



Tribunals Ontario

Assessment
Review Board

Tribunaux décisionnels Ontario

Commission de révision de
l'évaluation foncière

ISSUE DATE: August 11, 2021

FILE NO.: DM 172093

Assessed Person(s): Simon Halton Hills Holdings Calloway REIT (Halton) Inc.
Appellant(s): Simon Halton Hills Holding Inc.
Respondent(s): Municipal Property Assessment Corporation Region 15
Respondent(s): Town of Halton Hills
Property Location(s): 13850 Steeles Avenue
Municipality(ies): Town of Halton Hills
Roll Number(s): 2415-090-090-00104-0000, 2415-090-090-00107-0000 and
2415-090-090-15210-0000
Appeal Number(s): 3344898, 3413755, 3413756, 3413757, 3413758, 3413759,
3413760, 3413761, 3413762, 3415799, 3445051, 3238847,
3288169 and 3308123
Taxation Year(s): 2017, 2018, 2019, 2020 and 2021
Hearing Event No.: 744272
Legislative Authority: Rule 45 of the Assessment Review Board's *Rules of Practice
and Procedure*

Parties

Counsel*/Representative

Simon Halton Hills Holding Inc.	Robert Brazzell Jesse White
Municipal Property Assessment Corporation	Donald Mitchell* Karey Lunau*
Town of Halton Hills	Submissions not received

REQUEST FOR: An Order for Disclosure
HEARD: May 10, 2021 in writing
ADJUDICATOR(S): Carly Stringer, Member

MOTION DECISION

OVERVIEW

[1] The Municipal Property Assessment Corporation (“MPAC”) makes this motion to the Assessment Review Board (the “Board”) for disclosure of information from Simon Halton Hills Holdings Inc. (the “Appellant”). Specifically, MPAC seeks disclosure of the information listed in Attachment 1 to this decision (“Disclosure Requests”).

[2] Without admitting relevance or admissibility, the Appellant does not object to disclosing the information requested for 2015, 2016 and 2017, however takes the position that MPAC is required to execute a non-disclosure agreement prior to disclosure. The Appellant opposes MPAC’s motion insofar as it relates to information for 2018 and 2019.

[3] The Board has not received submissions from the Town of Halton Hills.

Result

[4] The Board has carefully reviewed and considered the evidence, submissions and case law provided by the parties. In this decision, the Board will only reference the submissions most germane to its analysis. For the reasons that follow, the Board:

- a. does not grant the Appellant’s request that disclosure be conditional on MPAC executing a non-disclosure agreement; and
- b. grants MPAC’s motion for disclosure.

BACKGROUND

[5] The Appellant has brought appeals relating to 13850 Steeles Avenue in the Town of Halton Hills, Ontario (the “Subject Property”). The Subject Property is known as the Toronto Premium Outlets. It consists of a 49.07 acre parcel improved by an outlet mall.

The mall originally had 358,424 square feet (“sq. ft.”) of gross building area and a gross leasable area of 366,322 sq. ft. An additional 146,461 sq. ft. was completed in 2018. As of roll return for the 2019 taxation year, the Subject Property was 504,885 sq. ft. of gross building area with a gross leasable area of 497,418 sq. ft.

[6] The 2016 current value assessment (“CVA”) returned for taxation years in 2017 and 2018 was \$244,018,000. As a result of additions to the Subject Property, omitted and supplementary assessments were made increasing the CVA to \$333,533,000.

[7] The Appellant is a subsidiary of Simon Property Group Inc., a real estate investment trust engaged in the ownership of premier shopping, dining, entertainment and mixed-use destinations throughout North America, Europe and Asia.

[8] The Appellant has appealed on the basis that the correct CVA prior to additions to the Subject Property is not greater than \$190,000,000, and after additions is not greater than \$260,000,000. The Appellant has raised various issues with respect to the income approach and the cost approach to valuation.

[9] MPAC has brought a motion within the appeal proceeding for disclosure in accordance with Rule 45 of the *Rules of Practice and Procedure* (“Rules”).

