

DETERMINATION OF AN APPEAL UNDER
Section 16 of *The Municipal Board Act* and Section 216 of *The Cities Act*

Appeal Number: AAC 2015-0067
Date and Location: April 20, 2016 – Prince Albert, SK

Stockyards (Prince Albert) GP Ltd.
(as represented by Altus Group Limited [Altus])

Appellant

- and -

City of Prince Albert

Respondent

APPEARED FOR:

The Appellant: Garry Coleman, Director

The Respondent: Dale Braitenbach, Assessment Appraiser
Mike Ligtermoet, Assessment Manager
Tim Furlong, City Assessor
Shauna Lalla, Assessment Appraiser

HEARD BEFORE: Gordon Hubbard, Panel Chair
Lee Fuller, Member
Earl Warwick, Member

INTRODUCTION:

[1] The 2015 assessments for the properties under appeal are:

AAC Appeal Number	Board of Revision Appeal Number	Appellant	Civic Address	Roll Number	Original & Board of Revision Assessed Value
2015-0067	2015-030	Stockyards (Prince Albert) GP Ltd.	670 – 800 15th Street East	220011575	\$1,494,000
2015-0067	2015-029	Stockyards (Prince Albert) GP Ltd.	500 – 801 15 th Street East	221000026	\$1,356,900

[2] The properties are non-regulated and commercial. The Assessor used the market modified cost approach to value the properties, which are both office buildings, with a Market Adjustment Factor (MAF) of 0.82 (outside downtown less than 9,000 square feet building size). Office MAF groups in the City of Prince Albert (City) are:

Location	Size	# Sales	MAFs
Downtown	All	15	0.63
Outside CBD	< 9,000 sq ft	3	0.82
Outside CBD	> 9,000 sq ft	6	0.71

[3] Before the Board of Revision (Board), Altus argued that the size of the subject properties was more comparable to the sales associated with the 0.71 MAF grouping. In other words, there was no clear difference in sales levels to justify stratifying offices outside downtown based on size; therefore, the subject properties should be assessed using a MAF of 0.71. Altus further argued that the significant difference in MAF's applied to similar properties offends the equity provisions of *The Cities Act, SS 2002, c C-11.1 (Act)*. The Board found no error by the Assessor in using a 9,000 square-foot size threshold to separate the 0.71 and 0.82 outside downtown MAF groups and dismissed the appeal, upholding the original assessments on the properties.

[4] Altus asks the Committee to overturn the Board's decision and order application of a 0.71 MAF to the properties.

ISSUE:

[5] Was the Board correct in upholding the size threshold of 9,000 square feet between the two office MAF groups of 0.71 and 0.82 when it should have found the correct threshold was 6,876 square feet, resulting in the subject properties receiving a MAF of 0.71?

DECISION:

- [6] The Committee finds that the Board was correct in upholding the original 0.82 office MAF grouping, based on a size threshold of 9,000 square feet, which the Assessor applied to the subject properties.

PROCEDURAL MATTERS:**Lead Property**

- [7] The Board heard and decided the appeals separately, with separate appeal numbers and separate decisions for each property. The parties agreed the Committee would hear the appeal for both properties and both Board decisions in one hearing starting with 670 – 800 15th Street East, and carry forward the information and argument to the other property. The Panel Chair advised that the Committee would issue one decision for both properties.

PRELIMINARY MATTERS:**Grounds of Appeal**

- [8] Altus appealed on three grounds. At the hearing, the Panel Chair asked the parties to confirm the issue to be decided in these appeals. Parties agreed the issue was as identified under “ISSUE.”

Board’s Record Keeping

- [9] At page 29 of the Transcript, Mr. Furlong introduced to the Board’s hearing a graph showing “Office Building Ratio vs Building Area (City Data)” and the Board accepted it and marked it as Exhibit R-3 (page 30 of the Transcript). This Exhibit was not part of the record submitted to the Committee by the Board secretary. The parties agreed this document was before the Board and should have been part of the Board’s record; therefore, the Committee accepted it, marking it as Committee Exhibit R-2.

