
RECORD OF DECISION

CITY OF PRINCE ALBERT – BOARD OF REVISION

Appeal No.: 2024-78
Roll No.: 100007130
Hearing Date: June 10, 2024, at 1:00 p.m.
Location: 2nd Floor, Main Boardroom, City Hall
1084 Central Avenue, Prince Albert, SK

Appellant Canadian Revival Centre Corporation

Respondent City of Prince Albert

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

Representation

Appellant Terry Hayes, Director
Kevin Tabuchi, President

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 1405 Bishop Pascal Place
Prince Albert, Saskatchewan

Legal Description Lot E, Plan C167, Block 10, Plan C167; Lot 9-13, Block 9, Plan E3538; Lot 3 & 4, Block 8, Plan M4701; Lot 1-10, Block 10, Plan M4701

Assessed Value \$2,497,600 (Exempt)
\$4,511,400

Tax Class Exempt Commercial – Improved
Commercial – Tier 2- Improved

Taxable Assessment \$3,834,710

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 would be deleted following the rendering of the decision.

[11] The Respondent advised that they would be bringing in a witness during their opportunity to provide evidence. The witness was identified as Michael Nelson, the City's Chief Building Official (current position is Manager of Planning & Development)

Exhibits

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

- a. Exhibit A-1 – Notice of Appeal received March 1, 2024
- b. Exhibit A-2 – Appellant's 20 day written submission received May 21, 2024
- c. Exhibit A-3 – Response to Notice of Perfection Letter received March 11, 2024
- d. Exhibit A-4 – Appellant's 5-day written rebuttal received June 4, 2024
- d. Exhibit B-1 - Acknowledgement Letter & Notice of Perfection Letter dated March 11, 2024
- e. Exhibit B-2 - Request for Recording received April 29, 2024 & Confirmation email to Respondent dated May 7, 2024
- f. Exhibit B-2 – Notice of Hearing Letter dated April 8, 2024
- g. Exhibit R-1 – Respondents 10 day written submission received May 31, 2024.

Appeal

[13] 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 237,413 sq. ft with four (4) storeys, which include building sizes as follows: Main-136,045 sq. ft.; Gymnasium Pool – 23,020 sq. ft.; Garage/Storage – 5,241 sq. ft.; Detached Garage – 448 sq. ft.; Gazebo – 863 sq. ft., effectively built in 1961.

[14] The Appellant's grounds state:

1. The City of Prince Albert failed to correctly apply the provisions of Section 262 of *The Cities Act* (the Act), in that it failed to assess the Property as being exempt in its entirety from taxation as required by Section 262 in general and specifically pursuant to Section 262(1)(c) of the Act.

2. In the alternative, in the event that the entirety of the Property is not exempted, then the City of Prince Albert incorrectly assessed the Property, by failing to exempt all of the areas owned and occupied by the School, pursuant to the Act.
3. Further or in the alternative, the City of Prince Albert incorrectly assessed the Property by failing to exempt from taxation the relevant portions of the lands used as a place of public worship, pursuant to Section 262 of the Act.

Appellant

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

1. March 4, 2024, the SMB issued a decision that "the Property is tax exempt in accordance with section 262 of the Act. A copy of the decision is provided.
2. The City did not retract its 2024 Assessment Notice. Notice is provided.
3. The City has applied for a leave of the SMB decision. What is important is that this is a leave and does not affect or stay the SMB decision. The decision is in force and binding for both the City and the Board of Revision.
4. As the SMB's decision is currently in force, the Municipal Board's decision on this appeal must align with the SMB decision, or at the very least, this Board must consider the SMB ruling as binding, reflecting a higher authority's interpretation of the relevant legislation.
5. We suggest that this Board either reach the same conclusion as the current binding decision of the SMB or postpone the appeal until the City's application for leave to appeal is resolved by the Court of Appeal.
6. Section 33.1 and 33.3 of The Act were referenced to clarify 'leaves' and 'stays' in relation to appeals.
7. The Property, including all buildings and land, is tax exempt as it is occupied by a registered independent school and/or is place of public worship in accordance with Section 262 of *The Cities Act*.
8. *Canadian Revival Centre Corporation v City of Prince Albert (City)*, 2024 SKMB 11 referenced the Board's interpretation of 'occupy' and concluded that the Property is tax exempt as it is owned and occupied by the CRCC as required by Section 262(1)(c) of *The Cities Act*.
9. In rebuttal to the Assessor's submission, the City has no jurisdiction in respect to the regulation of registered independent schools. *The Education Act* and

