RECORD OF DECISION

CITY OF PRINCE ALBERT – BOARD OF REVISION

Appeal No.:	**2024-31**
Roll No.:	220012750
Hearing Date:	May 22, 2024, at 9:00 a.m.
Location:	2nd Floor, Main Boardroom, City Hall 1084 Central Avenue, Prince Albert, SK
Appellant	Stockyards (Prince Albert) GP Ltd.
Respondent	City of Prince Albert
Board of Revision	Jackie Packet, Chair Ralph Boychuk, Vice-Chair Dan Christakos, Member Terri Mercier, Secretary

Representation

Appellant	Wesley Van Bruggen, MNP LLP
Respondent	Vanessa Vaughan, City Assessor Dale Braitenbach, Assessment Appraiser Darcy Lees, Assessment Appraiser

Property Appealed

Civic Address	340-380 & 850-890, 800 15th Street East Prince Albert, Saskatchewan
Legal Description	Lot 16, Block/Parcel 3, Plan 101847933
Assessed Value	$19,865,400
Tax Class	Commercial – Improved-T (85% of value)
Taxable Assessment	$16,885,700

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] The Appellant and Respondent indicated a preliminary issue of moving forward the Effective Age and Economic Life argument heard in Appeal No. 2024-06 to all other 2024 appeals heard from this Agent, namely, 2024-07, 2024-08, 2024-09 (automotive); 2024-10, 2024-11, 2024-12 (warehouse); 2024-13, 2024-14, 2024-15, 2024-16, 2024-17 (office); 2024-75, 2024-76 (medical office); 2024-18, 2024-19, 2024-20, 2024-21 (restaurant); 2024-22, 2024-23, 2024-24, 2024-26, 2024-27, 2024-28, 2024-30, 2024-32, 2024-34 (retail); and 2024-25, 2024-29, 2024-31 and 2024-33 (large retail).

[11] The Agent requested in addition to the 'moving forward of arguments' that a few statements be recorded for the record concerning Retail Outside Downtown.

[12] The Board ruled Appeal 2024-06 to be the Lead Appeal and all evidence and testimony from the Agent and Respondent will be carried forward and applied to namely, 2024-07, 2024-08, 2024-09 (automotive), 2024-10, 2024-11, 2024-12 (warehouse); 2024-13, 2024-14, 2024-15, 2024-16, 2024-17 (office); 2024-75, 2024-76 (medical office); 2024-18, 2024-19, 2024-20, 2024-21 (restaurant); 2024-22, 2024-23, 2024-24, 2024-26, 2024-27, 2024-28, 2024-30, 2024-32, 2024-34 (retail); and 2024-25, 2024-29, 2024-31 and 2024-33 (large retail). Additionally, the Board ruled that information concerning Retail Outside the Downtown would be accepted. The Board will render a decision on the Lead Appeal and apply that decision to the appeals as noted above.

[13] The Agent indicated that this Lead Appeal 2024-31 for Appeals 2024-25, 2024-29, 2024-33 (large retail) has a fourth ground which will be argued solely in relation to these large retail properties.

[14] The Assessor indicated a preliminary issue indicating that the Grounds 1 and 2 noted on the Notice of Appeal did not indicate an error. Ground 1: "The assessment is too high." is not a ground for appeal. Ground 2: "The assessment fails to achieve the market valuation standard as required by *The Cities Act*." is not a ground for appeal.

[15] The Agent agreed to dismiss Ground 1 and 2 of Notice of Appeal.

[16] The Agent will carry forward from Appeal 28-2024 two points under an amended Ground 3 and from 06-2024 Ground 3. Ground 4, comparability of subject properties to sales properties, will be presented in this Appeal.

[17] The Board accepted the dismissal of Ground 1 and 2, will carry forward from Appeal 28-2024 Appeal 06-2024 Ground 3. in the Notice of Appeal. The focus of this hearing will be on and Ground 4, Comparability, of the Notice of Appeal.

Exhibits

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

a. Exhibit A-1 – Notice of Appeal received February 27, 2024
b. Exhibit A-2 – Appellant's Response to Notice to Perfect which includes Receipt dated March 14, 2024
c. Exhibit A-3 – Appellant's 20 day written submission received April 30, 2024, which includes Supplementary Information
d. Exhibit A-4 – Appellant's 5 day written rebuttal received May 16, 2024
e. Exhibit B-1 - Acknowledgement Letter & Notice to Perfect Letter dated March 12, 2024
f. Exhibit B-2 – Notice of Hearing Letter dated April 4, 2024
g. Exhibit R-1 – Respondents 10 day written submission received May 13, 2024

Appeal

[19] Pursuant to *The Cities Act*, section 197(1), an Appeal has been filed against the property valuation of the subject property. The Lead Appeal property is a non-regulated property with a total land size of 431,746 sq. ft with a primary building (Discount Store) of 109,829 sq. ft. and11- sea cans.

