

Avondale Estates Downtown Development Authority Department of Juvenile Justice Building Action – November 2019

My name is Dave Deiters, and I'm the Chair of Avondale Estates Downtown Development Authority (DDA). I'm writing on its behalf, regarding the Department of Juvenile Justice Building (DJJ) located at 3408 Covington Highway.

So, what / who is the DDA?

The DDA is an authority created by GA state statute. It is a 7-member board aimed at promoting the redevelopment and revitalization of the central business district. It operates separately from, but in coordination with, the city staff and the BOMC. DDA members are appointed by the BOMC and represent residential and economic interests of our city. Your neighbors and local business folk serve on this board and work many volunteer hours on our City's behalf.

Thanks for the Civics lesson, but why are you writing about a building near Covington Highway and Memorial Drive?

Through the past efforts of many treasured neighbors, including then-Chair Bob Gross, the DDA built and took ownership of the Department of Juvenile Justice (DJJ) building at 3408 Covington Highway in 2002 and issued a revenue bond to pay for it. The DDA entered a 17-year lease with the State and DJJ, structured to cover the 16-year bond's payments with one year of "free and clear" rent collections. This structure was commonplace throughout Georgia at that time to help locate various government agencies around the state. To facilitate this transaction, the then BOMC annexed the land on which the building is located, near the intersection of US278 and Memorial Drive and made it part of the city's central business district (CBD) – the DDA's legal "jurisdiction."

Why does this building matter to AE now?

Earlier this year, as we approached the completion of our lease with the DJJ, it was our goal to negotiate a new, fair and equitable long-term lease with the State to keep the DJJ in the building for another 15 years. That extension was also the State and DJJ's desire. Once a new lease was secured, it was the DDA's stated intent to then sell the building, as we simply are not equipped to be an on-going landlord at that scale. For much of the last year, our DDA and the State have been working on a new lease, the result of which is a draft iteration of a new lease proposed by the State.

How much is the building worth?

The DDA solicited and received a Broker Opinion of Value, or BOV, provided by an independent commercial real estate broker to estimate the value of the DJJ building. This BOV factored in location, the proposed new lease, building quality and other items to estimate the market price. The resulting market price range given was between \$6.2m and \$7.3m. This range included the negotiated Tenant Improvement Allowances of \$1.67m which would be due immediately upon execution of the new proposed lease. Clearly, the most important variables in valuing the building are the terms specified in the lease.

Sounds like success, right?

Unfortunately, some additional terms the State clarified in recent weeks for a new extended lease would result in the building being valued at a lesser amount than the BOV estimate above, or what we believe to be fair and equitable. In fact, given these new terms the State clarified, brokers contacted were not sure how to calculate a value. Additionally, there were multiple terms the State required in this proposed lease which presented significant risks to our DDA, in the opinion of our real estate attorney, Seyfarth Shaw, LLP.

We understand and respect the State's position - given that the original 17-year lease more than paid for the building, and we now enjoy 'free and clear' ownership. However, this proposed new lease would significantly devalue the building. Our position is that the building has a fair value, regardless of how it was paid for, and the DDA's job as stewards of this building is to extract a fair and equitable value. Finally, the DDA assumed some risk in taking this project on, and there is a value associated with that risk.

As a result of these different perspectives, we have been unable to secure an acceptable new lease, despite significant effort. The obvious downside of this lease negotiation impasse to the DDA and our stakeholders is that an empty building serves no one and quickly becomes a devalued liability.

So, no new lease agreement – now what?? What options do we have?

Recently, the DDA received an unsolicited offer to buy the building from Forum Management, the building's property managers. Forum has issued the DDA an unsolicited Purchase Sale Agreement, on an 'as is' basis – or, with the lease situation as it stands.

After a negotiation, in which the DDA and Forum agreed to some terms that mitigated much of the DDA's risk, the DDA has voted unanimously to accept this Purchase Sale Agreement for an amount of \$7m. This agreement is like a contract to buy a house – we have not closed yet – but anticipate that we will close relatively soon.

Why would you accept this offer as opposed to continue to negotiate with the State?

The DDA voted to accept this agreement for several reasons:

- As a volunteer board, we are not equipped to be an “ongoing landlord” of a building of this size. We are certainly not equipped to deal with the liability of an empty building, an increasing likelihood. This agreement is the safest, simplest and cheapest path to monetize our building.
- The negotiated price of \$7m represents what we believe is a 'fair and equitable' price based on the Broker Opinion of Value (BOV) we commissioned from an independent broker. This \$7m figure is quite fair given that the new owner will be responsible for the Tenant Improvement (TI) allowances in any new lease – so the DDA nets the entire \$7m – towards the higher end of the BOV when the TI allowance is factored.
- As stated – while we respect the State's position, we believe continued negotiation with them would have yielded little if any progress – and would have been at great expense as we would have had to hire a commercial real estate broker to do so.

- The lease proposed by the State contained several provisions that presented very real risks to the DDA, as opined by Seyfarth Shaw, our legal counsel.

Now what?

The DDA is excited to shift our priorities towards the immediate needs in our Central Business District, and to being a good partner to the city in meeting these needs. We hope to close soon so we can begin to put this capital to work for the good of our downtown. Should we not close for any reason, the DDA will keep \$50,000 (twice the standard \$25,000) of earnest money that Forum provided, and the DDA will not be bound to accept any new terms that Forum may have negotiated with the State.

In closing, all of us in our wonderful city rest “on the shoulders of giants.” This financial opportunity, from which we will all reap benefits for many years, was made possible by those outstanding citizens who served as volunteers on the DDA and the BOMC in the early 90s. Also, much work was done by the City’s staff at that time to make this vision a reality. A member of the DDA at the time, Michael Payne, had this to say: “I am very proud of the work my colleagues on the DDA and I did in 2002 to secure this building. It was always our intent to someday sell this building and use the proceeds for the good of downtown Avondale Estates. It is great to see the wonderful stewardship of subsequent DDAs, especially this current group, and their great efforts to realize this dream”.

More information on the DDA is available on our website, exploreavondale.org. Please feel free to reach out to me, or any of the DDA Directors listed below – all of whom approved this communication - with questions, concerns or comments. Or, of course, come to our meetings on the second Tuesday of each month, at City Hall at 6:30 pm.

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