RECORD OF DECISION

CITY OF PRINCE ALBERT – BOARD OF REVISION

Appeal No.:	**2022-31**
Roll No.:	221-000-028
Hearing Date:	June 8, 2022, at 9:00 a.m.
Location:	2nd Floor, Main Boardroom, City Hall 1084 Central Avenue, Prince Albert, SK
Appellant	Dollarama L.P.
Respondent	City of Prince Albert
Board of Revision	Jackie Packet, Chair Ralph Boychuk, Member Dan Christakos, Member Terri Mercier, Secretary

Representation

Appellant	Travis Horne, Ryan ULC on behalf of SBLP South Hill Mall Inc.
Respondent	Vanessa Vaughan (City Assessor) Dona-Lynn Morley (Legal City Representation) Dale Braitenbach (Assessment Appraiser)

Property Appealed

Civic Address	903 – 943, 801 – 15th Street East Prince Albert, Saskatchewan
Legal Description	Lot 15, Block 102, Plan No. 102223426, Extension 0
Assessed Value	$12,189,100
Tax Class	Commercial – Tier 4 – Improved (85% of value)
Taxable Assessment	$10,360,700

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] At the request of the respondent, and in accordance with Section 208 of *The Cities Act,* the Board ordered that this hearing be recorded by court reporting services, Royal Reporting Services, with the costs of the recording being charged to the respondent.

[11] The Appellant requested to amend his notice of appeal to add a new ground, in accordance with Section 209 of The Cities Act, as outlined on Page 4 of the Appellant's submission.

[12] There were no objections by the Appellant, therefore, the Board orders to grant leave to the Appellant to amend his notice of appeal in accordance with Section 209 of The Cities Act.

[13] The Respondent requested additional documents to be considered at the hearing in relation to the recent decision rendered by the Saskatchewan Municipal Board Assessment Appeals Committee (AAC) between the City of Prince Albert and Various, as represented by AEC Property Tax Solutions, referred as AAC 2017-0364.1.

[14] The additional documents include eight (8) pages of tables and graphs, noted in the Exhibits below, along with AAC Appeal No. 2017-0364.1 (City of Prince Albert vs. Various (AEC Property Tax Solutions) and AAC 2017-0470.1 (City of Estevan and City of Weyburn vs. Walmart Canada Corp. and Canadian Tire Corporation Ltd.).

[15] The Board and Respondent had no objections to the additional information; however, the Appellant requested an opportunity to conduct an undertaking following the hearing in response to the Respondent's new evidence if there was a need. The Board agreed.

[16] The Appellant requested that appeal 2022-18 be considered a lead appeal and all evidence and testimony from both parties for this appeal be carried forward and applied to appeals 2022-19, and 2022-31. The Respondent agreed.

[17] The Board ruled appeal 2022-18 to be the lead appeal and all evidence and testimony from the Agent and Respondent will be carried forward and applied to appeals 2022-19, and 2022-31.

[18] In light of there being a lead appeal, the Board will render a decision on the lead appeal 2022-18 and apply that decision to appeals 2022-19, and 2022-31.

Exhibits

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

a) Exhibit A-1 – Notice of Appeal received February 15, 2022
b) Exhibit A-2 – Appellant's Response to Acknowledgement and Amendment Letter dated March 14, 2022
c) Exhibit A-3 – Appellant's 20 day written submission received May 18, 2022
d) Exhibit B-1 – Acknowledgement and Amendment Letter dated February 28, 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 27, 2022

The following submissions were approved at the Hearing:

g) Exhibit R-2 – Respondent's Scatter Plots Graph outlining size and age comparisons
h) Exhibit R-3 – Respondent's Sales Chart of various comparable properties
i) Exhibit R-4 – Respondent's 60-year life tables
j) Exhibit R-5 – Respondent's Comparison Breakdown from 2017 to 2021

Appeal

[20] Pursuant to *The Cities Act*, section 197(1), an appeal has been filed against the property valuation of the subject property. This property is a neighbourhood shopping centre (Dollarama, Bulk Barn, Prairie Mobile, Carters, Sherwin Williams, Starbuck's, EasyHome, Prairie Donair, and two sea-cans) of 55,711 square feet on a 215,453 square foot site in the Cornerstone Shopping District of Prince Albert.