[20] The Appellant's grounds state:

1. The assessed value is too high.

2. The assessment fails to achieve the market valuation standard as required by paragraph 163(f.1) of The Cities Act, on the basis of the following grounds:

    a. The assessment does not reflect typical market conditions for similar properties and is therefore not an estimate of the market value of the subject property, as required by subparagraphs 163(f.1)(ii) and (iii) of The Cities Act, for the reasons below.
    b. The assessment violates the requirements of equity prescribed by subsections 165(3) and (5) of The Cities Act, as it does not bear a fair and just proportion to the market value of similar properties, for the reasons below.
    c. The assessment fails to meet the requirements of "mass appraisal" as required by subparagraph 163(f.1)(i) and as defined in paragraph 163(f.3) of The Cities Act, as the assessor did not use "common data" from properties sufficiently similar to the subject property for the purposes of statistical testing.

3. The Prince Albert assessment department has made the following errors in calculating the Market Adjustment Factor ("MAF") for retail properties:

        a. The Prince Albert assessment department made an error in classification for retail property 433 South Industrial Dr.

b. The Prince Albert assessment department made an error in classification for retail property: 3223 2 Av E

c. Effective Age and Economic Life: According to SAMA 2019 Cost Guide there are two methods that can be used to adjust for physical deterioration. The Lifetime Method which is used for certain commercial buildings and structures and allows for a maximum depreciation of 40% and the Age life method where the effective age of a building is calculated. MNP has determined that the City has errored in the calculating depreciation. The City has assessed the following properties with too much depreciation, as the time of sale, as they have not accurately calculated the remaining economic life of the property due to failing to consider the effective age of the property or the remaining economic life due to renovations done:

   i. 265 32 St W (2016 and 2017)
   ii. 807 5 St E
   iii. 107 15 St E
   iv. 3883 2aaAV W
   v. 2420 6AV E
   vi. 349 13 St E
   vii. 85 15 St W
   viii. 1525 5 AV E
   ix. 496 Marquis Rd
   x. 1501 Olive Diefenbaker Dr
   xi. 3223 2 AV E
   xii. 433 South Industrial Dr
   xiii. 2880 2 AV W
   xiv. 200 28 St W

4. The assessment fails to achieve the market valuation standard as required by paragraph 163(f.1) of The Cities Act, as the properties used in the creation of the retail MAF study are not comparable to the subject properties for the following reasons:
   a. Physical characteristics of the property
      i. Building Age: the sales used in the MAF analysis have ages ranging from 1957-2001 while the subject properties have years of construction ranging from 2001 to 2017
      ii. Building Size: The improvements have sizes ranging from 1,536 to 10,441 sq. ft. while the subject properties have sizes ranging from 54,248 to 107,787 sq. ft.
      iii. Site Size: the sales have site sizes ranging from .17 to .89 acres while the subject properties have site sizes ranging from 4.76 to 9.91 acres.
      iv. RCNLD Value: the sales have RCNLD's ranging from $130,633 to

$1,189,526 while the subject properties range from $17,618,067 to $19,388,100

v. Sale values: the sales properties have sale values from $50,100 to $2,224,998 while the assessed values from the subject properties range from $18,061,900 to $19,865,400.

b. Supply and Demand conditions in the marketplace: The subject properties trade at a national level and the sales used to calculate the MAF trade on a local level.

Agent for the Appellant

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

Ground Three: MAF

1. *AAC 2013-0259 and AAC 2013-0261 Conexus Credit Union and City of Prince Albert* para 23 states that the predominant use of any sale should be considered when grouping properties. At the time of sale, 433 South Industrial Dr. was a vacant warehouse and should be grouped in the warehouse MAF analysis.

2. *AAC 2013-0259 and AAC 2013-0261 Conexus Credit Union and City of Prince Albert* para 23 states that the predominant use of any sale should be considered when grouping properties. At the time of sale, the property at 3223 2 Ave. E. was improved with a Tim Hortons and Subway and should be grouped in the restaurant MAF analysis .

3. SAMA's depreciation guide outlines the steps taken when calculating assessments using the Cost Approach.
    a. Estimate land value as if vacant.
    b. Estimate the total reproduction or replacement cost new of improvements as of base date.
    c. Estimate total amount of depreciation, remembering to include physical deterioration, functional obsolescence, and external obsolescence.
    d. Deduct depreciation from reproduction or replacement cost.
    e. Add the depreciated reproduction or replacement costs to the market value based on assessment of land to determine the market value assessment of the property.

4. In addition, the City applies a MAF the calculation for such is outlined in SAMA's 2019 cost guide and SAMA's depreciation guide.