PRELIMINARY MATTERS

Non-Disclosure Agreement

[10] The Appellant has advised the Board that it does not object to the disclosure or production of the Disclosure Requests relating to the 2015, 2016 and 2017 years, provided MPAC executes a non-disclosure agreement (“NDA”). The Appellant reserves the right to contest the relevance or admissibility of any disclosed information at a hearing. The Appellant also asks that, should the Board order disclosure of the

Disclosure Requests relating to the 2018 and 2019 years, such disclosure be conditional upon MPAC executing an NDA.

[11] MPAC does not agree to execute an NDA.

[12] Accordingly, as a preliminary matter, the Board will consider whether a non-disclosure agreement is required prior to disclosure.

Applicable Law

[13] There are several Rules, legislative provisions, common law rules, and practice directions that are engaged by this issue.

[14] The basic requirement for disclosure in an appeal proceeding before the Board is set out in Rule 45 of the Rules:

Disclosure

(45) All parties must serve an electronic copy of all relevant documents in their possession, control, or power to all other parties in the proceeding, except for privileged documents, or documents that cannot be disclosed by law.

[15] The common law implied undertaking rule applies to Rule 45 disclosure. This rule imposes an implied undertaking upon a party receiving disclosure not to use documents or information obtained through the discovery process for any purpose other than the within proceeding: *Juman v. Doucette*, 2008 SCC 8 (CanLII), [2018] 1 SCR 157 at paragraph 1. The undertaking is made to the Board, and accordingly any party in breach of the implied undertaking answers to the Board.

[16] MPAC and municipalities may face a specific sanction for improperly disclosing information collected in the course of an assessment or an assessment appeal proceeding. Section 53 of the *Assessment Act* (“Act”) provides as follows:

Disclosure of information

53(1) A person employed by the assessment corporation, a municipality or a school board is guilty of an offence and on conviction is liable to a fine of not more than \$2,000, or to imprisonment for a term of not more than six months, or to both if,

- (a) in the course of the person's duties, he or she acquires or has access to information collected under this Act or to information collected pursuant to an assessment appeal or a proceeding in court involving an assessment matter;
- (b) the information is,
 - (i) proprietary information of a commercial nature prescribed by the Minister relating to an individual property, or
 - (ii) actual income and expense information on an individual property; and
- (c) the person wilfully discloses the information or permits it to be disclosed to any person who is not entitled in the course of their duties to acquire or have access to the information.

[17] Finally, Rule 89 provides a degree of protection where sensitive information must be filed as part of a hearing event before the Board:

Confidential Documents

89 The Board, on its own motion, or on the application of:

- (a) a party to a proceeding to which the adjudicative record relates; or
- (b) a person who would be affected by the disclosure of information contained in the adjudicative record or a portion of the adjudicative record,

may order that the information be treated as confidential and that it not be disclosed to the public, if the Board determines that:

- i. matters involving public security may be disclosed; or
- ii. intimate financial or personal matters contained in the record are of such nature that the public interest or the interest of a person served by avoiding disclosure outweighs the desirability of adhering to the principle that the record be available to the public.

[18] In addition to the above-noted Rules, legislation, and common law that apply to appeal proceedings before the Board, the Board has developed a Practice Direction on Disclosure Requirements for General and Summary Proceedings effective April 1, 2021 ("Disclosure Practice Direction"). The Disclosure Practice Direction provides guidance when it comes to confidentiality of disclosure. The Disclosure Practice Direction confirms

that documents disclosed pursuant to Rule 45 are provided for use in the appeal proceeding only, and not for any other purpose without the prior consent of the party who provided the document. The Disclosure Practice Direction notes that in cases where information is particularly sensitive, parties may negotiate and execute an NDA amongst themselves. The Disclosure Practice Direction also confirms that, if necessary, a party may apply to the Board under Rule 89 for an order that any document filed with the Board in an appeal proceeding or at a hearing be treated as confidential, be sealed, and not form part of the public record.

