



**Saskatchewan Municipal Board
Assessment Appeals Committee**

Appeal: 2007-0075
JOINT RECOMMENDATION

RESPONDENT: City of Saskatoon

In the matter of an appeal to the Assessment Appeals Committee, Saskatchewan Municipal Board, by:

598468 Saskatchewan Ltd.
c/o Altus Group Limited
311 Albert Street
Regina, Saskatchewan
S4R 2N6

respecting the assessment of:

Parcels 120025347, 120175804, 135829626
806 Idylwyld Drive North
Roll Number: 485003590
Board of Revision Appeal No. 76-2007

for the year 2007;

**REPRESENTING THE
APPELLANT:** Jesse Faith

**REPRESENTING THE
RESPONDENT:** Tim Ritchie

The parties to the appeal provided the Committee with a signed Joint Recommendation under date of September 24, 2009. The agreed upon value is reflected at the conclusion of this decision.

This appeal is against the decision of the 2007 Board of Revision (the Board) for the City of Saskatoon, pursuant to section 216 of *The Cities Act* (the Act).

ISSUES:

- (i) The use of a condominium hotel sale in determining the Market Adjustment Factor (MAF) for non-condominium properties.
- (ii) Utilization of Document Number 4.1.9 of the Saskatchewan Assessment Manual in determining the amount of depreciation.

FACTS:

- (1) The subject property is legally described as Parcels 120025347, 120175804, 135829626 with a civic address of 806 Idylwyld Drive North. The Roll Number is 485003590. The Predominant Property Type is 3504, Hotel, Full Service, and is located in Central Industrial. The total fair value under appeal is \$8,520,400. As a commercial property, it is assessed at 100% of its fair value.

- (2) The amended grounds of appeal to the Board were:

"1) The improvement valuation is too high and in turn is in error:

Supporting Facts:

- a) The incorrect market adjustment has been applied to the subject property.

- i. The sale of Unit 98 of the Condominium Plan #84S31154 (Condominium Parcel #120548538) located at 405-20th Street East/424 Spadina Crescent East should not be used in the commercial analysis for the calculation of the market adjustment factor for commercial hotels. As defined by the *Saskatchewan Assessment Manual* and *The Condominium Property Act*, the property sale was that of a condominium and is subject to facts, conditions and circumstances different to that of non-condominium sales.
- ii. A sale of a condominium can not be used as a comparable property sale and market indicator for non-condo properties such as the subject. Therefore the sale must be removed from the commercial hotel analysis.

The median market adjustment factor (MAF) for this property grouping must be recalculated to result in a decreased MAF.

- iii. Other condominium commercial sales in the City of Saskatoon have been segregated by the assessor and used for the calculation of MAFs that represent condominium properties. Such sales include the properties located at 3502 Taylor Street East, 3111 Millar Avenue, 1540 Alberta Avenue, and 315 5th Avenue North.
- iv. When it was deemed that there where [sic] insufficient sales for other commercial condo neighbourhoods, such as the CBD office condos, the Comparable Neighbourhood Method was used to determine the correct MAF. This methodology has not been applied in the neighbourhood MAF analysis for Condo Hotels and Non-Condo Hotels.

b) The calculation of the RCNLD is not correct.

- i. There is an error with the application of the building depreciation. Specifically, the expected life and associated physical depreciation has not been calculated correctly causing the "total depreciation" to be inaccurate. The value shown on the property inventory card does not reflect the values tabled in the Saskatchewan Assessment Manual in regards to the percentage of depreciation based on life expectancy."

(3) The June 15, 2007, decision of the Board stated, in part:

"After reviewing the evidence before it, and hearing the testimony given under oath, the Panel must conclude that **with one exception**, the assessed fair value of \$8,648,800 was determined in accordance with the formulas, rules and principles established in the Manual. A computation error resulted in a MAF of 0.53 rather than the correct 0.52. Furthermore, no additional errors could be found in the calculation of that value.

Therefore, the Board rules that the MAF applied to the subject property shall be reduced from .53 to .52.

DECISION:

In accordance with Section 210(1)(a) of *The Cities Act* the Panel orders the Assessor to adjust the Fair Value from \$8,648,800 to \$8,520,400 for a reduction of \$128,400.

The assessment is therefore ADJUSTED, and all other aspects of the appeal are dismissed."

(4) The July 13, 2007, notice of appeal to the Assessment Appeals Committee (the Committee) stated the grounds of appeal as:

"The Board of Revision for 2007 for the City of Saskatoon erred in its decision in several respects.

1. The Board erred in finding that the assessor had used the "appropriate methods" in determining the .53 hotel-motel MAF.
 - a. The Board erred in failing to direct the assessor to use the Comparable Neighbourhood Method for calculating the Market Adjustment Factor, as found within the Saskatchewan Assessment Manual.
 - b. The Board erred when allowing the assessor to "import" the target MAF (market ratio) from the Condominium Method for use in the Sales Comparison Method for calculation of the market adjustment factor applied.
 - c. The Board erred by not placing any weight, nor relying upon the conclusions of The Court of Appeal for Saskatchewan, No. 821 Docket: 3166 Capital Properties Ltd. v. Saskatchewan Assessment Management Agency 1999.
2. The Board erred when stating that Document 4.1.12 of the Saskatchewan Assessment Manual does not restrict the method in which the assessor can use to value specific types of property.
 - a. Condominium properties have a specific method for valuation.
 - b. The Board when allowing the assessor to use two methods in the calculation of the market adjustment factor for hotels and motels.
3. The Board erred in its decision when finding that the terms "improved condominium unit sales" and "improved property sales" are "synonymous".