5. MAF's are calculated as follows:

    a. Identify improved properties with comparable buildings that are sales.
    b. Determine the market ratio for each improved property sale:

i. Determine the improved property sale price.
ii. Determine the assessed value of the land.
iii. Determine the replacement cost new less physical deterioration and functional obsolescence of building or structures.
iv. Calculate market ratio by dividing the residual building value by the replacement cost new less physical deterioration and functional obsolescence.

c. Determine the market adjustment factor for the comparable buildings and structures.

6. Using sixteen retail sales, the City calculated a MAF of 1.70.

7. For the 2021 assessment cycle, the City Assessor adopted a single life expectancy of 60 years for commercial buildings rather than use the tables provided in Marshall & Swift (M&S). The City justifies this move as they feel the M&S expectancy table are too short and many well-functioning older warehouses reach maximum depreciation (80%) far too soon. The City also emphasizes that M&S depreciation rates are too aggressive, especially for older buildings.

8. *V.C. Lemieux Holding Inc. v Prince albert (City) 2023 SKMB 3* dealt with this issue of a 60-year single life expectancy and that practice was overturned by the Saskatchewan Municipal Board Committee (SMB).

9. The City Assessment Department did not consider the Effective Age when calculating the RCNLD value for the sales included in the MAF analysis. In an email the City states "...we don't adjust the Effective Age for a renovations/upgrades done to a property. We apply a Condition Factor on the direction provided in the SAMA 2019 Cost Guide in section 3.8."

10. Actual Age, Effective Age, Economic Age, Economic Life, and Remaining Economic Life all need to be considered when estimating depreciation.

11. Effective Age and Economic Life are affected when upgrades and renovations are done. Two of the sales properties had permits taken out. Appellant cannot determine the extent of renovations, but pictures of exteriors demonstrate upgrades.

12. M&S example of calculating Effective Age after repairs and renovations are done was provided. Effective Age directly affects depreciation. This is why it is so critical to calculate depreciation correctly. SAMA Cost Guide in section 3.8 lists Effective Age as one step in calculating physical depreciation.

13. Acknowledgement that assessors have discretion but are bound by the Cost Guide.

14. The result - MAF's are not correct, too high, as an accurate MAF is dependent upon correctly determined RCNLD's, Effective Ages, and Economic Ages.

Ground Four: Comparability

15. The market valuation standard outlined in *The Cities Act* Section 163 (f.1)(iii) is achieved when the assessed value of a property "reflects typical market conditions for similar properties." *Cadillac Fairview Corp Ltd. v Saskatoon (City), 2000 SKCA* 84 para 35 and *Reit S Real Estate Limited v Saskatoon (City), 2021 SKCA 100* support the need for similarities between sales properties to attain comparable market values.

16. SAMA's Valuation Parameters Guide outlines the common characteristics or variables to be considered when valuing properties:
    a. Physical Characteristics include:
        i. Property use
        ii. Building size/area
        iii. Construction style/materials
        iv. Condition of improvements
        v. Building configuration
        vi. Site size
        vii. location
    b. Supply and demand conditions in the marketplace
    c. Legal restrictions (i.e. zoning)

17. Table of 2024 assessments provided to the Board were orally corrected as the table contained assessment values from 2023.
        i. Calculate the residual building value by subtracting the assessed value of the land from the improved property sale price.

18. The significant dissimilar physical characteristics of the sales properties to the subject property are as follows:

    a. Age – sales properties range from 1957 to 2001 builds and subject property was built between 2001 and 2004. The oldest sales property is 44 – 47 years older than subject property.
    b. Size of the Improvements – subject property is 8 times larger than largest sales property and 70 times larger than smallest sales property.
    c. Site Size – subject property is 8 times larger than largest sales property and 58 times larger than the smallest sales property.
    d. Construction of Improvements – RCNLD of subject property is 26 times larger than largest sales property and over 180 times larger than the smallest sales property.

19. Concerning supply and demand conditions of the market, the value of the subject property is 9 times the value of the highest sale in sales properties and 396 times the lowest sale in the grouping.

20. Looking at other large retail properties in Prince Albert (Superstore, Walmart,

Gateway Mall, South Hill Mall, Canadian Tire, Various Cornerstone stripe malls), all are owned by REITS / Corporations that buy and sell properties in the national market.

21. Information from number 6 and 7 above offer the conclusion that the subject property "fits" national market supply and demand and the sales properties do not.

22. *Prince Albert (City) v Various (AEC Property Tax Solutions), 2022 SKMB 66* para 40 supports that size is a market influencing factor properties and if differences in size are extreme, common-sense dictates that the properties trade in different markets.

23. *Various (Ryan ULC v Prince Albert (City), 2024 SKMB 14,* the Committee indicated that the sales used to develop the MAF were not comparable to the subject property and, therefore, not reflective of typical market conditions and concluded that no MAF should be applied.

