
RECORD OF DECISION

CITY OF PRINCE ALBERT – BOARD OF REVISION

Appeal No.: 2024-35
Roll No.: 100000490
Hearing Date: June 10, 2024, at 9:00 a.m.
Location: 2nd Floor, Main Boardroom, City Hall
1084 Central Avenue, Prince Albert, SK

Appellant Embassy Church Inc.

Respondent City of Prince Albert

Board of Revision Jackie Packet, Chair
Ralph Boychuk, Vice-Chair
Dan Christakos, Member
Terri Mercier, Secretary

Representation

Appellant Gordon Kirkby, Acting Legal Counsel
Meghan Mayer, Pastor and Chairman of the Board
Lisa Stead, Administrator

Respondent Aden Ritter, Procido LLP, Legal Counsel
Troy Baril, Procido LLP, Legal Counsel
Vanessa Vaughan, City Assessor
Dale Braitenbach, Assessment Appraiser
Darcy Lees, Assessment Appraiser

Property Appealed

Civic Address 888 Central Avenue
Prince Albert, Saskatchewan
Legal Description Lot 11 Ext 0 Block C Plan E, Lot 12 Ext 0, Block C, Plan E,
Lot D Ext 3 Block C, Plan 76PA16277
Assessed Value \$2,830,900; \$470,700; exempt
Tax Class Exempt Commercial – Improved
Commercial – Tier 2 – Improved
Taxable Assessment \$2,406,250

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] 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, Living Skies Reporting, with the costs of the recording being charged to the Respondent.

[10] With respect to the Board's internal process, this hearing will be recorded for use of the Board and will be deleted following the rendering of the decision.

[11] The Appellant requested clarification on the statement that the recording would be deleted. The Chair advised that this statement was only in reference to the Board's copy of the recording and not the Court Reporting services which is still being recorded for this hearing.

[12] The Respondent advised that they would be bringing in a witness during their opportunity to provide evidence. The witness was identified as the City's Senior Accounting Manager, Briane Folmer. No objections were made at this time. She will be sworn in prior to addressing the Board.

[13] The Appellant advised that they would be bringing in a witness during their opportunity to provide evidence. The witness was identified as Embassy Finance Manager, Lois Branscombe. No objections were made at this time. She will be sworn in prior to addressing the Board.

Exhibits

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

- a. Exhibit A-1 – Notice of Appeal received February 29, 2024
- b. Exhibit A-2 – Appellant's 20 day written submission received May 21, 2024
- c. Exhibit A-3 – Appellant's 5-day written rebuttal received June 4, 2024
- c. Exhibit B-1 - Acknowledgement Letter dated March 8, 2024
- d. Exhibit B-2 Request for Recording & Confirmation email dated May 7, 2024
- e. Exhibit B-2 – Notice of Hearing Letter dated April 8, 2024
- f. Exhibit R-1 – Respondents 10 day written submission received May 31, 2024

Appeal

[15] Pursuant to *The Cities Act*, section 197(1), an Appeal has been filed against the property valuation of the subject property. The Appeal property is a non-regulated property with a total land size of 2.36 acres with a one storey building size of 44,692 sq.ft built in 1971.

[16] The Appellant's grounds state:

The property's primary use is a place of public worship and should be classified as Exempt Commercial. According to *The Cities Act*, places of public worship and its associated spaces for operations are exempt from municipal taxation.

Appellant

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

1. The building was designed, repurposed, built, conceived as a place of public worship. Point (c) "The Facts". Embassy moved to this Property in 2012.
2. As indicated on Meghan Mayer affidavit, Plaza 88, as a rental, is 3% of the time, the remaining, 97% Embassy Church is a place of worship.
3. Embassy Church is not a business; it is a registered non-profit religious organization, excepted as such by Canada Revenue Agency and has been since the 1980's.
4. Up until January 1, 2023, the Property was exempt based on Section 262(e) of *The Cities Act*.
5. All income, including rental income is used only for the purpose of supporting its charitable purposes - ministering to the spiritual needs of the congregation and using the property as a place of public worship. Church bylaws, church constitution and financial records support this statement.
6. An Affidavit by Meghan Mayer, pastor of Embassy Church, contains a list of various public worship or religious instruction that happen in the Property:
 - a. eKidz 0-24 months - 10:30 am Sunday
 - b. eKidz 2-3 yrs - 10:30 am Sundays
 - c. eKidz 4-7 yrs - 10:30 Sundays
 - d. ekidsz 8-11 yrs - 10:30 Sundays
 - e. Ladies Bible Study - once a month
 - f. Men's Bible Study - once a month
 - g. Bible study for everyone - once a week
 - h. Couples Bible Study - 6 - 10 times a year
 - i. Prayer & Worship nights as planned
 - j. Youth conferences, ladies' conferences, etc.
7. The Appeal committee decision AAC 2023-0354 para 72 found that the ancillary use of the Property, except for the daycare area, is for the purpose of public worship.