Appellant’s Submissions

- [10] Altus’s submissions to the Board and Committee frequently used the term “MAF” when what they actually mean is the “building ratio”. To avoid confusion, the Committee will use the words “building ratio,” as this is the more correct term and is used by the City.

BACKGROUND:

[11] The main issue is the MAF sales and the contention by Altus that there was no clear difference in sales levels to justify stratifying offices outside downtown based on a size threshold of 9,000 square feet. Sales included in each of the two original MAF sets are as follows:

Address	Location	Size	Bldg Ratio	Median MAFs
160 - 17th St W	Outside CBD	<9000 sq ft	0.82	
70 - 17th St W	Outside CBD	<9000 sq ft	0.67	
2 - 17th St E	Outside CBD	<9000 sq ft	1.01	0.82
339 - 16th St W	Outside CBD	> 9000 sq ft	0.78	
598 - 15th St W	Outside CBD	> 9000 sq ft	0.55	
135 - 15th St E	Outside CBD	> 9000 sq ft	0.66	
2805 - 6th Ave E	Outside CBD	> 9000 sq ft	0.76	
3751 - 5th Ave E	Outside CBD	> 9000 sq ft	1.00	
3041 Sherman Dr	Outside CBD	> 9000 sq ft	0.65	0.71

The “Bldg Ratio” is the ratio of the building residual to the replacement cost new less depreciation (RCNLD). A ratio below 1.00 indicates that the building portion of the sale price is less than the RCNLD. The building residual is the sale price less the land value. The MAF is the median (middle) building ratio for the group. The RCNLD of each property is multiplied by the MAF to determine the building assessment.

[12] Once the MAFs have been applied to the RCNLDs and the land values added, there is a total assessment. Assessments can be compared to sales prices through two main measures, the median Assessment to Sales Ratio (ASR - the ratio of the assessment to the sales price) and Coefficient of Dispersion (COD - the amount of variability in ASRs). An additional measure that can indicate over or under assessment of low and high priced properties is the Price Related Differential (PRD). The Assessor’s statistical results from the original MAF groups are in the record and are as follows:

Group	# Sales	Median ASR	COD (ASR)	PRD	MAF
Downtown	15	1.00	24.80	1.12	0.63
Large Offices Outside Downtown (> 9,000)	6	1.00	12.15	1.04	0.71
Small Offices Outside Downtown (<9,000)	3	0.99	13.36	0.99	0.82
Total	24	1.00	20.31	1.07	

Median ASRs near 1.00 are a desired result in assessments. The COD is the average percentage deviation about the median ratio. The lower the COD (ASR), the closer, on average, the assessments are to individual selling prices. Providing there is a sufficient sample size to make the measurement reliable, PRDs ranging from 0.98 to 1.03 are a good result.

POSITIONS OF THE PARTIES:

[13] Altus:

- a) The 0.82 MAF applied to these buildings is significantly higher than it would be if the Assessor applied proper assessment principles.
- b) When determining the MAF, the Assessor, and ultimately the Board, erred in the size chosen for determining in which MAF group these offices should be placed.
- c) The Board erred in finding that previous appeal decisions based on substantially different grounds and evidence supported the Assessor's method.
- d) The Board erred in finding that the Appellant proposed an alternative method without proving the Assessor erred.
- e) The Board erred in finding the Assessor's method was not in error without statistical backing as required by the *Act*.
- f) The Assessor assumed that 9,000 square feet was the correct size threshold in making the two office MAF groups and the Board erred in accepting that assumption.
- g) Other than drawing a best-fit curve on some of the sales, the City did not statistically test the 9,000 square-foot threshold and it offered the Board no statistical backing to support its decision to use 9,000 square feet. On the other hand, the Appellant produced statistical evidence to 95% confidence levels and split the difference of the overlap in the confidence levels between the larger and smaller groups.
- h) The Board erred in upholding an assessment that does not meet the Market Valuation Standard (MVS) set out in the *Act*, and equity has not been achieved.

