
RECORD OF DECISION

CITY OF PRINCE ALBERT, BOARD OF REVISION

APPEAL NO.: 2021-51
ROLL NO.: 102-007-760
Hearing Date: June 28, 2021 at 9:00 a.m.
Location: Council Chamber
City Hall, City of Prince Albert

Appellant SBLP South Hill Mall Inc.

Respondent City of Prince Albert

Board of Revision Jackie Packet, Chair
Dan Christakos, Member
Cherise Arnesen, Member

Terri Mercier, Secretary

Representation

Appellant Travis Horne, Agent, Ryan ULC on behalf of SBLP South Hill Mall Inc.

Respondent Vanessa Vaughan, City Assessor
Dona-Lynn Morley, Legal City Representation
Dale Braitenbach, Assessment Department

Property Appealed

Civic Address 2995 2nd Avenue West
Prince Albert, Saskatchewan

Legal Description Block L, Plan 102174522, Ext 0

Assessed Value \$26,302,900

Tax Class Commercial – Tier 5 - Improved (85% of value)

Taxable Assessment \$22,357,500

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 was 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 noted one preliminary matter regarding a request to replace Page No. 68 of the Appellant's 20-day submission.

[12] The Respondent brought forward a preliminary matter relating to Appeal 2021-46. The Appellant represents Canadian Tire Corp, but Canadian Tire Corp does not own any of the businesses in subject property listed in Appeal 2021-46.

[13] The Respondent and Board requested clarification from the Appellant with respect to Appeal 2021-46 as to which property was being represented by the Appellant. The Appellant recognized that he did not have proper authorization to represent the owner(s) of properties listed in Appeal 2021-46.

[14] The Board ruled that Appeal 2021-46 did not have grounds to be heard because of the agent not having written authority from the current owner(s) to represent the subject property(ies).

[15] The Respondent brought forward a preliminary matter relating to multiple appeals for the same property. The Respondent requested that information presented, and decisions rendered from a previous hearing be carried through to this hearing. The Appellant disagreed as he was not privy to evidence presented at previous hearing. The Board decided to hear this appeal and render a decision based on material presented.

[16] The Respondent withdrew their preliminary matter relating to the Appellant's 20-day submission being received late. Appellant agreed, in the future, to pay better attention to dates outlined in correspondence from Board secretary.

[17] The Appellant requested that appeal 2021-51 be considered a lead appeal and all evidence and testimony from both parties for this appeal be carried forward and applied to appeal 2021-45, 2021-47, 2021-49 and 2021-50. The Respondent agreed.

[18] The Board ruled appeal 2020-51 to be the lead appeal and all evidence and testimony from the Agent and Respondent will be carried forward and applied to appeal 2021-45, 2021-47, 2021-49 and 2021-50.

[19] In light of there being a lead appeal, the Board will render a decision on the lead appeal (2021-51) and apply that decision to appeals 2021-45, 2021-47, 2021-49 and 2021-50.

Exhibits

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

- a) Exhibit A-1 — Notice of appeal
- b) Exhibit A-2 – Letter of Authorization from Appellant
- c) Exhibit A-3 — Appellant's 20 day written submission
- d) Exhibit R-1 — Respondent's 10 day written submission
- e) Exhibit A-4 — Appellant's 5 day written response

Appeal

[21] Pursuant to *The Cities Act*, section 197(1), an appeal has been filed against the property valuation and preparation or content of the notice of assessment of the subject property. There is a 198,319 enclosed mall built in 1972 and 2003, a 9,481 sq. ft. stand-alone retail space (built in 1974) (Gene's Sport), a 3,452 sq. ft. Fast Food Restaurant (Built in 2004) (Wendy's), and a 5,148 sq. ft. restaurant (Built in 2014) (Montana's). The subject parcel is 828,330 square feet in size to which the assessor has applied a base land rate of \$6.51 with a standard parcel size (SPS) of 47,045 square feet and a land size multiplier (LSM) based on a 180% curve.

[22] The Appellant's ground states:

- Ground 1

The assessment is too high and does not meet Market Valuation Standard (MVS) as it does not bear a fair and just 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 utilized was incorrectly restricted and does not represent the market as of the base date. Equity has not been met.

- Ground 2:

The Assessor filibustered requests for information. The Assessor prevented the disclosure of information necessary to review an assessment frustrating the primary objective of the toll for public inspection and appeals. The Assessor failed to facilitate review to determine if an assessment is fair and equitable.

- Ground 3:

The method and sale data set applied does not reflect market values as of the base date. The model was incorrectly specified and calibrated based on standard appraisal practice illustrated by the Valuation Parameters in the Market Value Assessment in Saskatchewan Handbook and SAMA's Cost guide.

