted lease information which could not be confirmed by the Board.
- [44] The Board put little weight on the Lions Plaza comparable as this is an inferior location to the subject and lease information could not be verified.
- [45] The Board finds that third party information from Colliers International provided by the Respondent could not be substantiated, and therefore put no weight on that data.
- [46] 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

- [47] The Board finds that the 2017 assessment of \$1,026,000 is confirmed.
- [48] 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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