[14] The City:

- a) The Board did not err in finding that previous appeal decisions supported the Assessor's method. The Board took into account all the facts presented at the appeal hearings but also looked at a past Committee decision and concluded that there was not enough evidence to overturn what the Assessor had done.

- b) The Board did not err in finding that the Appellant proposed an alternative method without proving the Assessor erred. Altus proposed a different stratification on where to place the breakpoint in the office MAF's outside the downtown, for the benefit of their clients. Altus provided an alternative method; however, they failed to prove the Assessor erred. The Board heard from both parties, and with that information, made an informed decision.
- c) The graph submitted by the Assessor at the Board hearing, indicating the regression line of best fit between the building areas of the office sales, is the best evidence of where the split should be.
- d) The Appellant's use of the 't' Test and Confidence Intervals is unreliable and misleading as the International Association of Assessing Officers (IAAO) material in evidence advised caution when sample sizes are small.
- e) The Assessor has no requirement or obligation to perform any specific type of statistical testing during the modeling process. The only statistical testing the Assessor is required to do is at the final step of the mass appraisal process and the Assessor provided the Board the results of statistically testing his valuation model.

ANALYSIS:

- [15] The *Act* states the application of the MVS achieves equity for non-regulated property assessments when assessments "bear a fair and just proportion to the market value of similar properties as of the applicable base date" [s. 165(5)].
- [16] The MVS is achieved when the assessed value of property:
- i. **is prepared using mass appraisal;**
 - ii. **is an estimate of the market value of the estate in fee simple in the property;**
 - iii. **reflects typical market conditions for similar properties; and**
 - iv. **meets quality assurance standards established by order of the agency [Saskatchewan Assessment Management Agency (SAMA)] [s. 163(f.1), the *Act*].**
- [17] Mass appraisal is defined as "...the process of preparing assessments for a group of properties as of the base date using standard appraisal methods, employing common data and allowing for statistical testing" [s. 163(f.3), the *Act*].
- [18] Altus alleges the outside downtown office sales should be a single set for MAF purposes (0.71) on the basis that the Assessor had no justification to split the groups at 9,000 square feet. Altus says that even if a split could be justified, it is at 6,876 square feet, which is smaller than the subjects' area; therefore, the subjects would receive the 0.71 MAF.

- [19] Altus argues that there is a requirement for statistical testing throughout the process of analyzing sales to determine groupings. Altus implies that failing to use statistical testing throughout the process of determining assessments is an error in law. The City says the only compulsory testing is of the ASR results.
- [20] The Act requires that assessments reflect market conditions for similar properties, allow for statistical testing, and meet the Saskatchewan Assessment Management Agency's (SAMA) quality assurance standards. The commonly employed way to compare assessments to market conditions is through ASR statistics. The SAMA standard applicable to the subject properties' 2015 assessments is a median ASR of 0.95 to 1.05 for all non-residential property in a municipality. The ASR is a statistic that is measured against the final results of assessment analysis. The Committee agrees with the City – there is no requirement in legislation or regulation that calls for assessors to use statistics throughout the process of analyzing sales. The only requirement is to calculate ASRs, which is a test of results.
- [21] The Board had support for the validity of the 9,000 square-foot threshold through the Assessor's testimony and provision of the "graph" (Board Exhibit R-3). The Assessor was not sure how his predecessor had arrived at the threshold. He acknowledged that the gap in sales between 5,880 square feet and 10,497 square feet was troubling. He therefore did his own math, which confirmed the 9,000 square-foot threshold. The Board weighed this evidence and accepted it. At the same time, the Board recognized that Altus offered a viable alternative to the Assessor's threshold; however, Altus did not offer any proof that the Assessor erred in determining the 9,000 square-foot threshold.
- [22] The Board was correct. Altus provided the Board with no evidence of error by the Assessor in picking a threshold of 9,000 square feet (rounded from 9,599). The Assessor saw a gap in the sales and used his judgment, backed by mathematical support, in choosing 9,000. He could also have chosen a different threshold (like 6,876 square feet as suggested by Altus), but he had adequate justification to select 9,000. In accepting the Assessor's judgment call to round the threshold to 9,000, the Board must also have recognized that neither of the appealed properties' area is in the 9,000 to 9,599 square-foot range, they are smaller than 9,000 square feet.
- [23] Altus asserts that certain statistical testing (t-test, confidence intervals) demonstrates error in the assessment and the Board should have so found. Further, Altus presented this statistical testing to support their position that the outside downtown office sales should be a single set for MAF purposes. Altus also argues that the Assessor's lack of statistics does not conform to the standards established by the IAAO, implying that the City did not meet the MVS and the assessment is therefore in error.