[21] The Appellant's ground states:

The assessment is too high and does not meet the Market Valuation Standard (MVS) as it does not bare a fair proportion to the market value of other similar properties stemming from the Assessor's specification and calibration of the mass appraisal model determined for and applied to the subject. Data was incorrectly utilized and does not represent the market and the facts, conditions and circumstances of the property on January 1, 2022, as though it existed as of the base date – January 1, 2019. Equity has not been met.

Agent

[22] In the Agent's written submission and testimony to the Board, the Agent states:

(a) Ground One: Market Adjustment Factor (MAF)

- The Assessor applied a MAF from sales that are not comparable to the Subject Property. The properties are not comparable as improvements differ, market values differ, and trading markets differ.

- There were sixteen commercial properties, located outside the downtown core of the City, used to develop a MAF of 1.10. Among these sixteen is a non-profit library, a dry-cleaning business, a gas station/convenience store, a hobby craft business, a dance studio/computer repair shop, and a former blockbuster video store. These sales are not comparable to the Subject Property which is a community shopping centre.

- The Subject Property is 216,400 square feet, almost 200 times larger than any sale in the MAF grouping; therefore, making the Property non-comparable to MAF group based on size.

- The Subject Property does not trade in the same market as the sales in MAF grouping. The Subject Property trades in an international market and most sales in MAF grouping are locally owned.

- The Subject Property has been assessed over 25 million and the highest sale in the MAF grouping was less than 2.3 million and the median value of the sales in question is $757,500. Based on these figures, one can see that the sales used to develop the MAF are not comparable to the Subject property.

- Pictures with notes, size box plots, size pie charts, building cost charts were provided to illustrate the non-comparability of the Subject Property to the MAF sales grouping.

- The MAF of 1.10 should be removed.

- Argument of lack of comparability supported by the recent decision of the Assessment Appeals Committee concerning an appeal from 2017: Prince Albert (City) v Various (AEC Tax Solutions). Emphasis on the Committee stressing those comparable properties must share similar characteristics. "MAF sales can only be used to derive a MAF for subject properties if all those sales are comparable to the subject properties." (Paragraph 30 of decision)

- Four properties used in the previous cycle which the Committee have ruled as being incomparable were used in this valuation cycle.

(b) Ground Two: Replacement Cost New Less Depreciation (RCNLD):

- The Assessor did not apply the correct Age/Life expectancy to estimate depreciation.

- The City uses a 60-year age/life deprecation table; Marshall & Swift which is widely used in the province uses a 40-year age/life table for community shopping centres.

- With the removal of MAF and proper assignment of age/life (40) the estimate assessment should be $9,370,200. RCNLD difference of $1,748,631 from what the City calculated.

[23] Questions Directed to Agent and Subsequent answers:

- Agent confirmed that he has presented the two areas MAF and RCNLD he feels that the City erred in making assessment on the Property.

- The Board inquired if the Agent made assumptions or had proof that the MAF sales properties were all locally owned rather than Regional and/or National ownerships. The response was that he researched the information but did not provide evidence of that research in his submission. He also pointed out that the City did not provide that information in their submission.

- The Board questioned the Agent's understanding of Marshall & Swift as law or a guide. The Agent acknowledged that Marshall & Swift is a guide.

Assessor

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

(a) Ground One: MAF:

- The city values improved commercial properties by the Cost Approach modified by a MAF.

- In valuation years, 2015-2018 there were three vacant land sales, helping to develop a base land rate of $6.51 and a standard parcel size of 47,045 square feet. A 180% land size multiplier curve is applied to the base land rate for parcels larger than the standard size.