Submissions

[19] The Appellant asks the Board to make any order for disclosure conditional on the execution of NDAs by MPAC. The Appellant submits that MPAC is seeking confidential and proprietary information that is exceptionally valuable. The Appellant submits that although general protections exist under the Act and at common law, these protections are inadequate in the present circumstances because they do not grant enforceability to the Appellant to proactively protect its information, nor do they invoke adequate remedies in circumstances of a breach. The Appellant submits that an NDA affords it the security it requires and the ability to impose immediate injunctive relief if necessary. The Appellant also submits that NDAs are standard, and the Board regularly orders them in the context of disclosure motions.

[20] MPAC opposes any order requiring execution of an NDA. MPAC submits that the Appellant cannot refuse to produce relevant information, including information that its expert is relying on, on the basis that it requires an NDA. MPAC submits that there is no evidence that any confidential information will be improperly disclosed or that any of the usual confidentiality protections are inadequate in this case. MPAC submits that the combination of s. 53 of the Act, the implied undertaking rule, and Rule 89 provide adequate protection before, during and after the hearing. MPAC submits that protective orders are the exception, not the rule. MPAC relies on a Board disposition on an Expedited Board Directions Form dated August 13, 2020 following the decision in

Vaughan (City) v Municipal Property Assessment Corporation, Region 14, 2020 CanLII 44350 (ON ARB) (“EBDF Disposition”) for the principle that it is unnecessary to require MPAC to execute a non-disclosure agreement, absent exceptional circumstances.

Findings on the Issue of a Non-Disclosure Agreement

[21] The Board accepts that the Appellant considers the information at issue in this motion to be commercially sensitive, confidential and proprietary information. However, Rule 45 does not provide an exception for confidential or sensitive information. If the information requested is relevant, it must be disclosed, subject to the two exceptions contained within Rule 45, and proportionality.

[22] The Board does not accept the Appellant’s submission that a non-disclosure agreement is “standard”, in the sense of prescribed as a matter of course by the Board. Neither Rule 45, nor any other Rule, prescribes NDAs prior to disclosure. Although NDAs may be appropriate in certain circumstances, and the Board has previously ordered disclosure conditional on NDAs, the Appellant has not provided the Board with an authority for the principle that the Board can and should impose a non-disclosure agreement as a matter of course, or on a party that objects. The Board has reviewed the cases provided by the Appellant, and finds they are not particularly helpful authorities on this issue, for the following reasons:

- a. In both *Toyota Motor Manufacturing Canada Inc. v Municipal Property Assessment Corporation*, 2020 CanLII 77938 (ON ARB) (“*Toyota*”) and *Conix Canada Inc. v Municipal Property Assessment Corporation*, Region 22, 2021 CanLII 14793 (ON ARB) (“*Conix*”), the parties seeking disclosure filed Notices of Motion with the Board seeking orders for disclosure in exchange for undertakings of confidentiality and non-disclosure: see *Toyota* at paragraph 4 and *Conix* at paragraph 3. It does not appear that NDAs were at issue in either case.

- b. In *2465702 Ontario Inc. v Township of Leeds and the Thousand Islands*, 2019, CanLII 101171 (ON ARB) it was a non-party participant (the Ontario Lottery and Gaming Corporation) that requested an NDA on the basis that some of the disclosure requested was commercially sensitive information relating to its operations. It does not appear the NDA was at issue in that case.
- c. Although the Board did note that “[t]raditional conditions of confidentiality and the execution of the prerequisite Undertakings of Confidentiality and Non-Disclosure are integral to the Board’s processes and must be upheld” in *Canadian Tire Corporation v Municipal Tax Equity Consultants Inc*, 2016 CanLII 623 (ON ARB) (“*Canadian Tire*”) at paragraph 72, the Board referenced this obligation in the context of the motion before it, which was not a disclosure motion. The Board does not accept that its comment in *Canadian Tire* was meant to apply more broadly to require NDAs as a “standard.”

[23] Accordingly, the Board finds that an NDA is not “standard” and the decision regarding whether or not to require the parties to execute an NDA depends on the circumstances of a given case.