8. Embassy Church disagrees with the Committee that the childcare facility area within the Property is taxable. This space is used for church religious activities, Sunday school classes, and as a daycare room while church services and worship activities are going on in other parts of the Property. These uses happen during the week and on Sundays.
9. 30% of the day care usage is as a public day care. 70% of time is dedicated to church activities and worship etc. It is the only such daycare in the City; it is run by Embassy Church. Spiritual needs of children are its focus.
10. The church's daycare is not 'for profit' and is a place of public worship - an extension of more formal worships spaces. Stated in submission, "the operation of a daycare/church childcare facility in the church property is part of the church's activity, not a separate commercial venture."

[18] Questions asked of Appellant in relation to written submission and testimony:

1. The Appellant confirmed that rentals have no limitations regarding race, creed religious affiliation etc.
2. The Appellant agreed that there are rentals which involve markets and trade shows.
3. The Appellant confirmed that there is an on site caterer leasing the kitchen and there are smaller leased areas as well. The Appellant acknowledges that those are taxable spaces.
4. When questioned about the list of activities on the Affidavit, the Appellant indicated that the list is not complete. The list is a summary of activities and times.
5. Spaces in the Property can be rented on Sundays, but everything related to church takes precedence over rentals. King's Court is the space for Sunday worship for adults. Sunday worship for youth happens throughout the building. There have been times that King's Court is rented on a Sunday.

Assessor

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

1. 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.
2. 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
3. The Cost Approach in assessment requires three major parts:
- a) - part one is determining the value of land based on vacant land sales and applying 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. The BLR applied to the Property is 3.48 per sq. ft.
 - b) - part two RCNLD which is determined using the Cost Guide of *Marshall & Swift Manual*. Costed as a multi-purpose building. 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) - part three is to determine a MAF. In this case a Miscellaneous MAF of 0.30 based on 2 sales comparable within the municipality. Properties are stratified by property use, district, and/or location.
4. The classification of the Property is 'Commercial and Industrial' as it is "used or intended to be used for business purposes" *Cities Regulations* s. 12(f) (i)
5. Taxation Exemptions are addressed in *The Cities Act* and *The Cities Regulations* 262(1)(c) {schools} and 262(1)(e) {places of public worship}.

6. The Assessor looked at Property website, case law, and queried the City Finance department and other jurisdictions prior to making decisions of classification and exemptions.

Tax Exemption NOA Request

7. Previous assessments were based on information from those assessment years. Years ago, this Property was brought before City council in regarding taxation and there was abatement allowance at that time. The 2023 assessment was based on a deeper review. Public worship decisions, case law, and consultation with legal council were part of this review.
8. Section 265 of *The Cities Act* allows for properties to be reevaluated, assessments are not static. Section 265(3) states prior to or at the beginning of any year would be the logical time to review an exemption status and implement any necessary changes.
9. Diagrams of Property were examined, and an explanation was provided for which spaces are taxable and which are tax exempt.
10. Regent Academy
 - a) *The Cities Act* s. 262(1)c: the portion of the building used for the registered independent school are exempt from taxation. This includes the school and the gymnasium area. Diagrams provided clarity for areas.
11. The Day Spring Early Learning Centre is a government licensed and subsidized childcare facility.
 - a) The registered independent school does not include the childcare facility as per s. 5(1)c in *The Registered Independent Schools Regulations*.
 - b) *The Child Care Act, 2014* and *The Child Care Regulations, 2015* set specific standards for childcare facilities.
 - c) This daycare follows all the same requirements as other taxable childcare facilities: open to the public, accepts 6-week-old children up to start of grade one, a charge for services, employees are certified Early Childhood Educators.
 - d) As this space has a charge for services and receives government subsidies for that service, it is considered commercial.
 - e) The primarily use of this space is childcare, not public worship, and (therefore does not meet the requirements of s. 262(1)(e) for tax exemption.