Registered Independent School Regulations are part of the Ministry of Education's jurisdiction.

10. The Ministry of Education is fully aware of what portions of the building are being used for the school and Doug Njaa, Independent School Superintendent, weekly or bi-weekly. An e-mail was referenced concerning this.
11. Prince Albert Fire Department inspected the building December 5, 2023, and again January 17, 2024. Quentin Rowland telephonically confirmed after the January 17, 2024, inspection that the Appellant has complied with any outstanding requirements since the initial inspection.
12. The City' references to National Building Codes and the Prince Albert Planning and Development Department regulations are unclear. These matters are governed by separate legislation and a different department and are not the focus of this appeal; these are beyond the scope of the Tax Assessment office, the Tax Assessor's responsibilities, and this Board's jurisdiction.
13. July 8, 2022, Craig Guidinger of the Planning and Development Department, City of Prince Albert, confirmed that no Development Permits would be required for intended usage by the School or the Church.

Assessor

[16] 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 of 180% was applied. The BLR applied to the Property is \$0.95 per sq. ft.
 - b) - part two RCNLD which 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) - 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 Property is costed according to each portion - school, pool/gym, chapel, dormitories, garage/storage, res garage, gazebo and has two classifications Commercial Improved and Commercial Improved Exempt. *Cities Regulations* s. 12(f) (i)
- 5. Taxation Exemptions are addressed in *The Cities Act* and *The Cities Regulations* 262(1)(c) {independent schools} and 262(1)(e) {place of public worship}.
 - a) Independent school exemption area includes three floors on south wing, the pool, the gymnasium, the auditorium and part of the cafeteria. Sketches were referenced for clarification.
 - b) Public worship exemption area includes the chapel, mezzanine, some offices, and common areas for entry into the place of public worship area. Sketches were referenced for clarification.
 - c) These combined exemptions (a) and (b) make up 59% of the main building, leaving 41% taxable. These percentages were calculated after inspections and information from City departments and fire department.

6. Non-exempt components include all the residential portions of the main building (third floor on the south wing, the entire north L-shape wing for all floors, and a portion of the cafeteria and cafeteria sitting area. Sketches were referenced for clarification.
7. The residential garages and gazebo are taxable as they are not included by the Ministry of Education or in the City of Prince Albert Fire Department fire certificate as being covered under the school portion of the Property. Sketches were referenced for clarification.
8. Through research, the Assessor determined that required building permits, inspections for national building code, and fire inspections and certificates were not completed for spaces to be approved for school usage. Planning and Development information, mainly permits 'trigger' possible assessment adjustments.
9. Planning and Development information also 'triggers' possible fire inspections. The fire inspections completed did not involve the entire building, just the school portion.
10. The Respondent called forward a witness, Michael Nelson, City of Prince Albert Manager of Planning & Development. Mr Nelson testified to the following:
 - a) Checked for building permits - none for expansion of school or residence portion of building
 - b) Development permits - required for zoning purposes, especially change in use of a property - none taken out for this property
 - c) Alterations / renovations - building permits would be required
 - d) Toured entire building - with previous owner
 - e) North part - a permit would be required to convert previous residential areas into school space
 - f) School storage - different requirements would be required if school storage uses was attained from previous residential areas
 - g) Change in use - engineer, architect must complete a code review - this was not done, and new occupancy cannot happen until done.
 - h) National Building Code - can only occupy - after approval
 - i) No permits relating to an occupancy change have been issued and no applications for permits have been received
11. The Assessor presented diagrams of entire building and explained areas occupied by the school and occupied by the church. Areas not school and church remain as previous use, namely residential in nature.
12. Warehouse, residential garages and gazebo components remain as previous use. No permits to renovate these components for school or church use.