- The land rate of $6.51 is applied to all commercial and industrial properties in the City. One land rate in the City.

- Next step is to determine RCNLD.

- Concerning the MAF, the City used 59 improved commercial property sales in the valuation years, 2015-2018, and extended the date range back to 2014 so there were sufficient sales of different property types for stratification purposes. With stratification, the City identified eight groupings. Looking at the sales, the Assessor was able to further stratify the Office, Restaurant, Retail property grouping by location - Downtown and Outside the Downtown. Sixteen sales were used to develop the Retail/Outside Downtown MAF grouping.

- Sales evidence shows that there is a difference between properties in the downtown core and outside the downtown. The ones of note: Office MAF downtown 0.16, outside downtown 0.46; Restaurant MAF downtown 0.42, outside downtown 0.99, Retail MAF downtown 0.42, outside downtown 1.1.

- Details provided concerning the variables used when determining the costing of each building in the MAF groping. Prior experience to recent Committee decision, not every variable had to be comparable to the Property to determine a MAF.

- Trends concerning MAF's and variables were closely evaluated. Size did not matter in sales evidence. RCNLD values per square foot did not demonstrate that size was a factor in determining costs. Age also had no bearing. Site coverage showed not value generating characteristic.

- Sales evidence is the foundation of all decisions concerning MAF's.

- In the Cost Approach such things as property signage, landscaping, drainage, parking lot surfacing, and parking lot lighting etc are not costed by SAMA in the Handbook or Cost Guide. These "things" are accounted for in the MAF. If no MAF is applied the assessed value of properties would not align with the market value of said properties.

- Economic obsolescence, losses/gains in building values due to replacement costs, and physical deterioration or functional obsolescence not accounted for in RCNLD's are also elements of a MAF. Again, if no MAF were applied, these would not be accounted for and values of properties would not align with market values.

- Cost Approach with an applied MAF creates equity based on sales.

- Three sales of the MAF grouping were involved in previous valuation and part of decision of Committee recently rendered.

- The recent decision by the Assessment Appeals Committee concerning an appeal from 2017: Prince Albert (City) v Various (AEC Tax Solutions) was frequently referenced as the Board in that decision declared MAF sales as incomparable to one subject property but declared them comparable to other subject properties.

(b) Ground Two: RCNLD:

- 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, has 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. Examples of MAF's using M&S tables versus 60 year/life were provided. On the Property the difference is a MAF of 2.14 and 1.10.

- 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.

- Agent provided estimated values of Properties under appeal; there are several errors in the estimates concerning physical data: years of build, costing differences of areas, refrigeration costings, quality of builds, canopy costs, ages of properties etc. Agent's data is incorrect.

(c) Concerning Case Law of 2017 Appeals:

- *The Cities Act* Market Value Standards are based on similar properties. MAF's are developed using sales of comparable/similar properties. The Assessor has followed the guidelines of the Handbook.

- SMB indicates that all seven physical characteristics must be present to assure that properties are comparable. The City has shown that comparability is not dependent on all seven. In fact, if this premise was followed no MAF would ever be developed if using the Cost Approach as established in the Guide.

- In decision of 2017 the Board found, in one instance, the properties were comparable, and the same Board found them incomparable.

[25] Questions Directed to Assessor and Subsequent answers:

- Agent questioned the author of Respondent submission. Assessor acknowledged that submissions are a team effort.

- Agent questioned if zoning affects values and the Assessor stated that according to sales, zoning could not be shown to affect value. The City has the same land value of $6.51 for both commercial and industrial areas.

- Agent questioned use of sale varication forms, visits to properties, phone calls to owners. The Assessor assured that to best of their ability they verified sales information and noted that at least one owner was from Calgary.

- Agent questioned use of Cost Guide. Assessor applied depreciation as defined by the Guide but did use a 60-year age/life table rather than Marshall & Swift table. The new schedules came from Alberta models. Many tables were tested prior to deciding which to use. The analysis of testing has not been presented as evidence. However, examples are provided as to how tables affect development of MAF's. When 60 age/life used MAF's better reflected sales evidence.