12. Remaining portions of the building:

- a) Some areas do have public worship or gatherings on a weekly basis. i.e. Sunday 10:30 adult service, weekly or monthly ladies' group, youth group etc. These areas are listed as rental spaces for the general public.
- b) Embassy Church Inc. has, under its corporation, Moth Vintage Centre, Plaza 88 Event Centre and Regent Academy.
- c) Plaza 88 has banquet halls, meeting rooms, performance space, retail space, a residential caterer and an activity centre. Banquets, weddings, performance events, large and small meetings, festivals, trade shows, charity events, sales meetings, staff training events etc utilize the various rooms for rent.
- d) Randy and Carol Whitter of My Place lease the kitchen; as this space is a leased space, it is taxable.
- e) There is a cafeteria space in the lower level which is taxable.
- f) There is leased office space in the lower level.
- g) This is a multi-purpose facility, owned by a religious organization and its primary availability and utilization is that of commercial use (rental purposes)
- h) The Property has no designated public worship space anywhere on its floor plan.
- i) Other than the leased kitchen and leased office spaces, the remaining portion of the building does not meet the requirements of s. 262(1)(e) – tax exemption for public worship.

13. Mini Mart Convenience Store and a shed on site are not tax exempt.

14. Floor plans of Property, Regent Academy Student Handbook, Day Spring Parent Guide, Plaza 88 rental brochure, and Plaza 88 Booking Guide were all referenced in support of what is taxable and what is tax exempt.

15. The Property is valued as a multipurpose building. This is supported by the Committee *Embassy Church Inc. v Prince Albert (City)* 2024 SKMB 21-page 78 para 60. "We find that the subject is best described as a multi-use property."

16. The Assessor consulted the City's Senior Accounting Manager, Briane Folmer, concerning matters of finances. Ms Folmer, as a witness, provided financial understandings, relations to charitable organizations.

17. Financial statements from years 2019 to 2021 were referenced by Ms Folmer. Revenue and expense percentage averages over the three years were examined regarding each component of the Property:
- a) Plaza 88: Average percent of revenue - 15.0% of expenses - 54.0%
 - b) Regent Academy: percent of revenue - 14.8% of expenses - 20.6%
 - c) Day Spring Child Care - percent of revenue 23.1% of expenses 18.5%
 - d) Church Donations - percent of revenue - 30.8% of expenses 6.6%
 - e) Grants & Subsidy - percent of revenue - 1.7%
 - f) Other - percent of revenue - 1.1%
18. Of interest from breakdown above is 30.8 % of revenue relates to Church and 6.6% of expenses. If the main use of the Property was a place of public worship, the expenses of the worship space would be indicated to that component. As indicated, Plaza 88 covers the bulk of the building cost.
19. CRA allows for charities to take on business ventures. There are related businesses and unrelated businesses. Embassy Church is registered with CRA as a charity and as such CRA imposes specific requirements and definitions of a charity. Regarding a charity running an unrelated business, there are two conditions: the business is mainly run by volunteers (90%) and linked to charity's purpose and subordinate to that purpose. A related business must have a link to the charities purpose and cannot be a separate unit to the charity, activities are infrequent, and subordinate to the charity.
20. Ms Folmer considers the Property is carrying on an unrelated business as defined by CRA. Embassy Church is operating a business under Plaza 88.
21. Ms Folmer stated that there is a business, commercial activity going on; it is providing a service, receiving revenue, there is capacity for profit, frequent transactions happening. CRA is clear if one wishes to move from unrelated to related business frequent activities and profits directly linked to a charitable organization are essential.
22. Plaza 88, as indicated in their brochure, is a fee-driven entity. Charitable program involving a fee structure must not generate a profit, but rather the fees defray costs of the program. Further, the program cannot offer services comparable to others available in the marketplace and fees are according to a charitable objective as opposed to a market objective.
23. Plaza 88 fee structure is designed to generate a profit, is comparable to other such services in Prince Albert and is not set at a charitable rate.

