RECORD OF DECISION

CITY OF PRINCE ALBERT – BOARD OF REVISION

Appeal No.:	**2022-04**
Roll No.:	221-010-610
Hearing Date:	May 25, 2022 at 1:00 p.m.
Location:	2nd Floor, Main Boardroom, City Hall 1084 Central Avenue, Prince Albert, SK
Appellant	V.C. Lemieux Holdings Inc.
Respondent	City of Prince Albert
Board of Revision	Jackie Packet, Chair Ralph Boychuk, Member Dan Christakos, Member Terri Mercier, Secretary

Representation

Appellant	Grace Muzyka, Brunsdon Lawrek & Associates on behalf of V.C. Lemieux Holdings Inc. Angelo Minier, representative of Econo Lumber
Respondent	Vanessa Vaughan (City Assessor) Dale Braitenbach (Assessment Appraiser) Heather Greier (Observer, Assessment Department)

Property Appealed

Civic Address	1800 – 6th Avenue East Prince Albert, Saskatchewan
Legal Description	Lot R, Plan No. 102289271, Extension 0
Assessed Value	$7,168,600
Tax Class	Commercial – Tier 3 – Improved (85% of value)
Taxable Assessment	$6,093,300

Role of the Board of Revision

[1] The Board of Revision (Board) is an appeal board that rules on the assessment valuations for both land and buildings that are under appeal. The basic principle to be applied by the Board in all cases is set out in *The Cities Act*, which states the dominant and controlling factor in the assessment of property is equity. The Board's priority is to ensure that all parties to an appeal receive a fair hearing and that the rules of natural justice come into play.

[2] The Board may also hear appeals pertaining to the tax classification of property or the tax status of property (exempt or taxable). This does not mean the Board can hear issues relating to the taxes owed on property.

[3] Upon hearing an appeal the Board is empowered to:
- (a) confirm the assessment; or,
- (b) change the assessment and direct a revision of the assessment roll by:
    - a. increasing or decreasing the assessment;
    - b. changing the liability to taxation or the classification of the subject; or,
    - c. changing both the assessment and the liability to taxation and the classification of the subject.

Legislation

[4] Property assessments in Saskatchewan are governed by *The Cities Act*, *The Cities Act Regulations* and/or by board order of the Saskatchewan Assessment Management Agency (SAMA).

[5] The dominant and controlling factor in assessment is equity. (*The Cities Act*, 165(3))

[6] Equity is achieved by applying the market valuation standard. (*The Cities Act*, 165(5))

[7] The market valuation standard is achieved when the assessed value of property:
- (a) is prepared using mass appraisal;
- (b) is an estimate of the market value of the estate in fee simple in the property;
- (c) reflects typical market conditions for similar properties; and,
- (d) meets quality assurance standards established by order of the agency. (*The Cities Act*, 163(f.1))

[8] Mass appraisal means preparing assessments for a group of properties as of the base date using standard appraisal methods, employing common data and allowing for statistical testing. (*The Cities Act*, 163(f.3))

Preliminary Matters

[9] With respect to the Board's internal process, this hearing will be recorded for use of the Board only in rendering its decision.

[10] The Respondent requested that all information provided in Appendices M and Q of their submission remain confidential to this hearing. Agreed upon by the Appellant and the Board. The Board ordered Appendices M and Q as confidential in accordance with Section 202 of *The Cities Act*.

[11] The Respondent requested that a correction be made on Page 146 of their submission to the last line on the last table in relation to 125 12th Street East to change the proposed assessment to $1,000,300. There were no objections to the change by the Appellant or the Board.

[12] The Appellant requested that certain sections of their submission remain confidential to this hearing. The documents that are reprinted from licensed and/or confidential materials, those being the Marshall Swift Manual, portions of the SAMA Cost Guide and information provided by the City. The following page numbers are affected: 17, 35 to 42, 48 and 138 to 140. Agreed upon by the Appellant and the Board. The Board ordered Page Nos. 17, 35 to 42, 48 and 138 to 140 as confidential in accordance with Section 202 of *The Cities Act*.