24. Last year the MAF for Retail Outside Downtown was 1.1; this year the MAF is 1.7. Sales last year,2023, were not comparable, and they are equally non-comparable this year, 2024.

25. Arguments above supported by various appendixes: subject and sale properties assessment summaries, M & S Details, Depreciation Tables, SAMA Cost Guide, emails with the City, ownership titles of various large retail properties, court case decisions, Committee cases etc.

26. Having a sufficient number of sales in MAF grouping does not assure a correct MAF calculation, having a sufficient number of comparable sales does garner a correct MAF calculation.

[22] Questions asked by Respondent and/or Board of the Agent and subsequent answers:

1. When asked how M&S determined an Effective Age of 45 for a building, the answer was there are no clear-cut step by step guidelines but upgrades subjectively affect the Effective Age of a building. SAMA does acknowledge that this is not a simple task. Quality of conditions is also a subjective factor.

2. Permits are indications of possible improvements and inspections by assessors should help in analysis of Effective Age if assessors do not have all information regarding age.

3. The response to whether Condition Ratings affect Effective Age, the Agent emphasized that Condition Ratings and renovations must be considered together as MAF's are up because renovations affect sale values. Buyers pay more for renovated properties than unrenovated properties.

4. Economic Life is extended through renovations whether those renovation are structural or cosmetic. Fewer potential sale properties also increase Economic Life of a potential sale property.

5. When questioned if different renovations (structural, cosmetic, etc) affect Economic Life differently, the answer was all renovations increase value, therefore Economic Life, in some way. Some renovations have a greater affect than others.

6. Agent was asked if he can supply any market or statistical evidence to support that physical characteristics are value generating. His response was the Guide and various SMB decisions emphasize the importance of physical characteristics when assessing a property. Evidence is not needed. Remittal Decision 2022, *Prince Albert (City) v Various Property Tax Solutions*.

7. Agent emphasized after questions that Board must decide if sales properties are like the subject property, as a MAF can only be created using similar properties. And ALL properties must be similar

8. The agent was questioned about supporting evidence concerning supply and demand on national and international markets. He replied that local market buyers are different that national market buyers. Higher valued properties buy on different markets.
9. Questioned about it being a matter of zeroes, a $50,000 property and a multi-million-dollar property attract buyers in their price range. Agent argued that multi-million-dollar properties attract national and international buyers, whereas the lesser valued properties attract local buyers; thus, supporting that the properties are not comparable.

10. Common sense was frequently used when answering questions concerning comparability.

11. Portfolios of larger companies do not contain smaller properties.

12. A MAF on a larger property can only be calculated once there are sales of larger properties. Prince Albert does not have any large property sales.

13. The Board questioned if the value generating characteristics changed between multi-million-dollar properties and less valued properties. The answer is no, but the size of the properties generates different values making the properties non-comparable.

14. The Board asked if would be equitable to apply MAFs to retail properties which are smaller and assessed at a lower value because they are comparable to sales MAF grouping, but no MAF should be applied to large, higher-valued properties because there are no comparable sales to such

properties. The Agent's answer was court decisions state over and over that MAFs are applied to comparable sales to subject properties.

Assessor (Respondent/City)

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

Ground Three: MAF

1. 433 South Industrial Dr. property was designed as a garden centre and nursery at the time of sale. The 2003 addition was designed for retail sales; it had a finished interior, decorative signage, large-windowed retail front, large checkout counter, and a front entrance of two man-doors to accommodate customer traffic flow. This sale is correctly grouped in Retail/outside Downtown MAF grouping.

2. 3223 2 Ave. E was designed as a Neighbourhood Shopping Centre (retail strip mall) with three tenant spaces. Each space had storefront entrances and individual service entrances in the rear. Neighbourhood Shopping Centres can have a variety of tenants from food services to discount stores, to personal service stores, to recreation services to offices etc. A demo of this property occurred in 2017 and that location is now a two-tenant building. 2014 was the time of sale and, thus, it fits into timeframe for the current assessments.

3. Since the 2021 revaluation, all multi-tenant building with three or more unit spaces are costed using the 412 Neighbourhood Shopping Centre costing. At the time of sale, the building was a Neighbourhood Shopping Centre and fits into the Retail/Outside Downtown MAF grouping.

4. Classification of the property, and the cost approach were clarified.

5. Classification of a property requires six steps:

    a. Identify valuation parameters
        i. Physical characteristics: property use, building size/area, construction style/materials, condition of improvements, building configuration, site size, location
        ii. Supply and demand conditions in the marketplace
        iii. Legal restrictions (i.e. zoning)
    b. Collect appropriate data
        i. Data collected from existing assessment records, property owners, property inspections, government and industry publications.
    c. Analyse collected data
        i. Various statistical technics are used to sort, classify data gathered.
    d. Develop guidelines for applying valuation parameters
        i. Assurance that similar properties are assessed similarly is crucial.
        ii. Assurance that equity is maintained.

e. Apply valuation parameters
f. Test results
    i. Tests are done against recent sales.