Agent

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

- The AVM (Automated Valuation Model) applied does not rely on comparable market observations. The grouping of properties to determine a MAF (Market Adjustment Factor) outside the downtown area are similar in type (commercial/retail), but there are no similarities in physical size, approximate market value, or in typical trading market.
- Sufficient and comparable sales are the two conditions required by legislation to apply a MAF. As there were no comparable sales to subject property, the Assessor should not have applied a MAF, but rather applied a "neutral" MAF (1.0).
- Without a MAF in a limited market, or with properties which are newer or built rather than purchased, use of RCNLD (Replacement Cost New Less Depreciation) is more accurate and is still prepared using mass appraisal.
- It is recognized that properties valued on the Cost approach with no applied MAF meet the requirements of mass appraisal, the MVS, and equity. This is especially true of special purpose properties; these properties have a limited market as they are seldom leased and rarely sold. These factors make for limited or no market data.
- There is no evidence to support the MAF applied by the assessor to subject property as there is insufficient or no evidence from sales of similar properties.
- In the previous assessment cycle the City Board of Revision agreed with an Appellant that industrial and special use properties should have an applied MAF of 1.0.
- Several examples were cited of how other jurisdictions do not use MAF's and rely more on RCNLD factors.

Assessor

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

- Grounds 1 and 3:

The Cost Approach to Value as modified by a MAF was used to determine the assessed value of the property. 59 property sales from January 1, 2014, to December 31, 2018, were stratified into MAF groupings of similar properties. The Outside Downtown Retail MAF grouping (16 of 59 improved property sales) was applied to determine the assessment of all retail properties outside of the Downtown regardless of size, sale price, age, or retail occupancy type. In short, the City created the most comparable MAF group with the evidence available.

After the Board's decision in 2017 to uphold a MAF of 1.0, the City appealed to the Committee; the Committee ruled that the Board erred in their decision and the MAF determined by the Assessor was reinstated. Also, the Board erred in the use of term "neutral" MAF as this is a term not recognized in any official documents used for assessment purposes.

The Court determined in *Cadillac Fairview Corp. v Saskatoon 2000* that if an assessor has sufficient sales and they are relatively comparable, then the assessor should use those sales to establish a MAF and apply it to determine assessment under the Cost Approach. The City submits that in a market value assessment system in which non-regulated property assessments are to meet the MVS, it is better to use the available market evidence of comparable properties to determine an assessment with a MAF than to determine an assessment based on the RCNLD of a property alone.

Size is only one physical characteristic used in determining assessment values and is not the controlling variable. Four of the six properties under appeal are strip malls. The RCNLD's and the Building Assessment per square foot of the MAF of sale properties and the appeal properties are similar. The appeal properties are comparable to the 16 sale properties used by the City to determine the MAF.

- Ground 2

The Assessor was in contact with the Appellant many times during the appeal period; the Assessor responded to the agent's requests for information and provided how the appellant could get information respecting the assessments. Some assessment information requires a payment fee of which the Appellant was informed.

Letters of authorization from relevant property owners is required prior to property information/details being released. No letters of authorization and/or payment per the City's Bylaw were made by the appeal agent. The Assessor did provide through emails estimated costs of possible requests.

Board Analysis

[25] After careful deliberation, reading and rereading court reporter's minutes, and more deliberations, the Board determines the following:

- Grounds 1 and 3:

Within the scope of the 59 sales identified by the city when determining MAF groupings, 16 of them were used to determine the MAF for the properties under appeal. The minimum required is 2 properties.

The properties under appeal are similar in nature to the MAF grouping and, by definition, cannot be considered as special purpose properties. Unique physical designs, special construction materials and layouts that restrict utility are some of the characteristics of special purpose properties. None of the appeal properties fit these determining factors. The board does acknowledge that the appeal properties are seldom leased and rarely sold, which may not be the case with most properties in the MAF grouping used to determine the MAF.

Determining assessment values purely on a RCNLD in a mass appraisal scenario has the potential to alter results as other market factors are not taken into consideration.

Interesting to learn how other jurisdictions determine assessment values but important to understand how Saskatchewan guidelines are followed and how individual cities apply what is just and equitable for all properties within their boundaries.

- Ground 2:

It appears that the City Assessor and her office provided the Appellant with requested information and/or provided clear steps to accessing information requested. Past experiences with this office, either by the board or other appeal agents we, the board, have found the assessment office open and helpful.

Adhering to established confidentiality by laws and expectations is critical when dealing with assessments of private dwellings and businesses.

- Other Thoughts:

It is becoming increasingly difficult to “hear” local appeal cases of businesses as the cases are not solely prepared for us, but rather prepared in anticipation of a higher appeal. Considering that the Court of Appeals is ‘backlogged’ many years furthers our frustration as a Board of Revision.

We, the Board, appreciate the time and effort both Appellants and Respondents put into preparing and presenting their cases, but need to remind all parties that clarity of purpose and arguments is essential when dealing with “lay person” Board of Revision’s.

BOR’s Conclusion:

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

[27] Assessors followed *The Cities Act* guidelines in determining the classification of appeal property and used a comparable group to the subject property to determine MAF to apply to subject property.

Decision

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

[29] The total assessed value is \$26,302,900.

[30] The taxable assessment is \$22,357,500.

[31] The filing fee shall be retained.

DATED AT PRINCE ALBERT, SASKATCHEWAN THIS 15th DAY OF SEPTEMBER, 2021.

CITY OF PRINCE ALBERT BOARD OF REVISION



Jackie Packet, Chair

I concur:

Dan Christakos, Member

I concur:



Cherise Arnesen, Member