Exhibits

[13] The following material was filed with the Secretary of the Board of Revision:

a) Exhibit A-1 – Notice of Appeal received January 31, 2022
b) Exhibit A-2 – Appellant's 20 day written submission received May 4, 2022
c) Exhibit A-3 – Appellant's 5 day written rebuttal received May 19, 2022
d) Exhibit B-1 – Acknowledgement Letter dated February 10, 2022
e) Exhibit B-2 – Notice of Hearing Letter dated March 30, 2022
f) Exhibit R-1 – Respondent's 10 day written submission received May 13, 2022

Appeal

[14] Pursuant to *The Cities Act*, section 197(1), an appeal has been filed against the property valuation of the subject property. The Property is a lumber yard on 9.58 acres (417,456 square feet). There are multiple buildings of 54,834 square feet on site with the primary building being a 32,642 square foot home improvement store.

[15] The Appellant's ground states:

The Market Valuation Standard has not been met in the subject's case as the assessed value assigned to this property exceeds the value at which similar properties are assessed as at the valuation base date of January 1, 2019.

The overstated and inequitable value results from the replacement cost new (RCN) estimate included in the calculation of this property's assessment being too high; from the physical depreciation allowances applied being too low; and from the incorrect application of a 1.08 market adjustment factor (MAF).

Agent

[16] In the Appellant's written submission and testimony to the Board, the Appellant states:

(a) Ground 1: Replacement Cost

- The Assessor and Appellant inspected the Property on March 9, 2022, and both agreed to the updated physical characteristics and agreed upon the appropriate costing changes.

(b) Ground 2: Physical Depreciation

- SAMA produces the Saskatchewan Assessment Manuel, the Market Value Assessment in Saskatchewan Handbook, and a SAMA Cost Guide for use by Saskatchewan assessors. Acknowledgment that the Manuel has the force of law and the Handbook and Cost Guide provide instruction and guidance.

- The Assessment Appeals Committee (AAC) has stated that the Cost Guide "sets out principles assessors are expected to follow, unless they can demonstrate a good reason to depart from those formulas." (Altus v Saskatoon 2015 SKMB 47)

- The Cost Guide outlines the process for RCNLD (Replacement Cost New Less Depreciation). These outlines are not law but are followed by municipalities and cities across Saskatchewan. There is a Commercial Building Life Expectancy Table in the SAMA Cost Guide and from there assessors are expected to follow the Manuel depreciation tables.

- The City followed the Manuel to determine the replacement cost new for commercial buildings, but, without good reason, ignored the Cost Guide in respect to physical depreciation.

- The City uses a 60-year life expectancy and depreciation table in assessing all buildings in the City.

- Examples of different quality buildings were provided with the point being that one depreciation and life expectancy table cannot be used for all buildings. i.e. a non-heated storage shed should not have a 60-year life expectancy/depreciation as a brick-and-mortar office building.

- The Subject Property has a variety of build dates per each unit. The range is 1984 to 2013. Based on a good condition, a chart was provided illustrating the incorrect physical depreciation allowances: 24% should be 58%, 6% should be 5%, 12% should be 13%, 35% should be 62%, 23% should be 80%.

- A chart with five Saskatchewan based lumber marts was provided. These five have similar or newer build dates; each has a higher depreciation rate than the Subject Property because the Cost Guide was used as it was intended to be used and not a 60-year depreciation table used by Prince Albert.

(c) Ground 3: MAF

- There are no sales of similar properties within the City from which to develop an appropriate MAF. The sales used to develop a 1.08 MAF range in size from 1,680 to 11,400 square feet and range in price from $192,500 to $1,950,000. The subject property is 9.583 acres with buildings totally 97,202 square feet of floor area; this is eight times the size of the largest property used to develop the MAF. None of the sale properties have unheated improvements, nearly half of the subject property's square footage is unheated. The Property's assessment is $7,168,500 – more than four times the highest sale price of properties used to determine the MAF.

- This is a large, specialized property which would most likely trade on the regional or national market and not the local market. The 6 sales used to develop the Warehouse MAF are similar in size, and nature, and most likely trade on the local market.

- No MAF should be applied.

- An alternate MAF of 1.05 was proposed based on the removal of one of the 6 sales used to develop the warehouse MAF of 1.08. The sale that should be removed is a strip mall, not a warehouse.