13. The decision of *Canadian Revival Centre Corporation v Prince Alber (City)*, 2024 SKMA 11 is currently before the Court of Appeal for Saskatchewan and this Court has not ruled on the merits of that appeal or application.

[17] Final Questions, and Comments

1. The Appellant agrees that the City fire inspector and the City building inspector inspected the school area for school purposes.
2. The Respondent further clarified the exempt areas / school areas. In the previous assessment, 2023, certain areas were not used by the school, but they were part of the previous school.
3. The Appellant reemphasized that the Ministry of Education should have final say on what is approved for independent schools as they are within their jurisdiction, other departments should not have 'a say'.
4. The Assessor reiterated that she followed the steps required when assessing a property by the cost approach.
5. The Appellant referred to SMB decision from last year's appeal and emphasized the importance of understanding "occupy", "leave", "stay".
6. The Respondent concluded with an explanation of legalities of Assessor following guidelines outlined by law. Correct building permit requirements prior to occupancy is essential for a school, as is a fire certificate, after an inspection.
7. The Board questioned Appellant about pictures of residency rooms. The Appellant could not justify them as being used for school.
8. The Appellant continued to emphasize that many entities, including the Education ministry, lawyers, etc approved the purchase of the building as a school and now the Property cannot be declared in its entirety as a school. The Appellant feels that they have submitted and done all they were required to do and yet they don't feel heard.
9. The Board questioned the Assessor if there is any room for leniency when it comes to exemptions. The answer was Assessors are bound by law to do their job as legislated to do so.

Board Analysis

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

1. The City is bound to follow guidelines when assessing properties using the Cost

Approach. The SAMA Guide was repeatedly used and followed. Steps taken by the Assessor are documented and presented during this hearing.

2. Taxation Exemptions in *The Cities Act* and *The Cities Regulations* 262(1)(c) {schools} and 262(1)(e) {place of public worship} were clearly followed, and the floor plan sketches support designations by the Assessor.
3. The Assessor conducted inspections when the property was purchased and designated as having school space and public worship space. The Property was re-inspected April 26, 2024. Worship times and religious activities were referenced. The Saskatchewan Ministry of Education, the City of Prince Albert Fire Department and the City of Prince Albert Planning and Development Department were consulted. The result of references, consultations and inspections was a change in exempt and non-exempt area percentages applied to the assessment. (Documents - a copy of the Canadian Revival Centre website and e-mails of consultations were provided.)
4. Photos provided by Appellant of various rooms were never referenced or explained. In the photos, room contents are mostly visible as are door labels. Some rooms are obviously 'school oriented' - desks, learning stations, book shelving, lockers, computer areas, art room sign etc. Zero explanation as to how bedrooms, sitting rooms, storage areas etc are part of independent school usage.
5. Further, zero explanation was provided as to how school or church use is related to the gazebo or garages on site. Reference was made that the school could possibly use bedrooms when visiting schools come for athletic ventures, but this has never happened.
6. The Board, without further information, considers residential areas, storage rooms, offices, and such as not required or used by the school.
7. The Appellant stated that, "The Ministry of Education is fully aware of what portions of the building are being used for the school and Doug Njaa, Independent School Superintendent, weekly or bi-weekly." The word 'portions' is an indication that part of the building is used for school purposes, not all of it.
8. The lack of building permits to convert spaces for school use and the subsequent inspections to approve for school use indicate that these spaces should not be exempt. No commercial building inspector approved that the national building code was applied and being followed for spaces to be used as a school. Areas not converted, inspected and approved as school are not exempt.
9. The July 8, 2022, email from Craig Guidinger, referenced in Appellant's submission reads as follows: Overall, all the uses that you have described below, are already approved at this location and therefore a development permit **may not** be required. Please note though that **without much detail, this is just a general response**

that will require more clarity as time goes on. As Michael suggested, **it would be recommended that you bring in an architect, engineer, or code professional to review the space with you to determine what types of renovations may be required, along with cost implications.**" (Emphasis added)