[24] The Appellant’s main argument in support of an NDA in this case is that the protections afforded by s. 53 of the Act, the implied undertaking rule, and Rule 89 are inadequate to protect its information.

[25] The Board does not find that an NDA is necessary in the circumstances of this case, for the following reasons:

- a. The existing confidentiality protections are significant and, working together, provide protection before, during and after a hearing. Both s. 53 of the Act and

the implied undertaking rule take effect on disclosure. Section 53 of the Act imposes penalties including fines and/or imprisonment in the event of a breach. The implied undertaking rule is broad in scope and is an undertaking owed to the Board, such that the Board may determine the appropriate remedy for a breach. Setting aside whether a contractual obligation imposed by an NDA is, in fact, a greater protection for the Appellant's information than s. 53 and the implied undertaking, the Board does not find that the Appellant has provided sufficient evidence to substantiate its submission that greater and express protections are warranted in this case.

- b. It cannot simply be assumed that MPAC will violate the obligations imposed on them by the Rules, the Act, and common law. Moreover, the Appellant's evidence is not specific regarding particular harm associated with disclosure to MPAC. The Appellant's evidence reflects a generalized concern over disclosure of its information to competitors or the public. MPAC is not a competitor to the Appellant, nor is MPAC the public – MPAC has a statutory obligation with respect to assessment. The Board finds that the Appellant's evidence is speculative regarding the nature of the harm, and there is insufficient evidence supporting a risk of improper disclosure by MPAC.
- c. Rule 89 can be used to grant significant confidentiality protections once information is filed with the Board. The Board does not accept the Appellant's submission, nor has the Appellant provided satisfactory evidence to show, that a Rule 89 order is inadequate to protect its information once filed with the Board. The Appellant may seek a Rule 89 order at the appropriate stage in this appeal proceeding.

[26] For these reasons, the Board will not grant the Appellant's request that any disclosure ordered be conditional on MPAC executing an NDA.

[27] The Board will now consider MPAC's Disclosure Requests.

ANALYSIS

Applicable Law

[28] In determining whether to order disclosure in accordance with Rule 45, the Board applies a two-part test. First, the Board considers whether the information sought is relevant to the issues in dispute. Second, the Board considers whether ordering disclosure is proportionate to the issues in dispute: see *Metro Ontario Inc. v Municipal Property Assessment Corporation, Region 13*, 2019 CanLII 47974 (ON ARB) ("*Metro*"), *supra* at paragraph 11.

[29] Relevance is determined in relation to whether a document is relevant to an issue in dispute: *Walmart Canada Corporation and Target Canada Corporation v Municipal Property Assessment Corporation, Region 01*, 2018 CanLII 67789 (ON ARB) ("*Wal-Mart*") at paragraph 18; *Metro* at paragraph 11. As noted by the Board in *Toyota, supra* at paragraph 13, "the test for relevance really comes down to whether or not the production of documents requested relates to the issues in dispute. If so, they are relevant."

[30] Relevance is not the only criteria that the Board will consider when determining whether a document should be disclosed. Rule 5 of the Board's Rules provides "[t]hese Rules shall be applied in a manner proportionate to the importance and complexity of the issues in a proceeding and with a view to resolving appeals within the four-year cycle."

[31] Therefore, the requirement to disclose relevant documents must also be applied in a proportionate manner. As noted by the Board in *Toyota, supra* at paragraph 15,

In making this determination it is necessary for the Board to consider the competing interests of non-disclosure and, excessive disclosure which may unreasonably increase the cost in a particular case and delay the final resolution of the matter on its merits.

[32] Although the Rules do not include specific criteria to assess proportionality, the Board has previously applied the criteria enumerated in Rule 29.2.03(1) and (2) of Ontario's *Rules of Civil Procedure: Walmart, supra* at paragraph 18. This is considered a non-exhaustive list and other criteria may be considered on a case by case basis.

[33] Further, in consultation with stakeholder representatives, the Board has developed and issued a Guideline entitled *Disclosure Requirements for General and Summary Proceedings* ("Disclosure Guideline"). This Disclosure Guideline includes a Disclosure Schedule Appendix A and B ("Disclosure Schedule") which sets out a non-exhaustive list of the types of disclosure that are generally accepted as relevant to the various issues that get raised in appeals before the Board.