[17] Questions and Subsequent Answers of the Agent:

- The Assessor asked several questions regarding them using the appropriate guides when determining physical depreciation / life expectancy. The Agent acknowledged the correct use of guides when calculating building types, construction, costs to build etc. The issue is the deviation from the Guide by using a 60-year life expectancy / depreciation table rather than the one set out in the Guide which is developed by SAMA.

- The Assessor questioned the Agent's understanding of build qualities, cold storage versus heated storage life expectancies, effects of renovations on life expectancy and depreciation. The Agent referred to field sheets in support of understanding, pointing out that the 60-year life expectancy chart skews the numbers.

- The Assessor inquired if the Agent had inspected the referenced lumber yards in communities outside of the City. One had been inspected and others were observed when passing by.

- Lastly, the Agent indicted that she had no evidence of possible regional or national markets for the subject property or evidence indicating that the subject property would not be attractive on the local market.

- The Board asked if *The Cities Act* was not followed or if a Capitalization rate was expected. The Agent referenced the use of Marshall and Swift and knew that the City does not use the income approach when assessing. The Agent stressed that the City correctly used the Cost Approach but should not have applied a MAF or at least apply a MAF of lesser value.

<u>Assessor</u>

[18] In the Assessor's written submission and testimony to the Board, the Assessor states:

(a) Ground 1: Replacement Cost:

- The Assessor and Appellant inspected the Property on March 9, 2022, and both agreed to the updated physical characteristics and agreed upon the appropriate costing changes. The changes will come into effect for 2023.

(b) Ground 2: Physical Depreciation:

- The city applies the Cost Approach to Value modified by a MAF, along with Marshall & Swift costing rates, to determine assessments of commercial buildings.

- A different format of depreciation tables in the new CAMAlot system was implemented for commercial properties across the City. The City adapted the tables as they found that Marshall & Swift has a much faster depreciation rate; older buildings were depreciated out at 80%, leaving 20% of building cost, but still highly used buildings.

- SAMA, as the Agent pointed out, have undertaken several reviews of their depreciation tables, and have adjusted and updated for various occupancy codes and building conditions. A chart indicating a SAMA adjustment of occupancy codes was provided on the Subject Property.

- Some buildings in Saskatchewan, due to climate are better built and, thus, don't depreciate as quickly. The 60-year life table has buildings depreciate at a more consistent rate over the lifetime of the building.

- The aggressive depreciation of Marshall & Swift skews MAF's especially if sales are of older buildings with high depreciation values. Past commercial appeals, especially of new or newer builds, have challenged this.

- Another option for the City would be to adjust condition ratings on all commercial properties, except new builds. The Cost guide has concrete, logical, definitions of ratings and adjusting these ratings would be difficult. The use of a 60-year life cycle has brought equity to assessments.

- The city used mass appraisal practices and principles when assessing the property. The Property is an estimate of market value and does reflect the typical market conditions for similar properties. The property has the Warehouse MAF grouping with an ASR of 0.999 which meets the requirements of Board Order.

- *The Cities Act* does not allow single property appraisal techniques. Other properties with similar buildings to the subject property have all been valued using the 60-year life expectancy. If one application of year life expectancy was changed equity among similar properties would not be achieved.

(c) Ground 3: MAF:

- Six sales – warehouses, in same location – were used to develop a Warehouse MAF of 1.08. As warehouse properties they are costed under section 14 of the Manuel.

- Yes, the Property is much larger and a higher value than the sales properties, but there are five buildings on the Property making up the square footage and, therefore a higher assessed value.

- A chart of the site coverage of sales to the subject property was provided. It demonstrates the Property falls in range of the sale properties; even though it is larger, it is like the sale properties.

- TNC Mall Property Holdings v Moose Jaw was cited concerning comparability being relative concept.

- A chart comparing the cost per square foot for the buildings on the subject property and those of the sales properties demonstrates that the buildings are comparable. Included in that costing is years of construction, construction type, and height. Comparability has many dimensions.

- The industrial flex building, with multiple overhead doors, which the Agent wants removed from the sales to develop a MAF of 1.05 cannot be removed as it fits into the Warehouse MAF grouping and location, same as the subject property.