6. The objectives of the classification process:

    a) Enable the assessment of several properties easily and efficiently
    b) Stratify properties into classes so comparisons are meaningful
    c) Provide a broad enough definition of classes so there are enough within groups to establish valuation parameters and assessments
    d) Achieve large classes with similar characteristics to assess similar properties similarly using mass appraisal and resulting in equitable results

7. The Cost Approach requires three major parts:

    a) determine the value of land based on vacant land sales and apply a land size multiplier curve for larger parcels of land. In this case a BLR of $6.51(standard parcel size of 47,045 sq. ft) and a LSM if 180% was applied.
    b) RCNLD is determined using the Cost Guide of *Marshall & Swift Manual*. Section 3.2 provides calculation procedures, Section 3.4 lists cost factors, and Section 3.8 on valuation procedures addresses physical deterioration. Following the steps outlined, a depreciation percentage is attained.
    c) determine a MAF. In this case 1.70 based on 16 retail sales of 59 sales which were stratified by property use, district, and/or location.

8. The Agent requests that Assessors use an alternative method of calculating physical deterioration by considering Effective Age of a building rather than the Condition Rating Schedule from the Cost Guide. The Handbook provides for an Effective Age using a Weighted Average for buildings of multiple years of construction and does not provide a method of application for buildings of one year of construction. Applying a Condition Rating accounts for renovations and repairs that occur after additions are made.

9. The Assessor uses both Effective Age for multiple years of construction phases of integrated buildings and the condition rating schedule outlined in the Guide.

10. Charts outlining Effective Age based on Weighted Average were provided for each sale property. Illustrated calculations show that the RCNLD value would change for the sale properties resulting in a MAF of 1.45. The current calculated MAF, using Effective Age and condition ratings is 1.1.

11. SAMA determined the 1.06 Saskatchewan Cost Factor. This SCF is applied across the province, and Assessors cannot deviate from that mandated factor.

12. Application of a MAF is required to cover things not costed by SAMA in the guide - signage, landscaping, drainage, parking lots surfacing, and parking lot lighting etc. Also, a MAF accounts for economic obsolescence and any loss or gain in the value of the building due to any difference in replacement costs and any difference in the amount of physical deterioration or functional obsolescence not accounted for in RCNLD.

13. Cities are bound by legislation to use sale evidence from their jurisdiction when determining RCNLD's and MAF's. They cannot utilize sales from outside City boundaries, but Cities can expand the valuation cycle to include comparable sales; the City did use sales from 2014 to have a larger number of sales for comparability. In this assessment year 59 sales were available, 3 of which are automotive in nature.

14. Condition Rating Schedules from SAMA 2019 cost guide were provided and examined. Conditioning Ratings are adjusted after inspections and these adjusted rating factors then adjust depreciation amounts. In the Assessor's calculations, Effective Age does not affect depreciation percentages, Condition Ratings do that.

15. Economic Life considering short-lived items (roofing, interior finishes, flooring, heating systems etc. and long-lived items (foundation, frame, floor/roof structures, piping, heating ducts, electrical wiring etc) was referenced.

16. SAMA recommends the Weighted Average Age method if a building is constructed over the course more than one year. The Effective Age of the 3 sale properties was not adjusted due to construction years. Condition Ratings were used.

17. Concerning permits: Was work done? Was work short-lived or long-lived item work? Does work, if done, increase Effective Age? Was work done prior to sale or after sale? These are rhetorical questions as permits do not provide full details of every change completed to all short-lived and long-lived items. Condition Ratings in the Cost Guide help to elevate these uncertainties/unknowns.

18. Inequity would result if MAF was adjusted for Sale Properties and not Subject Properties. If Effective Age for the Subject Properties was based on Weighted Average method the MAF would increase from 1.1 to 1.43 – increasing the assessed value for each property.

Ground Four: Comparability

19. *Harvard Property Management Inc. v Saskatoon (City) 2017 SKCA 34* found

comparability or similarity to be a factual matter involving the characteristics of one property and the characteristics of another. *Harvard 2017* further states that comparability should not purely be the result of statistical testing. The Assessor followed SAMA guidelines for stratifying properties and did not rely on statistical testing to do so.

20. The Assessor acknowledges that some properties will be more comparable in property characteristics than other properties. 16 sales were used to develop the retail outside downtown MAF.