[34] For each Disclosure Request, the Board will apply the above-noted test for relevance and proportionality.

Uncontested Disclosure

[35] The Appellant does not object to the Disclosure Requests relating to 2015, 2016 and 2017, provided MPAC executes an NDA. The Appellant has not provided alternative submissions in the event the Board does not order an NDA for the 2015, 2016 and 2017 Disclosure Requests.

[36] The Board finds the Disclosure Requests relating to 2015, 2016 and 2017 are relevant and proportional to the issues in dispute. Accordingly, the Board will issue an order for disclosure for the following Disclosure Requests:

Disclosure Request No.	Disclosure Request
1	Rent Rolls as of: a. January 1, 2016
2	Site plan as of January 1, 2016 and subsequent to any additions
3	Operating/Income and Expense statements for 2016, 2017
4	Detailed breakdown of non-recoverable expenses for the property for 2016, 2017
5	Details on parking facilities as of January 2016 and subsequent to any additions including number of surface, underground or garage above-grade parking stalls
6	Detailed construction cost information and copies of the construction contracts for the expansion
7	The Appellant's cap rate study
8	The Appellant's non-recoverable expense allowance calculation
9	Any appraisals or opinions of value for the Subject Property obtained since 2012 through 2017
10	Leases for the following tenancies: a. The Bay Outlet, Suite 600 (24,887 sf) b. Restoration Hardware, Suite 606 (12,495 sf) c. Nike Factory Store, Suite 200 (12,456 sf) d. Guess, Suite 100 (8,800 sf) e. Adidas, Suite 730 (5,133 sf) f. American Eagle, Suite 830 (7,500 sf)

Disclosure Request No. 1 - Rent Rolls as of February 4, 2018, November 15, 2018, December 12, 2018 and January 1, 2019

Submissions

[37] MPAC submits that the rent rolls are relevant. MPAC submits that to determine

the appropriate assessment, one must look at the state and condition of a property at the close of the roll each year. The state and condition of the Subject Property changed from 2017 to 2019 due to additions including a parking garage. Supplementary and omitted assessments were made to value these new improvements, and the rent roll dates correspond to the effective dates of the supplementary and omitted assessments. MPAC submits that the parties are using the income approach to value, and MPAC's expert requires the rent rolls to verify the new tenanted areas resulting from the change in the state and condition of the Subject Property.

[38] The Appellant submits that rent rolls outside of the base and shoulder years of 2015, 2016 and 2017 are not relevant to determining the current value of the Subject Property as of the January 1, 2016 valuation date. The Appellant submits that MPAC issued its supplementary and omitted assessments reflecting new tenanted areas, and the new tenanted areas can be verified by the site plans requested by MPAC. The Appellant further submits that utilizing the rent rolls for any purpose related to the 2016 CVA of the Subject Property would be erroneous and inequitable, given that the 2016 CVAs of all retail properties in Ontario were prepared by MPAC without incorporating rental information for the 2018-2019 fiscal years.

[39] MPAC submits in reply that the Appellant conflates the market evidence contained in rent rolls with the factual evidence relating to the tenanted areas. MPAC submits it is standard valuation procedure to reference rent rolls when determining rentable areas, and site plans are not typically used to determine rentable areas in appraisals. MPAC submits its expert is entitled to verify the tenanted areas of the newly added units, which did not exist on the valuation date but nevertheless must be valued as of that date.