10. In point 7 above the Board added the emphasis to this email sent prior to occupancy as it demonstrates that it is a general response, and more details would have to be forthcoming. Mr Guidinger is letting the Appellant know that the Subject could be opened as a school, and the reference to reviewing the space by professionals for possible renovations 'may' be required indicates that the entire building is not declared as school area.
11. Also, in relation to point 7 above, 'the list' mentioned includes - church, adult learning centre, k to 12 independent school, business office space, residence for teachers, before and after school programs, evening tutoring high school level, weddings, catering company, ESL, 35 rental parking spaces for staff, rental space theatre performance, rental pool, and college Bible School. The Board recognizes that the Property (building and site) was intended to be used for more than school or church purposes.
12. The Appellant's submission has an email from the Development Coordinator, City of Prince Albert, sent an email August 31, 2022, (after new occupancy) clarifying permitted uses of the Property in an 11-zoning district:
 - a) Permitted Uses are - office, catering service, childcare centre
 - b) Discretionary Uses Development Officer approved - boarding houses
 - c) Discretionary Uses Council approved - place of worship, private school, above grade dwelling, public assembly, athletic & recreational facility.

"The above listed uses have been approved at this location, however, please note that only the continuation of the current uses of the building are allowed to continue at this time. Any of the newly approved uses that have not been operational in the past will require approval/permits. In addition, any future work, alterations, or renovation to the building or site will require approval by the department of Planning and Development Services." (emphasis added)

13. Point 11 above affirms that the Appellant was made aware that further expansion of the school and/or church in the Property require approval/permits. No approvals/permits were providing by the Appellant. The Board concludes that the school and church portion of the Subject have been accurately assessed as such for 2024.

14. The Registered Independent School Regulations s. 5 (1)(d) requires a fire certificate to be forwarded to the Ministry of Education; this certificate ensures that all applicable fire, health and safety standards in relation to school facilities located in Saskatchewan are met. This was not done. Areas not certified for school use are not tax exempt.
15. The Appellant provide an email from the City of Prince Albert Fire Department, dated June 4, 2024. This email does confirm that an inspection took place and previous fire code violation have been addressed. However, the email also contains the following note: "The inspection does not include the areas of the building not being used currently by the school. Dormitories, independent leased office and north wing living quarters."
16. As illustrated in point 14, the Property, in its entirety, was not inspected as a school, as portions (living quarters, leased offices, dormitories) are not being used as school areas.
17. *Canadian Revival Centre Corporation v Prince Alber (City)*, 2024 SKMA 11 is before the Saskatchewan Court of Appeal and does not yet have a ruling. The Board is evaluating the facts presented in this hearing. The Board makes its decisions based on the Appeal in front of them.

[19] The Board rules that the City Assessor was correct when it did not exempt from taxation the Property in its entirety based on it being solely an Independent School.

[20] The Board rules that the City Assessor correctly assessed the areas of the Property for Independent School use, {section 262 (1)(c) of *The Cities Act*}.

[21] *The* Board rules that the City Assessor correctly assessed the areas of the Property for public worship, {section 262 (1) (e) of *The Cities Act*}.

Decision

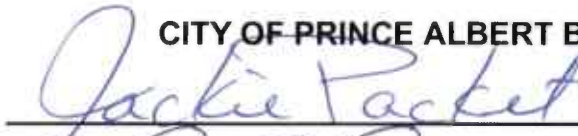
[22] The Board dismisses the Appeal on all grounds.

[23] The assessment will remain at \$2,497,600 exempt and \$4,511,400 not exempt.

[24] 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