- [24] The Committee disagrees. The Board's decision includes much discussion on Altus's testing and the test results. While its reasons and analysis are not ideal, the Board appears to have given little weight to tests that Altus did not adequately explain the methodology behind (including sample sizes), the relevance of, or support for (e.g., citing authoritative appraisal literature). All the confidence intervals test showed the Committee is that 95% of the time the median is within a range, but it does not identify the range. Mr. Coleman conceded to the Committee that his statistical evidence may have been weak, but his counter was the City had no statistical evidence to support its methods. The table in paragraph [12] shows otherwise – the City adequately supports its methods with statistical testing.
- [25] When parties to appeals present statistical evidence, it is important to also fully support why a particular measure is being used, how it is applicable and reliable, and how it should be interpreted. Sufficient detail also needs to be provided so the other party can replicate the test with the same data. Assessment textbooks, educational materials, authoritative articles, and IAAO standards are available to help explain statistics. Altus presented the Board with test results with very little in the way of explanation provided and there was some doubt at the hearing about the correctness of the data used in the tests – Altus replaced test results after the hearing through an undertaking. It is generally accepted that the reliability of such test results increases when there is more data. In this case, the Board had a reasonable basis to be cautious and discount Altus's test results because the data size was so small.
- [26] Assessment law in Saskatchewan does not state IAAO standards must be met. The benchmarks that apply are the MVS, equity, and SAMA's quality assurance standard. The Committee finds that failure to meet IAAO standards does not prove an error in assessment, nor does meeting IAAO standards prove that an assessment is correct.
- [27] Altus offers an opinion, which may be reasonable, but an opinion does not prove error in the assessment. The Assessor offers an opinion as well, but the law provides deference to the Assessor whenever there is a difference in opinion and when there is absence of proof of error in the assessment. The law provides a presumption in favour of the correctness of the assessment and places an onus on the appellant to prove the assessment is incorrect.

- [28] There is no obligation in law for the Assessor to prove the assessment is correct yet the Assessor tried to do just that by introducing the “graph” and speaking to it at the Board’s hearing. In this case, the evidence before the Board was that the Assessor’s threshold was based on an educated and supported estimate. While the Assessor did not prove the estimated threshold was correct, more importantly, there was no evidence before the Board to prove the Assessor’s threshold was wrong. While the Assessor’s graph was helpful to the Board and to the Committee, we would have decided the same way without it because it is up to the Appellant to prove error.
- [29] The Committee agrees with Altus that its case to the Board in 2015 was “100% different” from the case it presented to the Board for its 2013 appeals of other Prince Albert office buildings. The Board’s 2015 decisions are correct based on the evidence before it for 2015; it did not have to rely on the Committee’s 2013 decision AAC 2013-0259 and 2013-0291 to decide the 2015 appeal. While this AAC decision may have been helpful to the Board in terms of the assessment meeting MVS and achieving equity, it had nothing to do with the key issue in the 2015 appeals – the 9,000 square-foot threshold. In any event, the Committee finds the Board’s 2015 decision does not turn entirely on its reliance on AAC 2013-0259 and 2013-0291 and must therefore be upheld.

CONCLUSION:

- [30] The Committee dismisses the appeal and upholds the original property assessments as shown in paragraph [1].

Dated at REGINA, Saskatchewan this 17th day of June, 2016.

Saskatchewan Municipal Board – Assessment Appeals Committee

Per: 
Gordon Hubbard, Panel Chair

Per: 
Lise Gareau, Director