Findings

[40] The Board accepts MPAC's submissions and finds that Disclosure Request No. 1

is relevant. First, the Appellant has appealed the supplementary and omitted assessments that valued the new improvements – the rent rolls correspond to the effective dates of the supplementary and omitted assessments, and, therefore, are clearly relevant. Further, the Board is satisfied on the evidence of MPAC's expert that she requires rent rolls for years including 2018 and 2019 to confirm newly tenanted areas. The evidence establishes there were additions to the property affecting the state and condition for the applicable taxation years. Although the Appellant may assert that MPAC can confirm the newly tenanted areas from sources other than the rent rolls, that does not make the rent rolls for 2018 and 2019 irrelevant. Although the Appellant's expert may disagree with MPAC's expert's methodology, particularly if the information from the 2018 and 2019 rent rolls is put to some use other than confirming the newly tenanted areas, that is ultimately a matter to be decided by the Hearing Member. For the purposes of a disclosure motion, the relevance test is met.

[41] The Board is also satisfied the request is proportionate to the issues in dispute. The Appellant has not disputed proportionality. The request relates to rent rolls for two taxation years in question, which is reasonable in the circumstances. The proportionality test is satisfied.

[42] Accordingly, the Board grants Disclosure Request No. 1.

Disclosure Request No. 3 - Operating/Income and Expense statements for 2018 and 2019 and Disclosure Request No. 4 - Detailed breakdown of non-recoverable expenses for the property for 2018 and 2019

Submissions

[43] MPAC submits that Disclosure Request Nos. 3 and 4 are relevant to the expense allowance issue. MPAC submits that the Appellant has put the quantum of the non-recoverable expense allowance in issue, and MPAC has responded on that issue.

MPAC submits that the capitalization of net income approach to value requires the determination of one year's stabilized net operating income. However, the Subject Property has been expanding, including adding 146,461 sq. ft. of gross building area during 2018. MPAC submits that leasing this new space will require additional costs not typically associated with ongoing, stabilized operations, including initial leasing commissions. In addition, the Appellant's new five-level parking garage was completed in December 2017. During construction of the garage, the Appellant temporarily rented parking at an adjacent lot, which represents a temporary non-recoverable expense that is not part of ongoing stabilized operations. MPAC submits that its expert requires detailed operating statements for the years in question with a breakdown of non-recoverable expenses to determine stabilized non-recoverable expenses associated with the stabilized operating of the Subject Property once initial lease up costs and temporary parking rental costs are absent.

[44] The Appellant submits that it raised the issue of non-recoverable expense allowances based on the allowances determined through the MPAC Market Valuation Report dated May 2017. It is assumed nothing later than the 2016 fiscal year was used in MPAC's determination of the non-recoverable expense allowances. The Appellant submits it would be inappropriate to use 2018 and 2019 income and expense information to determine the non-recoverable expense allowance for the Subject Property's 2016 CVA, as it is too far removed from the valuation date and due to the ongoing nature of development activity in 2018, this information would not represent stabilized operation of the centre. The Appellant submits there is no nexus between the 2018 and 2019 information and the appropriate determination of the 2016 CVA for the Subject Property.

[45] MPAC submits in reply that significant additions were made to the Subject Property that were completed in 2018, and it is reasonable to conclude that the 2016 and 2017 income statements would include non-recoverable expenses that are significantly higher than normal considering the level of construction and leasing activity in 2016 and 2017. Consequently, submits MPAC, it is likely that they will not reflect

stabilized operations of the Subject Property. The 2018 and 2019 Operating Statements and a detailed breakdown of non-recoverable expenses for 2018 and 2019 will provide an overview of the non-recoverable expenses in a stabilized operating environment.

Findings

[46] The Board accepts MPAC's submissions and finds that Disclosure Request Nos. 3 and 4 are relevant. The Appellant has put the amount of the non-recoverable allowance in issue. The Board is satisfied on the evidence of MPAC's expert that she believes the operating statements for years including 2018 and 2019, as well as the breakdown of non-recoverable expenses for the Subject Property for 2018 and 2019, will assist her in determining stabilized non-recoverable expenses once costs associated with the new additions are absent. Although the Appellant's expert may disagree with MPAC's expert's methodology, including whether this information is too far removed from the valuation date to be used in the analysis, that is ultimately a matter to be decided by the Hearing Member. For the purposes of a disclosure motion, the relevance test is met.

[47] The Board is also satisfied the request is proportionate to the issues in dispute. The Appellant has not disputed proportionality. The request relates to rent rolls for two taxation years in question, which is reasonable in the circumstances. The proportionality test is satisfied.