21. There is a great deal more than size when it comes to comparability between properties.

22. *TNC Mall Property Holdings Inc. v Moose Jaw (City) 2020 SKCS 99* and results of subsequent appeal apply to this case. Despite that the *TNC Mall* assessment was based on the Income Approach, the final Committee decision (after further appeal) was that when an Assessor has no directly comparable properties, "the assessor will have to move forward using less comparable properties and in a way that respects the requirements of the Act to the extent reasonably possible." (para 40)

23. Property use and location of the sales properties were the main characteristics used when determining a Retail Outside Downtown MAF grouping comparable to the appealed properties.

24. *TNC Mall* para 43 state that statistical testing comes not play after a group of comparable properties has been identified. An assessment to sale (ASR) for the MAF sales grouping is 1.00. The ASR standard by the International Association of Assessing Officers is a range from 0.90 to 1.10.

25. *Walmart Canada Corp v Estevan (City), 2021 SKCA 157 [Estevan Walmart]* para 33 states, "comparability is a relative concept. Properties are rarely comparable in the sense of being identical. In almost all circumstances, they are simply more or less similar with reference to a variety of relevant characteristics including building size, construction style, condition, site size, location and so forth. Thus, the operative question is not whether the properties used to calculate a MAF are identical to the building being assessed but, rather, whether they are sufficiently comparable in relevant respects to warrant the development of a MAF."

26. *Affinity Holding Ltd. v Shaunavon (Town), 2022 SKCA 83 [Affinity]* and *CP Reit S Real Estate Limited v Saskatoon (City), 2021 SKCA 100 [CP Reit]* both emphasize the common characteristics to be considered when determining comparability and the importance of following *Valuation Parameters Guide* in the Handbook. Both conclude that the professional judgement of assessors in the process of evaluating properties is an important factor as well.

27. *TNC Mall* para 37, 38, & 40 *and Havard 2017* paras 27 & 28 indicate that assessors do not have *carte blanche* with respect to discretion.

28. Tables regarding comparisons of sales properties to subject properties were examined.

29. Size of the building does not show an impact on the sale price of a property. As size of a building increases, there are MAF's both above and below 1.00

30. Occupancy, quality, construction type and building height also do not show an impact on sale prices.

31. Newer built properties do not generate a MAF closer to 1.00.

32. Site size and site coverage: Sale Property Site coverage ranges from 2.93 to 8.16 and Subject Properties range from 3.93 to 4.61 Subject Properties receive a reduction in BLR. Sales Properties BLR's range from $5.72 to $6.51 and Appeal properties BLR range from $1.11 to $1.98.

33. RCNLD/SQFT of Sales Properties range from $38.30 to $116.07 and their Sale Price / SQFT range from $1.28 to $230.81. The Subject Properties RCNLD/SQFT range from $103.84 and $198.98.

34. Regarding trading markets or market areas (local, national and international), these are not property characteristics in the Guide and there is no sales evidence to support comparability differences based on such markets.

35. Facts support comparability. *Wal-Mart Canada Corp v Town of Kindersley (SAMA), AAC 2022-0330.* Para 44 supports this statement.

[24] Questions asked by Agent and/or Board of the Appellant and subsequent answers:

1. The Agent's questions and the City's answers concerning the City's understanding of Actual Age and Effective Age of a building indicate that the City knows the difference and understand how to calculate both.

2. Respondent indicated that multiple years of construction and knowing all stages of renovation can help in changing the Effective Age of a building.

3. Respondent indicated that Economic Life of a build is affected if extensive renovations i.e. structural renovations are done – foundation work, framing work etc. Economic Life can be extended provided condition ratings changed after renovations.

4. Economic Life and physical depreciation are co-dependent. An increased Economic Life decreases the amount of depreciation. Respondent emphasized

that increased condition ratings also decrease depreciation and if you use both (Effective Age and Condition Rating) you are doubly accounting.

5. The 60-year depreciation figure was used as Assessors feel it more accurately reflects actual life expectancy of buildings. Buildings were being aged out too quickly. Using a 60-year table for Life Expectancy is more accurate in Prince Albert.

6. Respondent reiterated that using Condition Ratings as defined in the Handbook, more accurately determines Effective Age. When asked how SAMA defines Effective Age the definition was provided: "Effective Age is typical age of structures to the one in question with respect to condition and utility and reflects the remaining economic life of the building or structure."

7. The City used Conditioning Ratings since the beginning of 2021 assessment to help determine Effect Age. When the City first implemented the 60-year Life Expectance table there were 5 conditioning rating levels. Now, there are 8 levels. 2024 assessments were done based on 8 condition rating levels as outlined by M&S.

8. Question by Board concerning Weighted Age of automotive sales changing the MAF to 1.45. The City acknowledged that if Weighted Age was implemented for the automotive sales group it would have to be done for all stratification groupings as equity across City assessments is essential.