[20] Questions asked of Appellant in relation to written submission and testimony:

1. The Assessor restated that research was done prior to determining that many spaces in the Property are commercial in nature because they are rental spaces. The Assessor determined that predominant use is commercial. The build is a multi-purpose facility. Even when building sits empty it is available for rent. This is like rental rooms in a hotel.
2. The Assessor responded to questions regarding predominant use as public worship. If public worship use was the predominant use, there would not be the availability of all rental space; there would be no rental time. Evidence of such is based on information gathered from the Appellant when doing assessment review. Other evidence came from Planning and Development, permits, blueprints, anything on file concerning the Property.
3. The Board asked if other religious organizations rent out spaces. As far as the Assessor knows, yes rentals do happen in other 'churches', but not under another entity. Embassy Church utilizes Piazza 88 name for their rental purposes.
4. The Assessor acknowledged that all places of worship do not have pews, when queried as such by the Board.
5. The Board asked about the multi-purpose classification and renovations done to the Property. Building permits indicate a multi-purpose nature. Building permits for public worship spaces generally look different. Writings on permits taken out for renovations from a grocery store to current purpose, include school and church, but also A82 which encompass several occupation options; A82 is frequently used for large entities, mainly multi-purpose buildings. Planning and Development of the City regard the building as multi-purpose.
6. The Board questioned why there is no definitive space designated as church on the floor plan diagram. The Assessor's response was from information gathered the spaces were utilized for worship and for rental purposes. After full examination, it was determined that rental facility was the predominate use. Previous exemptions came from city council. From Assessor's professional judgment, the Property was not classified correctly from its onset.
7. The Board understands that assessments can change, but asked how classifications of Properties are changed. The assessor responded that reviews of classifications and exemptions are ongoing when assessments are done; a change in ownership requires a review of assessment which involves classifications and exemptions.
8. The Agent questioned Ms Folmer about the relevance of the CRA's definitions regarding businesses at a municipal Board of Revision. Adversary to Assessor.
9. The Board questioned Ms Folmer about her experience with church organizations and their charitable standings. To her knowledge most churches are non-profit and/or have a charity designation, but it is not mandatory.

[21] Final Questions, Comments, and Rebuttals

1. Appellant insists that all churches need ways to raise revenues to survive. Every church has fees for rentals; Embassy uses revenues from Plaza 88 to sustain their church. Every church has hall fees, and some form of raising revenues.
2. The Appellant states that the Day Spring Early Learning Centre is an extension of Embassy Church's Christian ministry and, as such, the space should be tax exempt.
3. The Appellant insists that any names used -Moth Vintage Centre, Plaza 88 Event Centre, Regent Academy - are trade names, but all are under the banner of Embassy Church.
4. *Episcopal Corporation of Saskatoon v. Saskatoon* was referenced as an example of an admirative centre operating for several parishes and containing a small chapel. The Chapel was exempt from taxation. Embassy Church is a place of public worship and should be exempt like chapel reference in Saskatoon decision.
5. The Respondent emphasizes that the Appellant must show an error on the Assessor's part. The Appellant has not shown that the Property's use is predominately that of public worship. It appears that the Appellant spent more time trying to prove what it is not, rather than what is it.
6. The Respondent emphasized that the Assessor followed guidelines as established by law, and further to that reviewed information from a variety of sources prior to deciding classification and assessment.
7. The documented 97% public worship in the affidavit is unrealistic stressed the Respondent. It cannot be accurate as the math of the list of activities rounds up to roughly 30% of the time. 30% cannot be considered predominate.
8. Lastly, the Respondent points out that the Committee on last year's appeal does not exempt the daycare of this Property. The Appellant has not challenged this ruling by the Committee.
9. The Board questioned the \$149,000 rental income versus the large donation amount (roughly \$400,000) without any part of the Property designated as 'church'. Bylaws state that all money made is for the church. The Assessor's response acknowledges that parts of the Property are used for church purposes, however, because these spaces are rental in nature, the potential for income is there and, thus, the predominate use of the Property is commercial - for profit. Commercial entities are not tax exempt. It is the owner's decision as to how they designate their space.