[48] Accordingly, the Board grants Disclosure Request Nos. 3 and 4.

Disclosure Request No. 9: Any appraisals or opinions of value for the Subject Property obtained since 2012

Submissions

[49] Neither party has made submissions relating to Disclosure Request No. 9.

Findings

[50] The Board has granted Disclosure Request No. 9 insofar as it relates to 2012 to 2017. In the absence of submissions relating to 2018 to current, the Board declines to make any further order regarding Disclosure Request No. 9.

ORDER

[51] The Board orders that the Appellant is required to provide, to the extent the information is in its possession, control or power and in accordance with Rule 45, a copy of the following:

Disclosure Request No.	Disclosure Request
1	Rent Rolls as of: <ul style="list-style-type: none"> a. January 1, 2016 b. February 4, 2018 c. November 15, 2018 d. December 12, 2018 e. January 1, 2019
2	Site plan as of January 1, 2016 and subsequent to any additions
3	Operating/Income and Expense statements for 2016, 2017, 2018 and 2019
4	Detailed breakdown of non-recoverable expenses for the property for 2016, 2017, 2018 and 2019
5	Details on parking facilities as of January 2016 and subsequent to any additions including number of surface, underground or garage above-grade parking stalls
6	Detailed construction cost information and copies of the construction contracts for the expansion

7	The Appellant's cap rate study
8	The Appellant's non-recoverable expense allowance calculation
9	Any appraisals or opinions of value for the Subject Property obtained since 2012 to 2017
10	Leases for the following tenancies: <ul style="list-style-type: none"> a. The Bay Outlet, Suite 600 (24,887 sf) b. Restoration Hardware, Suite 606 (12,495 sf) c. Nike Factory Store, Suite 200 (12,456 sf) d. Guess, Suite 100 (8,800 sf) e. Adidas, Suite 730 (5,133 sf) f. American Eagle, Suite 830 (7,500 sf)

[52] The Appellant is directed to provide this disclosure no later than 10 (ten) days from the date this decision is issued.

[53] The parties did not provide specific requests to extend the due dates in the Schedule of Events ("SOE"). Accordingly, in view of the exceptional circumstances caused by the delay in resolving this motion and pursuant to Rule 40, the Board orders the SOE for the subject appeals will resume, with the following amendments:

- a. The due date under the SOE for filing the Mandatory Meeting Form is extended to October 1, 2021.
- b. All other subsequent due dates are to be adjusted accordingly.

[54] The Board's Case Coordinator will advise the parties of the specific due dates, which may be adjusted slightly due to constraints imposed on the Board's electronic case management system.

"Carly Stringer"

CARLY STRINGER
MEMBER

ATTACHMENT 1

Disclosure Request No.	Disclosure Request
1	Rent Rolls as of: <ul style="list-style-type: none"> a. January 1, 2016 b. February 4, 2018 c. November 15, 2018 d. December 12, 2018 e. January 1, 2019
2	Site plan as of January 1, 2016 and subsequent to any additions
3	Operating/Income and Expense statements for 2016, 2017, 2018 and 2019
4	Detailed breakdown of non-recoverable expenses for the property for 2016, 2017, 2018 and 2019
5	Details on parking facilities as of January 2016 and subsequent to any additions including number of surface, underground or garage above-grade parking stalls
6	Detailed construction cost information and copies of the construction contracts for the expansion
7	The Appellant's cap rate study
8	The Appellant's non-recoverable expense allowance calculation
9	Any appraisals or opinions of value for the Subject Property obtained since 2012
10	Leases for the following tenancies: <ul style="list-style-type: none"> a. The Bay Outlet, Suite 600 (24,887 sf) b. Restoration Hardware, Suite 606 (12,495 sf) c. Nike Factory Store, Suite 200 (12,456 sf) d. Guess, Suite 100 (8,800 sf) e. Adidas, Suite 730 (5,133 sf) f. American Eagle, Suite 830 (7,500 sf)