4. The Board, when rendering its decision, erred by failing to consider the *Condominium Act*.
 5. The Board, when rendering its decision, erred by not considering the *Land Titles Act*.
 6. The Board erred when finding that the office condominium sale located at 101 315 5th Avenue North was "not useful" in consideration of the [sic] whether the correct method was used to calculate the MAF for hotel condominiums with the justification that it (the office sale) "is an exception".
 7. The Board erred when relying on the statement that "... as there is only the one condominium hotel sale in the city the Committee must agree with the Assessor's submission that the condominium neighbourhood method cannot be used to establish a separate condominium hotel neighbourhood. As such, the next option available to the Assessor would be to combine the two potential neighbourhoods into one." *(emphasis added)*
 8. The Board erred when it found the Assessor followed the depreciation tables found at Document 4.1.9 of the *Saskatchewan Assessment Manual*.
 9. The Board erred when it found the difference in depreciation was allowed under Document 1.1.1 of the *Saskatchewan Assessment Manual*.
- (5) Under date of September 24, 2009, a joint recommendation to adjust the assessment was signed and filed with the Committee. The noted recommendation reflected the following:

" Please be advised that the property involved in the above-captioned appeal, and relevant decisions of the Saskatchewan Municipal Board, have been reviewed by staff from the Corporate Services Department, Office of the City Assessor, City of Saskatoon, and the Agent for the owners of the Subject property. As a result of the review, both parties are recommending the following changes to the Appellant's 2007 Notice of Assessment:

Description:	Present Fair Value	Recommended Fair Value	Recommended Decrease
Commercial	8,520,400	7,507,800	1,012,600

Comments and Reason for Recommendation

An appeal against the above property was filed with the Saskatchewan Municipal Board in 2007 with grounds relating to the incorrect application of depreciation and the market adjustment factor. The SMB has since

ruled depreciation is to be applied as per the Saskatchewan Assessment Manual and the Court of Appeal in 2009 SKCA 66 ruled to remove the condominium hotel sale which resulted in a change in the MAF from .52 to .45.

In keeping with the decisions of the Assessment Appeals Committee and the Court of Appeal, the Office of the City Assessor agrees that the Fair Value for the property should be that as recommended above.

(Tim Ritchie)

Signature of Assessment Appraiser

Please be advised that I, the Respondent in the within proceedings, have read the recommended changes to my 2007 Assessment including the reasons and comments with respect thereto on the above and, after careful reflection on the matter, I hereby recommend to the Saskatchewan Municipal Board that the changes to my 2007 Assessment, which has been recommended by the Appellant, be accepted by the Saskatchewan Municipal Board in resolution of the appeal in the above-captioned matter.

Dated this 24 day of Sept., 2009.

(Jesse Faith)

Signature of Respondent

LEGISLATION:

The Cities Act.

“165(2) All property is to be assessed at its fair value as of the applicable base date.

(3) The dominant and controlling factor in the assessment of property is equity.

(3.1) Each assessment must reflect the facts, conditions and circumstances affecting the property as at January 1 of each year as if those facts, conditions and circumstances existed on the applicable base date.

(4) The value at which any property is assessed is to bear a fair and just proportion to the value at which all similar property is assessed:

(a) in the city; and

(b) in any school division situated wholly or partly in the city or in which the city is wholly or partly situated.

(5) In determining the value of any property, the assessor shall take into consideration and be guided by:

- (a) any applicable formula, rule or principle set out in the assessment manual; and
- (b) any facts, conditions and circumstances of the property that may affect its value.

(6) For the purposes of subsection (5), the assessment shall reflect all the facts, conditions and circumstances of the property on January 1 of each year as if they had existed on the applicable base date.

210(3) Notwithstanding that the value at which any property has been assessed appears to be more or less than its fair value, the amount of the assessment may not be varied on appeal if the value at which it is assessed bears a fair and just proportion to the value at which all similar property is assessed:

- (a) in the city; and
- (b) in any school division situated wholly or partly in the city or in which the city is wholly or partly situated.

216 Subject to subsection 196(5), any party to an appeal before a board of revision has a right of appeal to the appeal board:

- (a) respecting a decision of a board of revision; and
- (b) against the omission, neglect or refusal of a board of revision to hear or decide an appeal.”

CONCLUSIONS AND REASONS:

The Committee received a copy of the “Joint Recommendation To The Saskatchewan Municipal Board” on September 24, 2009. It is attached hereto and forms part of this decision. The noted recommendation indicates that the fair value and assessed value of the subject property is to be \$7,507,800.

DECISION:

The Committee concurs with the attached recommendation.

For the year 2007, the fair value of the subject property shall be \$7,507,800. The filing fee will be returned.

DATED AT REGINA, Saskatchewan this
17th day of November, 2009.

SASKATCHEWAN MUNICIPAL BOARD
Assessment Appeals Committee

- original signed by -
Per: _____
David Wilkin, Chairman

- original signed by -
Per: _____
Cynthia J. Schwindt, Secretary