[19] Questions and Subsequent Answers of the Assessor:

- The Agent questioned how costs per square foot can differ so much on buildings with the same life expectancy of 60 years. Just as Marshall & Swift valuation differ between building types so do their depreciation rates. There is more cost involved in an office building than a material storage shed. The office building referred to by the Agent has a rate of $208 per square foot and appealed material shed a rate of $22.30 per square foot.

- The Agent referred to a Home Mart in Martensville built in 1989 having a physical depreciation of nearly 80%. The Assessor's response was that would mean the building should be nearing its productive use and yet it is still in fine working order. It has had too aggressive a depreciation rate. Such examples are a good reason for the change to a 60-year life cycle.

- The Agent questioned if there were enough comparable sales to support the MAF. The response was an ideal world would have numerable sales for every type of assessment. The Assessor had 59 improved commercial property sales from Jan 1, 20114 to Dec. 31, 2018. Stratification groupings were determined based on property use- 8 groupings in total. Within the Warehouse property type grouping, the Assessor could further stratify by location: Warehouse and North Industrial Warehouse. Six properties were used to determine a MAF for the Subject Property in the Warehouse stratification.

- The Board asked it the Tim Hortons on Second referenced by the Agent was torn down because it had reached its maximum life expectancy. Customer expectations in a current competitive market was the Assessor's understanding for the change.

Final Comments, Questions, Rebuttals

[20] The Agent emphasized that the Assessor has no authority to "step outside" the Guide to implement a 60-yer life table of depreciation. Inequality happens when all properties are given the same life expectancy.

[21] The Agent also pointed out that "most comparable" is not a good enough argument when the subject property is so much larger and valued so much higher that sales properties in MAF grouping.

[22] The assessor's final arguments were that tables are there as guides and equity was the guiding principle when making their decision to use an alternate table.

[23] Applying no MAF is not an option. Adjusting the MAF is not correct and would create inequality elsewhere.

Board Analysis

[24] After careful deliberation and reviewing of *The Cities Act* and other referenced material, the Board considered:

(a) Ground 1: Replacement Cost

- Agent and Assessor have agreed on updated physical characteristics and agreed upon the appropriate costing changes. As there was not an agreement to adjust at the time, the changes will come into effect for 2023.

(b) Ground 2: Physical Depreciation:

- The city used mass appraisal practices and principles as outlined in *The Cities Act* when assessing the property. *The Cities Act* does not allow single appraisal techniques. The Property is an estimate of market value and does reflect the typical market conditions for similar properties.
- After much deliberation and comparisons, the 60-year life table was applied to all commercial buildings in the City to allow for a less aggressive depreciation rate, especially with highly functional older builds. Depreciation is one piece in creating equity in assessments.
- The comparisons of different lumber yards and/or home building centres in different municipalities is appreciated, but assessments are not done province wide, but rather by jurisdictions.

(c) Ground 3: MAF:

- The City expanded the valuation timeframe to have 59 commercial sales from which to establish stratification groupings. Six sales were used to develop a Warehouse MAF for the subject property. Only two sales are required.

- The Property is comparable to sales of MAF grouping when one looks at square footage of each building in relation to land mass. When ranked according to site coverage (4.29), it ranks fourth out of seven. The argument that the property does not compare because it is eight times bigger than the biggest sale has no bearing.

- The Property is also comparable to sales of MAF grouping when one looks at cost per square foot for builds. The Property has an overall cost per square foot build of $68.87 which ranks sixth out of nine. The argument that the value of the Property is four times more than the highest valued sale, has no bearing.

- The request for no MAF is a request, not an expectation set out in the Guide.

- The request for a reduced MAF has no weight as the "questionable" warehouse property in the grouping belongs in the MAF grouping. It does have more than one tenant, but its build is that of a warehouse and its use is mainly warehouse in nature.

Decision

[24] The Board dismisses the appeal on all grounds.

[25] The total assessed value will remain at $7,168,600.

[26] The taxable assessment will remain at $6,093,300.

[27] The filing fee shall be retained.

DATED AT PRINCE ALBERT, SASKATCHEWAN THIS 29 DAY OF JUNE, 2022.

CITY OF PRINCE ALBERT BOARD OF REVISION

Jackie Packet

Jackie Packet, Chair

I concur:

Ralph Boychuk, Member

I concur:

Dan Christakos, Member