10. The Appellant emphasized that all invoices for rentals come from Embassy Church, not from Plaza 88. Audits by CRA are Embassy Church audits, not Plaza 88 audits.
11. The respondent emphasized that finances do not determine the use of space. The Board must decide on the predominate use of the Property as usage determines whether tax exemptions apply.
12. The Board questioned why Respondent brought in City accountant, if money is not an issue. The response was she provided CRA information on charities etc. and showed that the Assessor researches and gets information prior to making decisions.
13. The Board questioned if the trade names, Plaza 88 and Day Spring Early Learning Centre, are registered under their own names for business licenses etc. The response was all are registered in relation to Embassy Church. Plaza 88 does not have its own business licence. However, Day Spring Early Learning Centre is registered as such with the Department of Education. Cheques for childcare are made out to Embassy Church.

Board Analysis

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

1. Embassy stated in their submission that, "the building was designed, repurposed, built, conceived as a place of worship." The building was built as a grocery store and renovated to be a multi-use property. *Embassy Church Inc. v Prince Albert (City)*, [Embassy 2023], 2024 SKMB 21, para 60 supports the term multi-use property.
2. Concerning the 'loss of exemption' status with the 2023 evaluation, the Board understands that assessments are not static; they do and can change from year to year. Section 265 of *The Cities Act* allows for properties to be reevaluated.
3. The Day Spring Early Learning Centre is a government licensed and subsidized childcare facility. Committee Appeal AAC 2023-0354 para 72 indicates that the day care is not exempt.
4. Financial statements provided to the City for the years 2019 to 2021 strongly indicate that the primary use of the Property is commercial (Plaza 88, Day Spring Care Centre, leased areas) and not public worship.
5. According to average revenue percentages provided 55.7% comes from sources other than public worship. (Percentages are based on an average of three years)

- a) Plaza 88 accounts for 15%
 - b) Day Spring Childcare accounts for 23.1%
 - c) Regent Academy accounts for 14.8%
 - c) Other (leases) account for 1.1%
 - d) Grants and Subsidies account for 1.7%
6. The Affidavit contains start times and a list of activities that happen in the Property. Interesting to note, the list does not contain lengths of time rooms are in use or things such as adult community worship, spiritual celebrations, weddings, funerals, church initiations etc, typical worship or church-oriented activities. Without lengths of times, even approximate lengths, predominate use is not justified.
7. The Appellant submitted that roughly 85% of the time and on an Affidavit 97% of the time the Property is used as a place of public worship. The list of activities in the Affidavit does not support either of these high percentages.
8. The Appellant is not disputing the assessments for taxation on the leased components of the Property, the convenience store, or shed, and is not disputing the exemption from taxation of the independent school space. The Appellant wants all other spaces exempt from taxation as they are used predominately for public worship or, at the very least, church activities. The Board disagrees on this full exemption:
- a) a daily operated daycare logically requires many hours of space use
 - b) an on-site caterer and designated cafeteria space suggest activities other than worship
 - c) a brochure and website listing various rooms to rent and rates of rooms indicate a commercial service is being offered
 - d) a brochure listing the various people for hire for an event indicates a commercial service is offered
 - e) expenses for trade name (Plaza 88) greatly exceed those of church indicates commercial service exceeds public worship

[23] The Board rules that the Appellant has not proven an error on Assessor's part concerning what is taxable and what is exempt in relation to the Property.

[24] The Board rules that the property's predominant is not primarily a place of public worship and should not be classified as Exempt Commercial. This multipurpose Property is correctly classified as commercial - non-exempt.

Decision

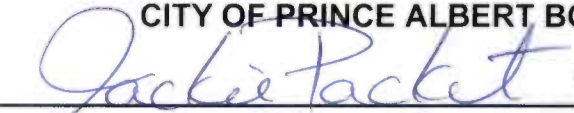
[25] The Board dismisses the Appeal on all grounds.

[26] The assessment will remain at total assessed value of \$2,830,900; \$470,700; exempt.

[27] 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