9. The Board asked about number of sales to determine a MAF. At least two was answer.

10. The Board questioned when Weighted Average Age (SAMA recommends it be used) has been used by the City. An example of Econo Lumber was provided as the property has multiple years of construction and these were so integrated that Assessors could not see where the differences occur. Once Weighted Average was calculated, Condition Ratings were done. That is not the case with the Sale Properties in this appeal.

11. The City indicated that if a MAF was recalculated at 1.45, it would be applied to the Subject Properties

12. Assessor affirmed that all valuation parameters were examined not just location and use. Size alone cannot be considered.

13. Board queried about a possible MAF grouping of 'large' entities if malls sold, a Wal-Mart sold etc. Assessor responded "...that once analysis of sales was done, yes, it is possible."

Final Questions, Comments, and Rebuttals

[25] The Agent emphasized that the Effective Age of a build can be longer or shorter than a building's actual age.

[26] The Agent pointed out that in SAMA depreciation handbook Effective Age can be a combination of elements: weighted average age, observed conditions, general maintenance practices, and life expectancy of improvements. In lieu of this, the Agent contests that the City does not place enough emphasis on improvements and weighted averages.

[27] SAMA handbook provides a structure for determining Economic Life of a building. The Agent insists that City uses a method which over depreciates buildings. SAMA's suggested calculation of Effective Age alleviates this.

[28] The Agent insists that adjustments in Effective Age are not dependent on extensive renovations (ie "gutting" a build), but rather all renovations affect "Age" of a building. Acknowledgement that some renovations have more affect than others.

[29] At no time is the Agent saying that Conditioning Ratings should not be considered. They must be considered along with adjusted Effective Age. The City errored in not doing this. Argument supported by decision *Affinity Holdings Ltd. v Shaunavon (Town) 202 SKCA 83 para 79-83.* Handbook, Cost Guide and M&S must be followed when making assessments.

[30] Agent insists that the error pointed out in Notice of Appeal is with the Sale Properties and how their Effective Life was calculated and ultimately determining the MAF analysis.

[31] Agent: Adjustments to Sale Properties by using an Average Weight Age, results in a higher MAF. This higher MAF cannot be applied to Subject Properties as the NOA raised issues related to the Effective Age of the sales used in the MAF analysis. *GFL Environmental Inc v Edenwold (Rural Municipality), 2020 SKCA 89 para 59 and 99* was cited as supporting the Board and Committee can only correct errors in NOA.

[32] The Assessor questioned Agent about his example of depreciation. Agent emphasized that Condition Ratings need to be considered, but an accurate Effective Age needs to be considered in the fashion he has outlined. In all cases renovations and updates better reflect actual Economic Life. Using both does not account for applying renovations twice. Using both simply changes reference point. The City disagrees on this point; double counting is unacceptable.

[33] Final statement from the City: If Effective Age was determined based on all upgrades and renovations done to a property, the City would need an extensive list of items, their values, the dates implemented etc to do this. This process of evaluation would be extensive which is why SAMA has outlined specific Condition Ratings. The City has no intention of increasing the MAF which would affect subject properties.

[34] Agent reiterated that Economic Life and Effective Life must be examined carefully before Board makes a decision.

[35] The Agent emphasized that common sense alone indicates that the Subject Property is not comparable to the Sales Properties. The Subject Property is many times larger than the biggest Sale Property. The Subject Property would trade in different markets. The following cases were quoted:

a) *Prince Albert (City) v Various (AEC Property Tax Solutions), 2022 SKMB 66* para40
b) *Estevan and Weyburn (Cities v Walmart Canada Corp and Canadian Tire. Corporation Ltd. 2022, SKMB 65* para36
c) *CP REIT s Real Estate Limited v Saskatoon (City), 2021 SKCA 100* para 55
d) *Affinity Holdings Ltd. v Shaunavon (Town), 2022 SKCA 83* para 83

[36] The Agent asked the Board to look carefully look at *Reid and Estevan Weyburn* decisions. All Sales Properties must be similar to Subject Property. They must have similar characteristics and must trade in the same market.

[37] MAF's should only be applied if the Subject Property is comparable to the Sale Properties.

Board Analysis

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

Ground Three: MAF

1. 433 South Industrial Dr. was predominantly used as retail business at its time of sale. In the spring and summer months it used its large, finished retail space for sales in relation to plants/greenhouse and in winter the space was dedicated to Christmas items.

2.With 47% of the building completely finished for retail purposes, Discount Warehouse was the classification of 433 South Industrial at its time of sale and, as such is correctly placed in the Retail Outside/Downtown MAF grouping.

3. 3223 2 Ave. E. is currently a Subway and Tim Hortons (two fast-food restaurants). At the time of sale, it had these two restaurants and a third tenant, making is more of a strip mall structure. This property is correctly classified as a Neighbourhood Shopping Centre and is correctly placed in the Retail/Outside Downtown MAF grouping.

