

CARB 0262 1039 2018

Complaint ID 1039

Roll No. 30000920245

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
SINCLAIR INVESTIIMENTS (1980) 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: 30000920245

MUNICIPAL ADDRESS: 2811 Bremner Avenue

ASSESSMENT AMOUNT: \$ 7,428,800

The complaint was heard by the Composite Assessment Review Board on the 2nd 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 \$ 7,428,800.

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 67,377 square foot (sf) two storey box store built in 1981, containing Sim’s Furniture and Compusoft. It is located on 2.97 acres of land at 2811 Bremner Avenue, in close proximity to Gaetz Avenue and the Bower Regional Mall.
- [3] The current assessment has been calculated using the income approach to value.

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 (39 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 (117 pages)

ISSUES

- [9] Should the capitalization rate (cap rate) of 7.25% be increased to 7.5%?

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 7.5% cap rate or \$7,181,200 assessment.
- [14] 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.
- [15] 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.
- [16] 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.
- [17] 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.
- [18] 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%.

- [19] Based on the market transactions for these three comparables, providing an analysis of a mean cap rate of 7.41% and the median at 7.70%, the Complainant requested a 7.5% cap rate resulting in a revised assessment of \$7,181,200 for the subject property.

POSITION OF THE RESPONDENT

- [20] 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.
- [21] 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).
- [22] 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.
- [23] 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 7.25%.
- [24] 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.
- [25] 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 1959. Dissimilar to a 67,377 sf box store built in 1981. The Respondent suggested that it should not be included in any comparison review for the subject property.
- [26] 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.
- [27] 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 7.25%.

- [28] 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.
- [29] 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 7.25% cap rate for the subject property.
- [30] The Respondent requested the Board confirm the current assessment of \$7,428,800.

REBUTTAL

- [31] 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.
- [32] 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.
- [33] During questioning the Respondent suggested that there was nothing to support how the NOI was derived for the comparables within the rebuttal document.
- [34] The Complainant requested a revised assessment using cap rate of 7.5%, resulting in a requested assessment of \$7,181,200 for the subject property.

BOARD FINDINGS and DECISION

- [35] 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.
- [36] 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 a 9,661 sf vacant warehouse in poor condition built in 1959; very different to a 67,377 sf box store built in 1981.

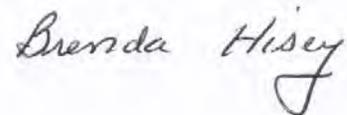
- [37] The three cap rate comparables presented by the Complainant also used unsubstantiated NOI's, and adjusted lease information which could not be confirmed by the Board.
- [38] The Third Party cap rate information provided by the Respondent was not relied upon as benchmark data, and was given no weight as requested by the Complainant.
- [39] The Board confirms the application of a 7.25% cap rate in the assessment calculation.

General

- [40] 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.
- [41] 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

- [42] The 2017 assessment of \$7,428,800 is confirmed.
- [43] 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

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