- 2017 cycle the Marshall and Swift table were used for deprecation.

- Agent questioned if Assessor has seen a MAF increase based on size to which the Assessor answered no. Assessor has heard of that being the case in other jurisdictions. Use and location are two characteristics which affect value.

- Agent questioned RCNLD of sale grouping. Assessor emphasized equity – all sales have a 60-year age/life.

- Permit values assist in determining value of building but are not used in costing per say. Site coverage and occupancy types are also considered.

- Agent questioned the training of new staff as to whether they were trained to always apply a MAF when using Cost Approach. Answer was "no". Saskatchewan has an additional Cost Multiplier.

- Agent questioned if the Assessor provided her method of calculations after pointing out the costing calculation errors made by the Assessor. The Assessor did not and indicated that the MAF on the Property would be much higher if the age/life tables were 40 years and not 60 years.

Final comments, Questions, Rebuttals

[26] Noted that Agent feels that the Respondent's presentation should strictly come from the Assessor as she is the one under oath. Noted that the Board considers Respondent as a team presenting material.

[27] Noted that Agent disagrees with passing of notes between members of Respondent team during presentation. Board noted that no examination of Agent's computer happened and would not happen. Both sides are under oath.

[28] Agent reiterated that size alone makes properties incomparable. The Property is much larger than even the largest property. Zoning also makes them incomparable. Marshall & Swift depreciation tables were used in 2017 revaluation; use of 60 age/life depreciation table now is unreasonable. No other jurisdiction in Saskatchewan uses it for commercial properties. The decision of the Committee demonstrates a solid base for comparability. These properties are not comparable.

[29] Trading area is not a valuation parameter. South Hill decision of 2017 indicated that properties are comparable. Same year, Walmart decision indicated not comparable. Cost Guide is not regulated. Cost Guide was followed with a different depreciation table by the discretion of the Assessor. Sales physical evidence makes the properties comparable. No MAF applied would change values, especially of properties with a MAF below 1.00.

[30] Final statement by Agent: the recent Committee decision is law and should be followed. Also, using a depreciation table from outside the province is contrary to what is established in the Guide.

[31] Board queried where 60-year table came from. The Assessor emphasized that much research was done from various jurisdictions within and outside provincial boundaries and yes, the final table is one developed in Alberta.

Board Analysis:

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

- [The Assessor followed the Costing Guide / Mass Appraisal when doing assessment. The number of sales in the stratification group is acceptable.
- *The Cities Act* is clear in that Assessors are not obligated to use data from outside City boundaries. Information from other jurisdictions can be used as reference, but it is not binding.
- Support of a MAF is justified as there are enough sales in the grouping and those sales are comparable to the Subject Property.
- 60-year age/life table was applied equitably to all commercial buildings in City.
- Presentation of materials Appellant and Respondent can be done in a team effort. The Respondent/Assessor did not err is the use of City lawyer to present her case or in the receiving of advice as case is presented. All team members are under the same oath undertaken at the beginning of the hearing.
- Estimated values of properties provided by Agent have several errors. Each property under appeal has more than one building on site requiring careful evaluations and calculations. The City Assessor's reports more credible.
- Alternate ways of determining valuations does not prove an error.
- Recent decision of Committee is acknowledged, but with the number of commercial sales in the City this cycle and the due diligence of Assessor in assuring equity across the City is equally noted.

[33] The Board reviewed the evidence submitted and found insufficient evidence to support a change in the assessed property value.

[34] The Appellant has not proven an error by the assessors in fact, in law or in application of established guidelines.

Decision

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

[36] The total assessed value will remain at $12.189,100.

[37] The taxable assessment will remain at $10,360,700.

[38] 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, Chair

I concur:

Ralph Boychuk, Member

I concur:

Dan Christakos, Member