4. The City is bound to follow guidelines when assessing properties using a modified Cost Approach. The SAMA Guide was repeatedly used, followed, and

documented.

5. The City chose to extend the date range to 2014 in order to increase the number of sales for stratification purposes. 59 sales from January 1, 2014, to December 31, 2019, were carefully examined prior to being stratified. Three automotive sales comprise the automotive group. Two sales are required when establishing an assessment standard for a stratification grouping.

6. Addresses on pictures are confusing in Appellant's submission as they are not consistent with civic addresses.

4. The Agent supplies an alternative method of calculating Effective Age and Economic Age. Committee has stated in several cases that an alternative is not proof of error. The Board does not approve alternate method tactic.

5. The Agent provides lists of permits taken out on several sale properties, but does not provide evidence that work, if implemented, results in an increase in Effective Age of said properties. The Board does not consider permit lists as proof of increase in Effective Ages of properties.

6. The Board considers reliance on exterior pictures to demonstrate renovations increase effective age as purely subjective. For example, the Sale Property "Drive Nation" has stonework added to frontage. Does this "renovation" increase Effective Age compared to replacing a crumbling foundation or replacing cracked or rotting rafters/trusses?

7. The Agent raises alternative depreciation methods and supplies evidence that MAF calculations are dependent upon differing depreciation methods. Again, the Board does not consider the presentation of alternative methods of calculating depreciation as proof of error.

8. The City uses SAMA Guide Section 4.2 Methods of Estimating Depreciation which lists three methods to estimate depreciation: Observed Condition Method, Age-Life Method, and Sales Comparison Method. No where is it stated in the Guide that more than one method must be used.

9. The Guide states that the Observed Condition Method is complex and time consuming. The City has visited properties at the time of sale and does follow up inspections when permits are drawn. The Board supports this gathering of evidence in support of decisions making when deciding conditions of properties. There are 8 levels within SAMA's Condition Ratings

10. The Board has concern about creating inequities if applications of MAF are not consistent within a stratification group or between Sales Properties and Subject Properties under appeal. (The Agent insists that if the MAF of the stratification group increased, it cannot be applied to the Subject Property, as NOA refers to Sale Properties.)

11. The Board does understand that it must rule in relation to the Grounds outlined in the Notice of Appeal.

Ground Four: Comparability

12. The Assessor provided a full explanation of the process for stratification of the MAF grouping and for the assessment as set out in The Cost Guide. The Agent dd not provide any evidence that there was an error in the process.

13. The Assessor is aware that professional judgement is not 'the end all and be all' when making decisions about stratification and comparability of properties. Guidelines are followed and, after stratification, testing is done.

14. The Board agrees with the assessor's point that when examining sales, local, national, or international buyer is not a consideration; an assessor looks at whether the buyer paid a fair and justified market price for the sale.

15. The Board does not see a variance between characteristics of buildings of different values. It is a matter of "zeroes". A buyer of a lesser valued property and a buyer of a higher valued property have the same goal in mind - a return on investment.

16. The Board finds value in the charts concerning comparability and recognizes that yes Subject Properties are much larger in size than sales properties, but that difference in size is not detrimental to assessment values.

17. It is not fair for a zero MAF for large, multi-million-dollar properties because sales properties are not 'identical' with these properties, but lesser valued, smaller properties are assessed a MAF because they are more comparable, but still not 'identical' to the sales properties in the MAF grouping.

[39] The Board rules that the Assessor did not err in its calculation of Effective Life and Economic Life when calculating a MAF for the stratification groupings.

[40] The Board rules that the Assessor did not err in its calculation of depreciations when calculating a MAF for the stratification groupings.

[41] The Board rules that the Assessor accurately followed guidelines established by SAMA when determining classification of properties and calculating a MAF for each classification.

[42] The Board does not agree that all, (emphasis on all), sales properties must be similar to Subject Properties. One can always find differences. No two properties will ever be exactly alike, unless built in that fashion - identical value generating characteristics.

[43] The Board recognizes the efforts of the Assessor to follow Cost Approach Guidelines and made decisions based on sound judgement, understanding, and experience in the sales market, and general retail market, of Prince Albert.

[44] The Board rules that the Agent, on half of the Appellant, has not provided evidence that proves an error by the Assessor in fact, in law, or in the application of standard appraisal principles and practices.

Decision

[45] The Board dismisses the Appeal on all grounds.

[46] The assessment will remain at total assessed value of $19,865,400.

[47] The filing fee shall be retained.

DATED AT PRINCE ALBERT, SASKATCHEWAN THIS 10th DAY OF JULY, 2024.

CITY OF PRINCE ALBERT BOARD OF REVISION

Jackie Packet, Chair

I concur:

Ralph Boychuk, Member

I concur:

Dan Christakos, Member